

Fringe Benefits Tax (FBT) Management Issues

June 2020

As the end of the FBT season draws to a close it is timely to reflect upon common FBT management issues faced by clients and errors we've seen in FBT returns prepared by others.

A benefit can often be provided in more than one way, but with each having a different FBT outcome. An example is when an employer pays for an employee's motor vehicle registration and insurance and provides fuel, in lieu of a fully maintained company vehicle. Rather than being a concessional tax motor vehicle fringe benefit, these are examples of **expense payment and property fringe benefits**. For there to be no FBT on these payments, the employee would need to have maintained a logbook supporting 100% business use.

Similarly, the payment of an employee's personal loan taken out to buy their car is an **expense payment fringe benefit**, unlike when a novated lease is used to fund the purchase of the car. Employers can avoid this problem through the payment of a taxable allowance to employees against which they can claim a deduction in their own income tax returns.

Entertainment is often excluded as a fringe benefit because people mistakenly believe it is a legitimate business expense. Although it is a cost of doing business, entertainment is generally subject to FBT or otherwise you can't claim the GST nor claim a tax deduction. A common error is claiming the GST on entertainment excluded by s41 (exempt property benefits), s58P (exempt minor benefits) or when using the 50/50 method. Judging by what we've seen in returns, many people, including registered tax agents, are unaware of the limitations placed upon tax-exempt entities, and that s41 and s58P can't be used in conjunction with the 50/50 method.

On the other hand, **meal entertainment** is often overstated because food and drink which is not entertainment is not segregated from that which is. Examples are employee amenities and morning and afternoon teas and light lunches provided on the premises.

An invoice from a restaurant may need to be broken down between: meals for employees travelling for business; their accompanying spouses; employees who are not travelling; and entertainment provided to clients. This is because the payment may have all of the following components: meals which are not entertainment; meals which are entertainment and are subject to FBT; meals which are entertainment but are not subject to FBT; and meals, which depending on how you elect to value meal entertainment, may or may not be subject to FBT. This is related to the next issue.

Accounting systems are rarely configured to break down food and beverage costs in a manner which supports the use of the 'actual method' and enables the utilisation of exemptions without a lot of work at FBT time. If accounts payable staff are provided rules for the coding of expenditure at the source, FBT compliance costs are reduced and valuation options can easily be used to legally reduce FBT.

It is common to see the incorrect valuation of **in-house residual benefits** resulting in the payment of too much FBT. This is an area when salary packaging can be to the detriment of employees. Schools are clients who often provide in-house residual benefits.

Falling foul of the otherwise deductible rule has serious consequences for employers. It relies upon employees being entitled to a **once-only deduction**, had they incurred the expenditure themselves. Expenses over \$300 that are deductible over a number of years such as a desktop PC are taxable. There is also expenditure that has a nexus with employment income, but a deduction is explicitly excluded by Division 26 of the Income Tax Assessment Act 1997. The cost of education provided to some employees is almost doubled due to the FBT.

This year we accepted a new client who had not previously paid FBT on parking. They thought that because there was a commercial parking station within the 1 km radius charging less than the threshold, that they had not provided **car parking fringe benefits**. They had misinterpreted s39A. Although they did not have to amend payment summaries because car parking is not a reportable fringe benefit, they had to amend previous FBT returns. The taxable value of parking in 2019 was \$55,000 and a similar amount in earlier years.

Pool cars are also exempt from the reporting requirements. Unfortunately, we've come across many employers who have mistakenly thought this means FBT free. Without a logbook, a \$40,000 car attracts \$7,821 per year in FBT. The undisclosed FBT liability can quickly escalate.

Valuation issues are often due solely to a spreadsheet error, so it is important to have a second person review your FBT calculations. We recently witnessed a different type of valuation issue where the taxable value had been assumed to be equal to the year's depreciation expense on a second laptop. For years, each laptop had been disclosed as a fringe benefit in the initial and two subsequent FBT returns, until fully depreciated in the financial accounts.

The client, who had prepared their own FBT return, had misinterpreted the meaning of 'later item' in s58X and thought laptops were not eligible work related items (exempt) if the employee still had their older laptop, some of which were 4-5 years old. They were in fact exempt. To prevent errors like this, if a taxpayer chooses to prepare their own FBT return we recommend they engage a tax agent for a review and lodgement service.

Preparing an FBT return correctly is a separate issue from engaging in a transaction with unintended FBT consequences that cannot be reversed. The proper management of fringe benefits begins with the preparation and regular review of a **fringe benefits policy** which outlines the range of items approved for salary packaging. Clients also need to review other policies that at first appear unrelated but need to be considered because they may result in an unanticipated FBT liability. Classic examples are the learning & development and travel policies.

Talk to your trusted Nexia Advisor

Please contact your Nexia Advisor if you would like to discuss how any of the issues mentioned above may affect your organisation so that we can help you identify potential FBT risks and opportunities for you.

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