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Fringe Benefits Tax Information for a PBI

Relevant Tax Law:

An entity that is an endorsed Public Benevolent Institution (PBI) under the provisions of the Income Tax Assessment Act 1997 (ITAA) Section 30-45 Item 4.1.1 is also eligible for Fringe Benefits Tax (FBT) exemptions under the provisions of Section 57A of the Fringe Benefits Tax Assessment Act (FTAA). This provides that a benefit arising from an employment is exempt from FBT. This also means that the benefit received by the employee is exempt from payment of income tax. This is a substantial taxation concession to recognise the major contribution PBIs make within the Australian community. These exempt benefits are available to employees, but not to contractors. However the term “employees” could include a future employee or a former employee. This is to cover matters such as removal expenses on engagement and the costs related to termination such as finalising long service leave obligations. Note that a signed agreement needs to be in place **before** the provision of any benefits.

Taxation Rulings:

Tax Ruling TR 2003/5 presents the ATO views on fringe benefits for a PBI under the Income Tax or Fringe Benefits Tax Acts. It can be a useful reference tool in an area of complexity. The ATO also require all PBI’s (as with other charities) to conduct an annual review of their charity and PBI status to ensure they still meet the eligibility requirements.

Benefits from Employment:

An exempt benefit would be available for any employee that the Board has agreed to offer these benefits to. The Board needs to also have an agreed policy as to what benefits will be made available, and ensure there is a signed agreement between employee and employer where both agree to enter into a salary packaging arrangement and also identifying the conditions of that agreement. It would be common practice to require some waiting period after initial engagement, possibly the initial three-month’s probation before eligibility is available.

The aim of a Fringe Benefits policy would be to maximise the benefit to the employee while also minimising the actual administrative tasks involved in the provision of the benefit.

Examples of appropriate benefits could include the payment of mortgage or rent, or hire purchase or lease of motor vehicle, utility costs, such as rates, gas, electricity or telephone costs, or health fund subscriptions.

FBT benefits should not be offered in respect to: - any donations, including donations to tax-deductible funds (as this could attract a double benefit), medical expenses or cash payments. The medical expense exclusion is due to the cash back from health fund and Medicare refunds, and also to protect the privacy of the individual.

Exempt Benefits:

Some “benefits” can be subject to special exemption provisions. They are exempt from FBT itself, so do not need to be included in an FBT Return. They are also excluded from the Reportable Fringe Benefit provisions. Some instances are –

- Electronic devices such as a laptop or mobile phone (primarily used for employment),,
- Protective clothing,
- Tools of trade and similar items.
- Employment interviews and compassionate travel (in limited circumstances),
- Relocation expenses for employment purposes (subject to first signing an agreement),
- Minor benefits below \$300.00 provided they are infrequent and irregular.

Remote Area Accommodation:

A special provision is made for Remote Area Accommodation where it is provided by the employer. It could be owned, or leased by the employer to qualify. However there are several tests. For a PBI or other charity a “remote area” is defined as being at least 100 km from a centre with a census population of 130,000 or more. It also must be necessary for the employer to provide free accommodation due to there being insufficient suitable accommodation available in that locality, or it is customary in the industry to provide free accommodation, and the employee must be an employee for the whole of the tenancy period.

Remote Area Concessions:

Where an employer pays interest on a housing loan (but not the principal), pays the rent, or reimburses an employee for expenses connected with a home the taxable value of the benefit may be reduced by 50%. There are a number of conditions which include –

- The employee must live & work in a remote area,
- It must be customary for the employer to provide housing assistance.

Living-Away-From-Home Benefits (LAFH):

There is at present a concession under FBT law for a LAFH benefit. However from 1 October 2012, the taxable value has changed and the conditions for obtaining concessions are much stricter. The intention is to return the Living Away From Home Allowance to the Income Tax system and require it to be substantiated in the employees Income Tax Return (ITR). The allowance would be shown on the ITR and a claim made against the allowance for the appropriate expense claim.

Superannuation:

Note that voluntary contributions to superannuation are covered by different rules. They would also normally be paid from pre-tax salary but recorded separately in the accounts and treated differently on the PAYG Summary at year end.

Administrative matters:

The FBT exemption is subject to a \$30,000 capping threshold per employee per FBT year, which ends on 31 March. (The cap is only \$17,000 for employees of hospital and ambulance services). Note that the \$30,000 represents the grossed-up value of the benefits provided. This means the actual cost plus the tax thus exempted. As the tax rate for FBT purposes is the current ceiling tax rate of 47% (46.5% until 31.03.2014), the effective benefit available is in the region of \$15,000. The specific value cannot be established until the GST component involved in an individual salary package is agreed, as some benefits paid will be subject to GST and the employer may choose to claim a refund of the GST factor. Therefore there are two different formulae for calculating the actual exemption factor for grossing up purposes. It is not uncommon for an FBT/Salary Package arrangement to be made that includes some items with no GST and some with GST, which involves a more complex calculation.

Credit Cards:

Some employers agree to make a payment off a credit card debt up to a certain nominated amount. It is preferable in such instances to ensure that this is supported by obtaining the tax invoices up to the relevant amount and having a copy of the credit card statement to prove there is actually a debt at least equivalent to the amount being paid monthly. A monthly transfer without supporting documentation represents a cash payment, rather than a fringe benefit. Where there is a cash payment, it must be included on the annual PAYG Summary as normal salary.

Where the credit card is with American Express and Diners Club, the statement may be expressed in the form of a tax invoice itself. In this case the credit card statement becomes the invoice and the other supporting documents are not essential. However without the supporting documents there is no assurance that the Board approved policy has been complied with.

Some Credit Card providers have received a Class Ruling from ATO in respect to a particular style of credit card. This type of card will normally have set ceiling credit limit, similar to a Debit Card. There are no GST credits available on them. Where the Board policy permits accessing a number of personal items without supporting evidence the use of these cards is simple to verify. They are available from –

Westpac - PBI Solutions
Bendigo Bank
Smart Card and
McMillan Shackspere

Reporting obligations:

An annual return is needed for each FBT year, which ends on 31 March. The FBT Return needs to be lodged by 21 May each year. Where the cap of \$30,000 is not exceeded with any employee no Return is required from a PBI.

The employee's annual PAYG Summary needs to include the grossed-up value of the FBT payments in the box provided for that purpose (called Reportable Fringe Benefits). The grossing up is calculated by applying the appropriate formulae.

- Type 1 fringe benefits (where GST has been claimed on the payment) are grossed up by a factor of 2.0647 to 31.3.2014 and then changed to 2.0802
- Type 2 fringe benefits (where no GST is applicable, e.g. mortgage loan repayments) are grossed up by a factor of 1.8692 to 31.03.2014 and then changed to 1.8868.

These formulae will change whenever the top personal tax rate changes.

In order to avoid any unexpected FBT liability, the employer should make their Fringe Benefits Policy as clear and straightforward as possible. The simplest policy (assuming all employers have accommodation costs) is to allow rent or mortgage loan repayments only. The documentation required is for the employee to provide their lease agreement or a copy of the mortgage loan statement once per year to prove the existence of a debt. The maximum benefit under this example (where no GST is claimable) was \$16,050 until 31.03.2014, now \$15,900, paid by the employer. This was grossed up by 1.8692 in the FBT calculation up to 31.03.2014, and at \$30,000, this means no FBT is payable by the employer. The calculation rate has now changed to 1.8868

For the purposes of Reportable Fringe Benefits, the payment of \$16,050 will also be reflected as \$30,000 on the PAYG Summary.

Car running 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 pro 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 'Reforms to car fringe benefits rules.'

Other matters:

It is preferable for the employer to pay the expense direct to the entity raising the invoice, thus retaining the original invoice and claiming the GST credits. The GST thus saved may assist in offsetting the additional administrative costs involved. Where the employee has already paid the expense, it is essential that the original tax invoice is made available to the employer and the employee's written authorisation be obtained in respect to the GST credit being assigned. Without the tax invoice no fringe benefit support should be made available at all.

These notes are only an introduction to a major area of taxation law. There are many additional provisions that are not referred to here. If appropriate more detailed advice can be provided to cover a specific situation.

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Add-Ministry Inc.