

Fringe Benefits Tax 2017 Update

The new FBT year starts on 1 April 2016. Here's what you need to know.

This year sees the continuation of the temporarily increased Fringe Benefits Tax (FBT) rate of 49% for another year (highlighted in the table below). The good news is that the FBT rate will return to 47% on 1 April 2017.

As this increase has had a significant impact on salary sacrifice agreements, it is important to continually review these arrangements with your employees to ensure no-one is severely disadvantaged due to these changes. We also note that the capping thresholds have changed and there are significant changes to the rebate for FBT-rebatable employers. There has also been a major overhaul to the meal entertainment rules from 1 April 2016 with the introduction of a \$5,000 cap, reporting requirements for employees and significant changes to the calculation method for meal entertainment. Further explanations are found further in this update.

Highlighted in the tables below, we provide you with a summary of all the changes that have taken effect since the introduction of the Temporary Budget Repair Levy (TBRL) of 2% from 1 July 2014.

FBT Rate and gross-up rates

FBT Year	FBT Rate	Type 1 gross-up rate	Type 2 gross-up rate
1 April 2014 to 31 March 2015	47%	2.0802	1.8868
1 April 2015 to 31 March 2017	49%	2.1463	1.9608
1 April 2017 onwards	47%	2.0802	1.8868

Capping Limit for FBT-Rebatable Employers

Capping Limit: 2015 FBT Year	Capping Limit: 2016 FBT Year	Capping Limit: 2017 FBT Year	Capping Limit: 2018 FBT Year
\$30,000	\$31,177	\$31,177	\$30,000

The increase to the caps is in line with concerns that the increase to the FBT rate would reduce the cash value of benefits provided to employees if the caps were to remain the same.

FBT Rebate for FBT-rebatable Employers

Rebate: 2015 FBT Year	Rebate: 2016 FBT Year	Rebate: 2017 FBT Year	Rebate: 2018 FBT Year
48%	49%	49%	47%

Due to the TBRL of 2%, this has effectively increased the rebate percentage that rebatable employers can claim. However, one thing overlooked at the time is that this rate is reduced to 47% in the 2018 FBT year which has surprised many. This effectively means that FBT rebatable employers will only be entitled to a reduced FBT rate from 1 April 2017 onwards.

Capping Limit for FBT Exempt Employers

Type of Employer	Capping Limit: 2015 FBT Year	Capping Limit: 2016 FBT Year	Capping Limit: 2017 FBT Year	Capping Limit: 2018 FBT Year
Public Benevolent Institutions	\$30,000	\$31,177	\$31,177	\$30,000
Health Promotion charities	\$30,000	\$31,177	\$31,177	\$30,000

Public and not-for-profit hospitals	\$17,000	\$17,667	\$17,667	\$17,000
Public ambulance services	\$17,000	\$17,667	\$17,667	\$17,000

As previously noted, the increase to the caps is in line with concerns that the increase to the FBT rate would reduce the cash value of benefits provided to employees if the caps were to remain the same.

NEW – Meal Entertainment Benefit Changes

As mentioned earlier, the government has overhauled the meal entertainment rules by introducing a separate single grossed-up cap of \$5,000 for salary sacrificed meal entertainment and entertainment facility leasing expenses (EFLE) for employees of FBT-rebatable employers and certain FBT-exempt employers. This new cap is applied on-top of the existing caps that apply on the amount of concessional benefits these employers can provide to each employee per FBT year.

What does this mean? Employers now have to include entertainment benefits provided in determining whether the relevant capping threshold (above) has been exceeded. When the respective cap has been exceeded as a result of including entertainment benefits, the excess amount is reduced by the lesser of \$5,000 or an employee's total grossed-up taxable value of salary packaged entertainment benefits. Effectively, the capping thresholds become \$36,177 and \$22,667 for the 2017 FBT year.

What if these thresholds are exceeded? The amount in excess of these thresholds become an Aggregate non-rebatable amount for FBT-rebatable employers or Aggregate non-exempt amount for FBT-exempt employers and are subject to FBT.

What do I need to do? If you fall into the category of an FBT-rebatable or FBT-exempt employer you must identify and review all salary sacrifice arrangements that include provision of meal entertainment before 1 April 2016 and make necessary adjustments to these agreements to ensure these caps are not exceeded.

IMPORTANT - Salary Packaged Entertainment Calculation Method Changes

As part of the new \$5,000 cap for salary packaged meal entertainment, the government has removed the option for employers to use the concessional valuation rules for salary packaged meal entertainment and EFLEs. In other words, from 1 April 2016 employers will be unable to use the 50/50 split and 12-week register methods for valuing salary packaged meal entertainment or EFLEs and are required to apply the actual method for valuing the benefits provided. This applies to all employers who salary package meal entertainment and EFLEs, not just FBT-exempt or rebatable employers.

Updated Reporting Requirements

When reporting employee's Individual Fringe Benefits Amount (IFBA) on their PAYG Payment Summaries at 30 June, you only need to report those IFBA amount that exceeds \$2,000. If this IFBA amount does exceed \$2,000, the gross-up rate to use is Type 2, being 1.9608 on the entire amount (regardless of the types of benefits provided).

Exemptions for Portable Electronic Devices

If you are a Small Business Entity (SBE), the government has extended the FBT exemption with respect to eligible work-related items that are provided to employees. These changes take place from 1 April 2016. Under these changes, SBE employers will not be limited to providing one eligible work-related item that is a 'portable electronic device' (e.g., a laptop computer) to an employee per FBT year where the items have a 'significantly identical function'. This means that multiple devices can be provided to an employee as an exempt benefit, so long as the item is primarily for use in the employee's employment.

Interactions between FBT, income tax and GST

If you pay FBT on benefits provided to employees, the business can generally claim a tax deduction for the costs associated with that benefit as well as the appropriate GST credits. However, if FBT does not apply to the benefit then no deduction or GST credits can generally be claimed.

ATO Targets

Living away from Home Allowances

The Australian Taxation Office (ATO) are constantly looking at Australian taxpayers claiming living away from home allowances (LAFHA) to make sure they are not incorrectly accessing the FBT concessions. If somebody is living in Sydney but traveling to Melbourne on an ad-hoc basis every other week for work, they are simply travelling. They may be entitled to travel deductions but are not entitled to the FBT concessions that can apply to LAFHAs. If a person relocates temporarily to Melbourne, keeps their home in Sydney for their exclusive use (can't be rented out), then it's more likely they can access the LAFHA concessions. You always need to double check to get the distinctions right to apply any concessions.

Motor Vehicles

When employees have access to vehicles owned or leased by the employer and the employee uses the vehicle for private purposes (including travelling between home and the workplace), then FBT is an issue that needs to be managed.

The ATO have also confirmed that if an employee provides an upfront contribution under a novated lease, the ATO holds the view that a lease does not exist for income tax purposes and that the upfront contribution by the employee means there is direct equity in the asset. This means that the employer would be unable to claim an outright deduction for each of these repayments and their claim would (presumably) be limited to the interest component of each lease payment and a notional depreciation claim.

Contractors and FBT

The ATO have expressed that if you provide a non-cash benefit to an individual contractor, even though they may have quoted a valid Australian Business Number (ABN), and they are deemed to be an employee, FBT may be applied. Generally, contractors that operate through a company or a trust are exempt from this. However, a recent Full Federal Court case has exposed the conventional approach for requesting contractors operate through interposed entities to reduce the employment-related obligations (e.g., PAYG withholding or FBT) may no longer be a valid strategy. It is therefore important to ensure all engagements with contractors are assessed for any potential FBT liability.

How do I know if I need to pay FBT?

If you are not sure whether you are providing fringe benefits to your employees, here are some key questions you should ask yourself:

- Do you make vehicles owned or leased by the business available to employees for private use?
- Does your business provide loans at reduced interest rates to employees?
- Has your business forgiven any debts owed by employees?
- Has your business paid for, or reimbursed, any private expenses incurred by employees?
- Does your business provide a house or unit of accommodation to employees?
- Does your business provide employees with living-away-from-home allowances?
- Does your business provide entertainment by way of food, drink or recreation to employees?
- Do any employees have a salary package (salary sacrifice) arrangement in place?
- Has your business provided employees with goods at a lower price than they are normally sold to the public?

A common area of confusion is motor vehicles. Where a motor vehicle owned or leased by the business is used by an employee for private purposes (including travelling between home and the workplace), then FBT is an issue that needs to be managed. The Tax Office will once again be specifically targeting motor vehicles that are owned by businesses so it will be important to identify any potential FBT issues before the Tax Office does.

Another common area of confusion is entertainment. Entertainment can be almost anything from food, drink, recreation such as movie tickets, to non-work based travel. If you provided any entertainment benefit to employees, such as an employee attending a business lunch, then FBT applies. Entertainment is an area of continued focus for the Tax Office as the FBT treatment also interacts with the treatment of these expenses for income tax and GST purposes.

If you are still uncertain if the benefits you are providing to your employees may fall into the FBT arena, please do not hesitate to contact your Client Services Manager at Macquarie Partners Central Coast.

What is exempt from FBT?

Certain benefits are excluded from the scope of the FBT rules. The following work related items are exempt from FBT if they are provided primarily for use in the employee's employment:

- Portable electronic devices (e.g. laptop, tablet, mobile, PDA, electronic diary, notebook computer, GPS navigation device) that are provided primarily for use in the employee's employment;
- An item of computer software;
- Protective clothing required for the employee's job;
- A briefcase;
- A calculator;
- A tool of trade.

The other popular FBT exemption is the minor benefit exemption. This is where an infrequent benefit is provided in respect of an employee's employment, the value is *less than* \$300 and having regard to other various criteria, it would be unreasonable to treat the benefit as a fringe benefit, the benefit is generally exempt. The most common mistake when using this exemption is misunderstanding the threshold. The benefit *must be less than* \$300. Most employers would provide a benefit to the value of \$300 not realising that the threshold has been breached and FBT now applies. In this case, having the employee contribute an amount to reduce the value to less than \$300 will cause the benefit to be exempt.

We look forward to assisting you to review your current arrangements and preparing any FBT documentation or returns and calculations required. If you have any queries in regards to the above or would like to discuss your concerns in complying with FBT, please do not hesitate to contact your Client Service Manager at Macquarie Partners Central Coast on 02 4324 9177 to assist you with your query.