

FRINGE BENEFITS FOR CHURCHES

Exempt Benefits and Fringe Benefits Tax

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1 The FBT Act

The Fringe Benefits Tax Assessment Act 1986 taxes the provision of all fringe benefits provided to employees by their employers. Although from a theological perspective a pastor is not 'employed' by a church, for the purposes of FBT, the local church is deemed to be the employer of the pastor ("employee"). Fringe benefits are the provision of such things as - motor vehicles, housing, subscriptions, and other non-cash employment benefits. The employer normally pays the tax levied upon these "fringe benefits". **However, the Fringe Benefits Tax Assessment Act 1986 makes special provision for 'religious institutions'.**

1.1 Exempt Benefits

The special provisions for 'religious institutions' exempts the employer entity from the obligation to pay Fringe Benefits Tax where:

- **the employer of the employee is a religious institution, and**
- **the employee is a religious practitioner, and**
- **the benefit is provided principally in respect of duties of the employee engaged in:**
 - **any pastoral duties; or**
 - **any duties or activities that are related directly to the practice, study, teaching or propagation of religious beliefs.**

Note - All conditions must be met.

Payments of benefits in such circumstances are classed as 'exempt benefits'.

The exemption also includes students at a theological college or similar institution enrolled in a course, which will qualify them to be a pastor, but not other courses.

The exemption does not extend to church employees who are not religious practitioners or to ministers who are not undertaking duties principally of a pastoral or teaching nature. For example, ministers of religion who perform principally an administrative function are **not** exempt from FBT liability.

The exemption from Fringe Benefits Tax does not extend to not-for-profit organisations associated with churches, such as public benevolent institutions, schools and aged care facilities

1.2 Churches Responsibility

Whilst the church is exempt from payment of FBT on benefits provided to a "religious practitioner" where the conditions described above are met, it is still not exempt from an ATO audit to ensure compliance with the Act. The financial records, including paid invoices for all expenses, need to be readily available.

In terms of the Fringe Benefits Tax Assessment Act 1986, "employees" who could receive benefits that are exempt from FBT include:

- Pastors and assistant pastors,
- Youth pastors
- Full time educators in religious institutions

but neither full time nor part time

- Administrators
- Secretaries
- Caretakers

If fringe benefits are provided to the latter group of employees, then FBT is payable by the employer (the church) and returns and payments of tax must be submitted to the Tax Office. If you consider that your church should be making these payments please contact the ATO before payments are made.

2 Tax exempt benefits

2.1 Remuneration Package

While it is technically possible to pay 100% of a pastor's remuneration as tax-exempt benefits, such an extreme arrangement, or anything approaching it should be avoided. The current tax concessions/exemptions are very generous and we must be careful not to abuse them or the government may take steps to cap the exempt benefits as they have recently done with Public Benevolent Institutions (PBI's) and hospitals.

The high ethical position expected of us by the community and as required of us as Christians needs to be carefully maintained.

It is recommended that the exempt proportion of the pastor's package be no more than 50% of the total remuneration package and include the following items;

- notional rental value of residence where provided by the Church
- manse running costs (eg. gas, electricity).
- rent, mortgage repayments, running costs and maintenance in respect to the pastor's own residence.
- ministry related hospitality expenses. (Where identifiable by invoice).

2.2 Ministry Related Benefits

The ministry related (work related) portion of the following items would be tax deductible to the pastor/employee, subject to the supporting documents being available. Therefore, while they can be packaged, it may be preferable for the pastor/employee to pay them and then claim a tax deduction.

- motor vehicle running costs and loan repayments.
- telephone and Internet costs
- course fees, materials and other costs.
- books, journals and magazines, computer software for the pastor's use and other ministry resources including computers.
- subscriptions to ministry associated organisations.
- travel costs related to the pastor's ministry duties.

Please note, that contributions to a complying superannuation fund, such as Christian Super, do not constitute fringe benefits. Such contributions are exempt under a different part of the FBT Act.

It is recommended that the following benefits are never provided as tax-exempt benefits;

- cash withdrawals from a ministry benefits bank account - this would be tax evasion if not included as income in your personal tax returns.
- church offerings and mission giving.
- holiday expenses.
- expenses in relation to an investment property.

3 Car fringe benefits

There are two options for calculating fringe benefits for cars: -

1. The operating costs method involves the use of a logbook for both work and private running and retaining detailed records of all operating costs. The costs are then apportioned on a basis consistent with the logbook.
2. The statutory formula is calculated based on the original capital cost of the vehicle and applying a fraction based on total kilometres travelled and the number of days available to the employee in the year. The formula has been changed, effective from 10 May 2011 for new contracts. More information is available on the ATO website by searching "Fringe Benefits Tax"

Note that this fraction is progressively moving towards 20% for all vehicle usage (irrespective of total kilometres travelled in the year) and from 1 April 2014, all vehicle usage under the statutory formula will assume a taxable rate of 20% of the capital cost of the vehicle.

While car lease or loan/hire purchase costs can be paid as fringe benefits the valuation of the car that is needed at 31 March is not simple to assess.

4 Reporting Requirements

4.1 Pastors or Ministers

For employees whose benefits are exempt, as defined in point 1.1, there are no reporting requirements for the benefits paid to the employees.

The exemption from Fringe Benefits Tax and reporting requirements does not extend to not-for-profit organisations associated with churches, such as public benevolent institutions, schools and aged care facilities.

4.2 Non-Pastoral Staff

For benefits provided to staff that perform an administrative or other function, the church is not exempt from reporting these benefits or the payment of Fringe Benefits Tax. (This includes ministers of religion who perform an administrative function).

Benefits paid to non-pastoral staff need to be recorded separately for each staff member.

Benefits paid for the FBT year ending 31 March must be reported on the employee's group certificate/PAYG Summary for the year ended 30 June.

The amount reported on the employee's payment summary is the **grossed up** amount of benefits provided.

Fringe benefit x Gross-up factor

The Gross-up factor for reporting benefits was 1.8692 until 31 March 2014, when it changed to 1.8868

The amount of benefits churches can provide on a concessional basis to non-pastoral employees is capped at \$30,000 (grossed-up value). This equated to \$16,050 cash value, i.e. $\$16,050 \times 1.8692 = \$30,000$ grossed up until 31 March 2014, when it changed to \$15,900 cash value, i.e. $\$15,900 \times 1.8868 = \$30,000$ grossed up.

5 Calculation of FBT Payable

The church is required to pay Fringe Benefits Tax on benefits paid to non-pastoral employees at a tax rate of 47% of the grossed-up value (was 46.5% until 31 March 2014)

However churches are entitled to a 48% rebate on the FBT payable to account for the fact that they are not subject to income tax and therefore cannot claim a tax deduction for the FBT paid. They are known as 'rebateable employers'. The rebate of 48% is applied to each employee only up to the \$30,000 grossed-up cap.

For example: If a non-pastoral church employee receives fringe benefits of \$15,000 in the year to 31 March 2015:

Step 1 Gross up by factor of 1.8868 (for benefits where no GST is deductible by the employer) or by a factor of 2.0802 (for benefits where GST is deductible)

Say \$10,000 x 1.8868 (no GST)	=	18,868
+ \$5,000 x 2.0802 (with GST)	=	<u>10,401</u>
Grossed-up value		<u>\$29,269</u>

Step 2

\$29,269 x FBT rate 47%	=	13,756.43
less 48% rebate	=	<u>6,603.09</u>
FBT payable by employer		<u>\$7,153.34</u>

Note the effective tax rate is 48% (\$7,153.34/\$15,000).

This is higher than the employees marginal tax rate

6 Practical issues

The practical implications of exemptions from FBT are that the church can provide its pastor with a more effective remuneration package by providing a mix of cash stipend plus selected benefits, rather than paying all of the remuneration by regular cheque transactions which then come within the ambit of PAYG tax legislation.

Treasurers should note that when preparing a minister's PAYG Summary the exempt fringe benefits provided should **NOT** be shown on the Summary. The tax law specifically provides a special category for ministers engaged by religious institutions (refer to Item 1). However recent changes require salary sacrifice superannuation to be recorded in a separate box on the Summary

Each church should establish its own local policy and have it approved by its board. When determining the policy, consideration needs to be given to the increase in workload on the church treasurer or administrator.

7 Ministry expense account

It is recommended that the exempt benefits portion of the stipend package is paid by the church into a separate **church** “ministry expense” bank account simultaneously with the stipend payment. Ministry related expenses incurred by the pastor can then be paid by the church from this ministry expense account in a manner, which simplifies record keeping and control, and without giving rise to a tax liability to either pastor or church. While church officers should be co-signatories on this account for oversight purposes, the day-to-day record keeping could beneficially be in the hands of the pastor or spouse. In such a situation the church treasurer will need these records for BAS preparation and for audit purposes. The records should be filed, preferably in date order of payment.

An alternative procedure is possible through the use of a debit or credit card, specifically set aside for recording fringe benefits transactions. It is preferable, but not essential, for the card to be in the name of the church itself. The pastor would then pass to the church treasurer on a monthly basis, the statement, card slips and invoices where appropriate, to support the expenditure. The obvious advantage of a debit card is that expenditure cannot exceed the benefits sum placed in the account by the church.

It is anticipated that the account will be fully spent each year. However, if required, any excess balance can be paid to the pastor as stipend, having first deducted PAYG tax.

7.1 GST and the Ministry Expense Account

GST can be claimed by the church on benefits provided to a minister, if the church is registered for GST.

The church can only claim GST where the minister has provided relevant tax invoices. However the minister should provide receipts for all expenses from the account regardless of whether the GST is to be claimed. These need to be available for the church auditor and also for an Australian Taxation Office audit.

While the GST law is not clear in this area, it is our view that the GST claimed is the property of the church, not the minister. This is because the intention of the law is for the end user (in this instance the minister) to pay the GST. The recoup of GST also assists in reducing the cost to the church of administering the complex FBT and GST compliance obligations.

8 Paid allowances

The Ministers remuneration package could be made up of

- Cash salary
- Cash allowances, and
- Exempt benefits.

If cash allowances are paid for ministry expenses (which is not recommended) they need to be incorporated in the regular remuneration to the pastor. The total payments are subject to PAYG income tax provisions, i.e. income tax to be deducted, and the gross amount included in the PAYG summary at year-end.

In some instances, employees can justify tax deductibility of expenses incurred when preparing their annual tax returns. These expenses must be properly documented with:

- Receipts

- Diary entries
- Demonstration that the expenses were incurred in the earning of income.
- Demonstration that the payment was made by the employee, and not reimbursed by the employer.

Where the employee can demonstrate that the allowance will be fully expended in the intended manner, then he/she may apply to the Tax Office for authority to reduce the amount of PAYG instalments required to be collected. Unless a specific authority is held, then PAYG instalments must be deducted from the cash amounts paid, including:

- Car allowance
- House allowance
- Book allowance
- Study allowance
- Phone allowance
- Entertainment/hospitality allowance

Note: No deductions are permitted for entertainment allowance in terms of current income taxation legislation.

9 Pastors and Centrelink

There can be misunderstandings over how Centrelink assesses payments to ministers of religion. This relates to the intention that Centrelink income support payments are intended for those on low incomes. The 50/50 provision that we apply does not mean that pastors are low-income earners because 50% of the package can be tax free and not reportable as a fringe benefit.

This can be a confusing area so be prepared for some need to explain.

After discussion with Centrelink the following information is provided to assist Pastors and Treasurers in their interaction with Centrelink.

When contacting or dealing with Centrelink

- Ensure they are aware you are a minister of religion
- Never refer to the tax-free portion as fringe benefits, always refer to it as the “exempt fringe benefit” portion. This avoids confusion with reportable fringe benefits which are grossed up for income test purposes. Exempt fringe benefits should not be grossed up.
- “Exempt fringe benefits” are not required to be shown on the PAYG Summary of eligible religious practitioners and therefore are **not** Reportable Fringe Benefits.
- Centrelink will allow a reasonable percentage to be deducted from the exempt benefit portion for expenses directly related to Pastoral duties. This should be supported by the basis on which it is calculated.
- Reimbursement of expenses incurred as a part of ministry, and which do not form part of the package, are not treated as income. e.g. reimbursement of mileage/travel expenses, out of pocket expenses etc.

Centrelink have provided us with the following statement which sets out their approval to reimbursements and allowances:

“Assessment of income and assets for ministers of religion

Work related expenses including reimbursements and allowances

Allowances and reimbursements of ministry related expenses are deducted from the minister's gross employment income, but fringe benefits which are for the minister's own private benefit are 'valuable consideration' and must be included.

Reimbursements made to a minister of religion by the church or organisation for out-of-pocket expenses paid by the minister for directly related ministry work, are not counted as income. However, any portion of reimbursements paid to a minister to meet expenses not directly related to ministry work is counted as income.

Similarly, allowances paid to a minister of religion to cover expenses directly related with the minister's work are not counted as employment income. If the church or an organisation pays more than the amount actually incurred by the minister, the extra is included as income.

Income for the minister's own use and benefit is counted under the income test. For example, a stipend or fringe benefit provided to a minister to meet general living expenses such as grocery items, private health cover or children's school fees is counted as income.”

9.1 Accommodation expenses

When a customer receives free accommodation or free board and lodging, the value of the accommodation or board and lodging is not income for social security purposes. This includes free accommodation provided by an employer or provided to a minister of religion.

However, when an employer or other organisation pays the mortgage repayments on a customer's property, the value of the mortgage payments is assessed as income. In a targeted income support system it is not the intention to assist people to acquire assets.

If an employer or organisation pays an allowance to cover the costs of private accommodation or pays the rent on accommodation leased by the customer, the amount of the allowance or rent paid is income.

All personally owned assets of a minister are treated in the same manner as assets personally owned by any other customer.

9.2 Employment Income

Employment income of members of religious organisations under a vow of poverty

When a person is employed as a member of a religious organisation, the employing organisation sets the rate of pay, and pays the member. The amount earned is treated as employment income for social security purposes. The income amount earned, derived or received is paid for the member's own use or benefit regardless of their subsequent divesting themselves of the money after payment.

Sustentation Benefit, and payments from the Clergy Sustentation Fund and Clergy Foundation, are examples of gratuitous payments made to members of certain

churches (both pastors/ministers and other non-pastoral members of their church) based on the years of service to the church. It is not classified as superannuation as the amount of the payment to the member has no direct relationship to the amount paid by the member, if any. It is assessed as other income for the income test and therefore does not deplete working credits. Other ordinary income is coded on the Other Income Summary (OINS) screen.

An organisation employs a religious organisation to supply any member of their organisation

If an organisation employs a religious organisation to supply any member of their organisation and the religious organisation sets the rate of pay and the employing organisation pays the religious organisation the amount earned is income of the religious organisation and not of the individual member.

The assessment of income for a minister of religion differs between Family Tax Benefit (FTB) and income support payments.

9.3 Fringe benefits and PAYG Summary

For FTB purposes, the amount of fringe benefits to be assessed is determined by the Australian Taxation Office (ATO). Certain benefits received by a minister of religion are exempt under section 57 of the Fringe Benefits Tax Assessment Act. This means any fringe benefits received would not appear on the Pay As You Go (PAYG) Summary or be declared to the ATO. As certain fringe benefits are exempt for ATO purposes, they are exempt for FTB assessment purposes.

FTB entitlement is based on a person's Adjusted Taxable Income, which includes taxable income, adjusted fringe benefits, foreign income, net rental property loss and tax free pensions or benefits such as Disability Support Pension (less any deductible child maintenance expenditure).

For income support payments the assessment of fringe benefits for a minister of religion is different. Note: A fringe benefit is a benefit received as part of employment conditions that is not a wage or salary, this does not include reimbursement of work related expenses or allowances for work related expenses. All fringe benefits are personal income (valuable consideration) and need to be declared for assessment purposes.

As ministers of religion are not self employed, they cannot claim reductions of business income. Thus if a minister's salary package includes any expense payments (for example, books, telephone calls and petrol) it is in the minister's interests to have these payments identified and excluded from assessment."

Add-Ministry Inc

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NOTE: While this information is current as at this date, we recommend obtaining independent advice