

FBT BASICS
FOR CHURCHES & CHARITIES

Bob Campbell
CPA MSW
RJ Campbell & Associates
459 Hay Street Perth
0892189922
rjcampbell@campbellsaccountants.com.au

FBT Fundamentals

- The Objective of Salary Packaging in the Not for Profit Sector
- For an Employee is
- Legally pay less tax
- because you work for
- Church
- Public Benevolent Institution(PBI)
- Health Promotion Charity (HPC)
- Other Charity (rebate able employers)

How Does Salary Packaging Work?

Employee chooses to receive salary as a combination of
Taxable Cash &
Non-Taxable Benefits
paid on employee's behalf: -

- e.g. rent, credit card

How Does Salary Packaging Work?

"Contract salary"
Less
"Sacrifice amount"
equals
"Taxable salary"

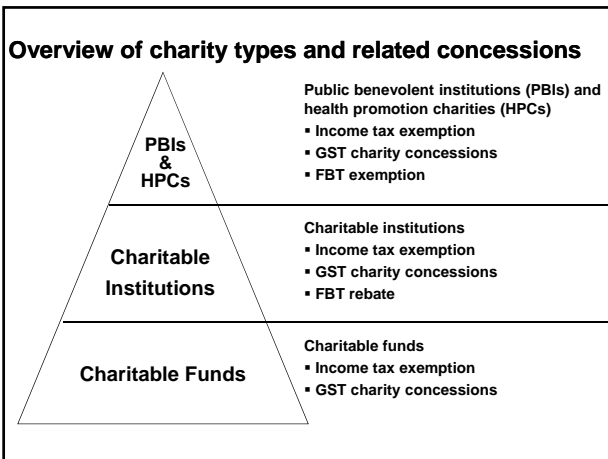
Lower than contract salary

Outcome: Less tax paid

Entitlement to FBT Tax Concessions

Can you Salary package?

- Yes but are subject to FBT of 46.5% unless
- You are a Charity
 - With access to FBT rebate of 48%
 - And THEN
- You are a PBI or HPC
 - with exemption from FBT up to \$30,000 grossed up of Fringe Benefits provided
- You are a Religious Institution where Religious practitioners are fully exempt but other employees are rebate able



Charitable Purposes

- The ruling affirms the 'four heads of charity'
- the relief of poverty;
- the advancement of education;
- the advancement of religion; and
- other purposes beneficial to the community.
- But
- purposes must be wholly, solely & exclusively charitable.

Religious Institutions

- Characterised as Charities under the advancement of religion "head of charity"
- FBT rebate for lay staff
- Section 57 of FBTA 1986
- FBT exemption – uncapped for Ministers of Religion and Members of Religious Orders
- Taxation Ruling TR 92/17 - Income tax and fringe benefits tax: exemptions for 'religious institutions'

What constitutes a Religion?

- There must be an expressed belief in a supernatural Being, Thing or Principle; and
- acceptance of canons of conduct which give effect to that belief, but which do not offend against the ordinary laws.

Are you a Religious Institution?

- **(a)** your constitutional objects and activities must reflect its character as a body instituted for the promotion of some religious object; and
- **(b)** the beliefs and practices of the members of that body must constitute a religion.

Are you a Religious Institution?

- Private schools, private universities and residential university colleges established or conducted by religious institutions generally are not religious institutions
- . On the other hand, seminaries, theological colleges and Bible colleges may be

Who is a Religious Practitioner?

- a minister of religion;
- a student at an institution who is undertaking a course of instruction in the duties of a minister of religion;
- a full-time member of a religious order; or
- a student at a college conducted solely for training persons to become members of religious orders.

Who is a Minister of Religion?

- many, if not all, of the following characteristics should be present:
 - the person is a member of a religious institution;
 - the person is recognised officially by ordination or other admission or commissioning,

Who is a Minister of Religion?

- or, where the particular religion does not require a minister to be formally ordained, the person is authorised to carry out the duties of a minister based on a specified level of theological or other relevant training or experience;

Who is a Minister of Religion?

- the person is recognised officially as having authority in matters of doctrine or religious practice;
- the person's position is distinct from that of the ordinary adherents of the religion;

Who is a Minister of Religion?

- the person has acknowledged leadership in the spiritual affairs of the religious institution;
- the person is authorised to discharge the duties of a minister or spiritual leader, including the conduct of religious worship and other religious ceremonies

Who is a Member of a Religious order ?

- many, if not all, of the following characteristics will be present:
- members generally are separated from secular society to pursue the religious life on a full-time basis and normally live together as part of a community;

Who is a Member of a Religious order ?

- members participate regularly in activities in prayer, religious study, teaching, care of the aged, missionary work or church reform
- the order is generally under the control and supervision of, or is funded, by a religious institution

Who is a Member of a Religious order ?

- members renounce in principle any possession of property and they live under a strict set of rules requiring moral and spiritual self-sacrifice and dedication to the goals of the organisation at the expense of their material well-being
- members of the order make a long-term commitment to the order

Benefits paid to a Religious practitioner

- Are exempt from FBT provided that their duties are principally:
- Pastoral Duties – i.e. spiritual care
- or activities that are directly related to the practice, study, teaching or propagation of their religious beliefs

What are not pastoral duties or directly related religious activities?

- the administration of a church; and
- work undertaken by a director of a department of a Diocese or similar unit of ecclesiastical administration; and
- the administration of a school.
- a benefit is not an exempt benefit if the duties are exclusively or predominantly non-pastoral duties.

What can you provide to a Religious practitioner?

- Any Expense payment is exempt from FBT
- This includes
- Rent or Mortgage payments
- Credit card payments
- Health Insurance
- But not
- A payment to a mortgage offset account

Limits

- There is no technical limit from ATO
- There are Denominational guidelines
- AOG is 70% Benefits 30% Cash
- There are Centrelink problems as benefits must be reported to them
- This may reduce eligibility for Centrelink payment

The Manse

- The manse may be the home of the religious practitioner if it is also
- A focal point of Church life
- People know where to call on the Minister
- A Manse is a public focus of church life
- The provision of a Manse is exempt from Centrelink criteria

The Package of a Minister

- This normally includes
- A negotiated cash component which is taxable
- Benefits paid on the Minister's behalf or reimbursed
- A credit card is a simple way of doing this

Religious institutions and live-in carers

- Where your activities include caring for elderly or disadvantaged people, certain benefits you provide to employees are exempt.
- The exemption relates to live-in carers where the carer resides with the elderly or disadvantaged person in residential accommodation you provide.

Religious institutions and live-in carers

- The benefits that may be exempt
- include the employees' live-in accommodation, residential fuel,
- meals or other food and drink.

Religious institutions and domestic employees

- Benefits you provide to live-in and non-live-in domestic workers are exempt in certain circumstances.
- For a live-in employee, the employee's duties must principally
- involve domestic or personal services for religious practitioners and the practitioners' relatives residing with them.

Religious institutions and domestic employees

- The benefits that may be exempt include the employees' live-in
- accommodation, residential fuel, meals or other food and drink.
- For a non-live-in employee, the employee's duties must also
- principally involve domestic services for religious practitioners

Public Benevolent Institutions

- To be a public benevolent institution, the condition or misfortune that is relieved must be such as to arouse pity or compassion in the community.
- Not all degrees of what might be described as distress, suffering or poverty would necessarily have such an effect.

A PBI division within a Charity

- Only Part of the work of a Charity may be benevolent
- See "Fringe benefits tax and public benevolent institution employment arrangements"
- Endorsement of an organisation for a PBI employer that it operates
- The Division must have
 - Its own ABN
 - Separate management
 - Separate payroll function

A PBI division within a Charity

- EXAMPLE
- A church has set up Green Care to provide low rental accommodation to people affected by misfortune, disability and destitution.
- An unincorporated association, Green Care has its own board of management and administrative structure separate from the church.
- It directly employs the staff working for it and has its own ABN

Health Promotion Charities

TR 2004/8

- Opportunity to re-classify a doubtful PBI
- Full FBT exemption up to Cap
- principal activity must promote the prevention **OR** the control of diseases in human beings.
- Disease is a morbid mental or physical condition of the body, or of some organ or part; illness; sickness; ailment.
- In practice requires a Medical Diagnosis

Tax Concessions to a PBI/ HPC

- May pay benefits to staff and not pay Fringe Benefits Tax if: -
- Some benefits are exempt
- Other benefits known as "Fringe Benefits"
- Are less than the Limit allowed
- This enables approximately at least \$30,000 grossed up or up to **\$16,050** in actual value received as tax free in package.

Tax Concessions For A Charity

- May pay benefits to staff and not pay FBT if: -
- The benefits are exempt OR
- The benefits have a Nil taxable value
- OTHERWISE:
- FBT is payable but a 48% rebate is given
- Up to \$30,000 Grossed up or up to \$16,050 in actual benefits
- Above that limit no Rebate applies

Types of Fringe and Exempt Benefits

Types of Benefits

- Fringe Benefits
 - Have a taxable value
 - Some are concessionally treated
 - e.g. cars, remote area rents & mortgage interest
- Exempt Benefits
 - Not taxable
 - Not reportable

Fringe Benefits Examples

- Limit of up to **\$16,050**
- Mortgage
- Rent
- Credit Card
- Health Insurance
- Expense Payments
- If all fringe benefits are expenses including GST then it reduces limit to **\$14,530**

Expense Payments

- Where an employer reimburses an employee for expenses incurred by the employee, OR
- Where an employer pays a third party in satisfaction of expenses incurred by an employee
- Examples – electricity, telephone etc

Calculating The Grossed Up Value of a Fringe Benefit

1. Apply a gross up factor to the taxable benefit
 - If Input Tax Credits available (Type 1)
 - Factor = **2.0647**
 - e.g. car, expense payments
 - If Input Tax Credits not available (Type 2)
 - Factor = **1.8692**
 - e.g. mortgage, rent, health insurance
 - 2. Type 2 Factor (**1.8692**) used when grossing up for Payment Summary

What Is A Car Fringe Benefit?

1. Availability of a car for private use means:-
 - It is actually used for private purposes by the employee; or
 - The car is not at the employer's premises, and the employee is allowed to use it for private purposes (including travel to and from work)
 - A car that is garaged at an employee's home is treated as being available for the private use of the employee

Calculating Car Fringe Benefit

The Statutory Formula Method

- The taxable value = % of the car's value. This % varies with the total distance traveled by the car during the FBT year whether or not private travel
- The greater the distance traveled, the lower will be the taxable value.
- Less than 15,000 klms 26%
- 15,001-25,000 klms 20%
- 25,001-40,000 klms 11%
- More than 40,000 klms 7%

Calculating Car Fringe Benefit

The Operating Cost Method

- The taxable value = % of the total costs of operating the car during the FBT year. The % varies with the extent of actual private use.
- The lower the incidence of actual private use, the lower will be the taxable value.

In Practice: Novated Car Leases

- The lower of statutory or operating cost is sacrificed from after tax salary to
- Reduce taxable value to zero
- Additional Strategy
- Employee pays lease & operating costs
- Receives agreed reimbursement for business use
- Up to 5000 klms no PAYG withholding

Substantiation

- Where is burden of proof?
- On the Agency
- Reasonable Belief bona fide arrangement
- Substantiate that no FBT or PAYG is payable resulting from the arrangement
- EXAMPLE:
 - Reimburse / Pay Rent expense to a private account
 - Evidence :
 - Rent Receipt for reimbursement
 - Copy of rental agreement

Substantiate a Mortgage / Loan

- Evidence:
 - Loan statement showing receipt of funds paid by agency
 - Not a Mortgage Offset account
 - ATO ID 2002/614 "Expense payment fringe benefit - payments made to a home mortgage offset facility account"
 - Line of Credit Facility
 - The full amount borrowed by the employee is viewed as the obligation of the employee, which has been partially met by the employer.
 - ATO ID 2001/532 "Salary sacrifice arrangements involving loans with redraw facilities"

Credit Cards

- This is an expense payment fringe benefit.
- The taxable value is the amount you reimburse.
- This will be regardless of the items of expenditure incurred under the credit card agreement, that is purchases of goods, services or cash advances.
- Source: FBT Guide to Employers (Update 2006)

Major Exempt Benefits

- Meal Entertainment (for PBIs ,Health Promotion Charities only)
- THE WORK RELATED ITEMS
- A mobile phone or a car phone
- An item of protective clothing that is required for employment
- A briefcase
- A Calculator
- A tool of trade; internet use
- An item of computer software for use in the employee's employment
- An electronic diary or similar item
- A notebook computer, a lap computer or a similar portable computer
- Professional membership fees and subscriptions

Other Exempt Benefits

- Newspapers and periodicals for business purposes
- Travel for compassionate reasons
- Occupational health and migrant language training: -
 - Work related health and counseling benefits
- Emergency assistance arising from disaster
- Minor benefits
 - Irregular benefits less than \$100
- Long Service Awards
 - Granted in recognition of 15 years or more service are exempt provided the value of the award does not exceed a specified maximum amount.
- Safety awards less than \$200

Meal Entertainment

37AD FBTA 1986..:

- (a) entertainment by way of food or drink; or
- (b) accommodation or travel in connection with, or for the purpose of facilitating, entertainment; or
- (c) the payment or reimbursement of expenses incurred in providing something covered by paragraph (a) or (b);
- whether or not:
- (d) business discussions or business transactions occur; or
- (e) in connection with the working of overtime or otherwise in connection with the performance of the duties of any office or employment; or
- (f) for the purposes of promotion or advertising; or
- (g) at or in connection with a seminar.

Otherwise Deductible Rule

- If a benefit is "otherwise deductible" to an employee in their individual tax return
- only if the recipient of the benefit is the employee
- The benefit is an **exempt benefit** if the employee provides a declaration in the required format
- And the employee does not claim the deduction
- This has the effect of shifting the tax risk to the employee

Reporting Implications?

- Group Certificates (Now Payment Summary) Reports
- The grossed up value of Fringe Benefits Only and The lower taxable Cash Salary
- The grossed up value of Fringe Benefits effects calculation of HECS, Child Support and some other Commonwealth debts
- Commonwealth Pensions & Allowances usually use the ordinary value of the benefits
- Exempt Benefits are not reported

The Strategy For Constructing a Package For Rebate able Charities

- Determine the value of the contract
- Sacrifice Exempt Benefits
- Sacrifice Concessional Benefits
 - Regional Housing
 - Meal Entertainment
 - Car
- Consider any advantage of sacrificing other Fringe Benefits
 - Usually no advantage if the remainder salary is less than \$50,000

The Strategy for Constructing the Package for a PBI

- Determine the value of the package as the TEC for the position say (\$70,000).
- Salary sacrifice exempt benefits outside the FBT Cap first within agreed limits (say \$10,000)
 - \$2,000 of mobile phone costs
 - \$1,200 for lease of a laptop
 - \$300 for internet usage
 - \$4,000 for meal entertainment on Diner Card
 - additional superannuation of \$2,500
- Salary sacrifice an amount \$8,000 for a \$30,000 vehicle traveling 20,000 kms pa for private use
- Salary sacrifice the remainder of the cap through personal credit card expenses (\$7,000)
- The remainder salary \$45,000

Accounting For Salary Packaging

- In chart of accounts
- Create Fringe Benefits Payable
 - Header and individual staff liability accounts
- Create Exempt Benefits payable
 - Header and individual staff liability accounts
- See MYOB Salary Sacrifice Superannuation example
- On payment Summary
 - Insert grossed up value of Fringe Benefits only

Salary Packaging Payment Cards

- MacMillan Shakespeare Card
 - CR 2003/111 Salary Packaging Payment Card
- Smart Card CR 2004/44
- for the purposes of subsection 20(a) of the FBTA, an expense payment fringe benefit arises at the time that the promoter pays an amount to the employee's card account
- Cash advances using the card are not permitted

Getting it wrong

- Incorrect reportable benefits
- Child Support
- Commonwealth Debts
- Wrong classification of an exempt benefit means a default to a fringe benefit
- Risk of Exceeding Cap
- Risk of increased FBT Liability
- Risk of necessary FBT Returns

Questions
