



RICHARDS FINANCIAL

FBT 2021: TAX & EMPLOYEE BENEFITS

Fringe benefits tax (FBT) is one of Australia's most disliked taxes because it's cumbersome and generates a lot of paperwork. The COVID-19 lockdowns have added another layer of complexity as many work patterns and behaviours changed.

A fringe benefit is a 'payment' to an employee or an associate (an associate is someone related to you such as a spouse, child or even a friend), but in a different form to salary or wages. A benefit might be as simple as hosting a work Christmas party, providing car parking, using a work vehicle, or providing the goods or services of the business at a reduced rate to what the public pay.

If your business is not already registered for FBT, it's important to understand if fringe benefits have been provided. Generally, the ATO will look closely at unregistered employers and where there are mismatches in data.

With the FBT year ending on 31 March, we look at the key issues and the Australian Taxation Office's (ATO) hotspots.

What is exempt from FBT?

Certain benefits are excluded from the FBT rules if they are provided primarily for use in the employee's employment. These include:

- Portable electronic devices (e.g., laptop, ipad, printers, GPS, etc.,). Larger businesses are limited to the purchase or reimbursement of one portable electronic device for each employee per FBT year;
- A handbag, briefcase or satchel to carry items you are required to use and carry for work, such as laptops, tablets, work papers or diaries. Be warned that if you are using these bags for a mix of personal and work use, then the use needs to be apportioned and will not be fully exempt from FBT. The ATO is not going to pay for your Gucci bag even if you do throw your ipad into it on occasion.
- Tools of trade.

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Also, if the item or service provided to the employee is less than \$300 and is a one-off, it's generally classed as a minor benefit and exempt from fringe benefits tax.

COVID-19 & FBT

The ATO has changed how it will approach FBT compliance this year because of the impact of COVID-19 on work patterns and conditions.

Emergency assistance such as flights and accommodation – emergency assistance to provide immediate relief to employees because the employee is at risk of being adversely affected by COVID-19 will generally not be subject to FBT. This might include:

- Expenses incurred relocating an employee, including paying for flights home to Australia.
- Expenses incurred for food and temporary accommodation if an employee cannot travel due to restrictions (domestic, interstate or intrastate).
- Benefits provided that allow an employee to self-isolate or quarantine.
- Transporting or paying for an employee's transport expenses including car hire and transport to temporary accommodation.

For fly-in fly-out workers, this includes temporary accommodation and meals where they were unable to return home because of border or travel restrictions.

Health care – Providing flu vaccinations to employees is generally exempt from FBT because it is work-related preventative health care. However, health care treatment is only exempt from FBT if it is provided to your employees at your workplace or adjacent to your worksite. The cost of ongoing medical costs are generally not exempt.

Company cars – a company car garaged at an employee's home will generally attract FBT. However, this FBT year, many company carparks and places of business were closed. As a result, the ATO has stated that for employers using the operating cost method, if the "car has not been driven at all during the period it has been garaged at home, or has only been driven briefly for the purpose of maintaining the car, we will accept that you don't hold the car for the purpose of providing fringe benefits to your employee." But, you will need to maintain odometer readings that show the car has not been used.

If the car was used, fringe benefits generally applies. However, if the car was used for business purposes then this use reduces the taxable value. If the car was only used for business, the taxable value may be reduced to zero.

Logbooks – COVID-19 is likely to have impacted on driving patterns and the ATO have made some concessions where the 12 week log book period was interrupted.

If you are already using the logbook method and have an existing logbook in place, you can still rely on this logbook. However, you must keep odometer records for the year to show how much the car has been driven during the year including during any lockdown period.

If this is the first year you have used a logbook, you still need to keep an accurate 12 week logbook. However, if COVID-19 impacted driving patterns during that 12 weeks, then the ATO will allow you to adjust the use indicated in the logbook to account for the change in driving patterns.

Not-for-profit salary packaging – Not-for-profit employers often provide salary-packaged meal entertainment to employees to take advantage of the exempt or rebatable cap. For the FBT year ending 31 March 2021, the ATO has stated that they will not look into these arrangements where meals are provided by a supplier that was authorised as a meal entertainment provider as at 1 March 2020.

Cancellation fees – non-refundable costs for cancelled events are exempt from FBT unless the employee paid for the event themselves and was reimbursed by you. That is, if the employer paid for the event then the cancellation fee is the employer's obligation as no benefit was provided. If the employee paid for the event, the cancellation fee is the employee's obligation that has been reimbursed. It really depends on who the arrangement was between.

ATO 'red flags'

One of the easiest ways for the ATO to pick up on problem areas is where there are mismatches in the information provided to the ATO. Common problem areas include:

Entertainment deductions with no corresponding fringe benefit – A simple way for the ATO to pick up on a problem is when an employer claims a deduction for expensive entertainment expenses – meals out, tickets to cricket matches, etc., – but there is not a corresponding recognition of the fringe benefit.

Entertainment expenses are generally not deductible and no GST credits can be claimed unless the expenses are subject to FBT.

If your business uses the 'actual' method for FBT purposes and the value of the benefits provided is less than \$300 then there might not be any FBT implications. This is because benefits provided to a client are not subject to FBT and minor benefits provided to employees (i.e., value of less than \$300) on an infrequent and irregular basis are generally exempt from FBT. However, no deductions should be claimed for the entertainment and no GST credits would normally be available either.

If the business uses the 50/50 method, then 50% of the meal entertainment expenses would be subject to FBT (the minor benefits exemption would not apply). As a result, 50% of the expenses would be deductible and the company would be able to claim 50% of the GST credits.

Employee contributions reduce fringe benefits tax but not recognised in income tax return – Where employee contributions reduce the amount of fringe benefits tax payable (for example where an employee makes a contribution relating to a car fringe benefit), a corresponding amount needs to be recognised in the income tax return of the employer.