



Fringe Benefits Tax (FBT) is misunderstood by most people. Some see it as a disincentive, others see it as a tax rort – neither are accurate. Understanding the purpose of the FBT regime and what it is designed to capture is crucial to seeing FBT for what it is.

At the end of this brochure we have a checklist to help employers identify when they have provided a Fringe Benefit.

## The What and Why of FBT

FBT is a tax levied on employers based on the value of non-cash benefits provided to employees.

Non-cash benefits can take many forms, and typical examples include:

- The provision of a car for use outside of work
- Entertainment outside of working hours (i.e. a Christmas party)
- Car parking
- Laptops, iPads, etc

Under our Tax Law, the receipt of a non-cash benefit by an employee is not taxable (i.e. is not included in their group certificate), and as such – in the absence of FBT – the structuring of a person's wage to comprise of wholly non-cash benefits would result in \$0 in tax payable by the employee (with the employer getting a full tax deduction for the provision of that benefit).

As you can imagine, that would leave a significant loophole in our tax system.

## The FBT Rate

FBT is levied on the employer at the top marginal tax rate including the Medicare Levy – which for the 2018 year is 47%. It is set deliberately high to ensure that people in the top tax bracket can't gain an advantage by utilising fringe benefits to artificially reduce their tax.

One flat rate is used (instead of a progressive set of rates similar to individual rates) for simplicity. It would be nigh impossible to tax the employer based on the individual tax rate of the employee – for one, how would the employer know what other income the employee has? It would be a privacy issue to force the employee to divulge that information.

## The FBT Formula

The calculation of FBT isn't as simple as 47% of the value of the benefit provided. So, if your employer provided you with a \$2,000 golf club membership, FBT isn't \$940.

In the above example, the employer would have outlaid \$2,940 to provide the \$2,000 benefit to the employee. The effective tax rate here is only 31.97% (\$940 divided by \$2,940) – which means if you provided this to someone on the top tax rate, they are "winning" from this.

The FBT calculation needs to work out what amount of tax is required to be paid to get \$2,000 being the "after-tax" figure, assuming a tax rate of 47%.

Another way of looking at it would be to think "how much in gross (before tax) wages would a person on the 47% tax rate need to earn to pay this \$2,000 membership from their net (after tax) income?"

Leaving out GST as a consideration (because it complicates this simple example), the formula is:

$$\left[ \frac{\text{benefit}}{1 - \text{FBT Rate}} \right] \times \text{FBT Rate}$$



Using our example, \$2,000 divided by 0.53 is \$3,773.58. This multiplied by 47% is \$1,773.58 = the FBT payable. *You can double check this by ensuring that the gross value of \$3,773.58 less the tax of \$1,773.58 equals the \$2,000 non-cash benefit provided.*

Essentially, what employers need to consider is that in the absence of any exemption or concession, the FBT payable will be close to equal the benefit provided to the employee.

## Who the Benefit is Provided To

It's not just benefits provided to employees that are caught, but also associates (such as spouses, children, relatives, and related companies and trusts). It also includes benefits provided to employees and associates of related businesses – so setting a second company with the sole purpose of that company doing nothing by employing staff doesn't get around the rules.

## Salary Sacrifice

Salary sacrifice is the act of asking your employer to substitute part of your wage with a non-cash benefit. When your employer goes to reduce your gross wage, they also need to factor in the FBT payable on the benefit provided to you.

*For example, Mr. A earns a gross wage of \$80,000 and wishes to salary sacrifice some of his wage for the lease of a boat – which will be \$5,000 per year.*

*The FBT payable by Mr. A's employer will be \$4,433.96, and as such they will reduce Mr. A's gross wages by \$9,433.96.*

*Essentially, Mr. A is paying 47% tax on this boat. If Mr. A simply paid for the boat out of his own pocket, the effective rate of tax paid by Mr. A personally is only 34.5%.*

## Types of Benefits

Non-cash benefits are grouped into different categories by FBT Law to apply different exemptions and concessions to them. The more common ones are detailed below.

### Superannuation

Super is technically not a non-cash benefit, so FBT does not apply to salary sacrificed super (nor the compulsory super paid by your employer).

### Cars

It is important to understand that the definition of a "car" in Tax Law is basically a vehicle designed to carry a load of less than one tonne and fewer than 9 passengers.

There are 3 different ways of calculating the FBT payable on cars:

#### Principal purpose is NOT carrying passengers

If the motor vehicle is a panel van or ute and most the carrying capacity is dedicated to carrying a load (as opposed to supporting the driver and passenger seats), then it will be exempt from FBT if the only private use of the vehicle is minor, infrequent, and irregular.

The ATO maintain a list on their website of cars it considers as meeting this criteria (which can be found [here](#)).

*Note: Some dual-cabs meet this criterion, others don't. NEVER assume a dual-cab is FBT exempt just because the car dealer said so, or because it's advertised as a "ute". Where in doubt, check the ATO website.*



## Statutory formula

For all other cars (i.e. passenger vehicles), you can choose from the remaining two methods. The statutory formula is simple and less onerous as it takes into consideration all running costs of the vehicle – so these don't need to be additionally or separately accounted for.

For all cars purchased after 10 May 2011, the formula is:

$$20\% \times \text{cost of the car} \times \frac{\text{days available for private use}}{\text{days in year}}$$

*If an employer provided an employee a \$40,000 car for a whole year, the value of the benefit is worked out to be \$8,000 for a year. Based on the FBT formula on page 2, the FBT payable is \$7,094.34.*

Once the car has been held for 4 years by the employer (different to the car being 4 years old), the cost of the car is reduced by 1/3<sup>rd</sup> for the purposes of the above formula.

## Operating cost

This is basically the log book method. All costs of the car are added up (such as fuel, registration, insurance, repairs, depreciation / reduction in value of the car, interest costs on finance, etc) and multiplied by the private use of the car as per the log book.

Without a log book, the private portion is deemed to be 100%.

*Using the above \$40,000 car, and assuming the running costs (fuel, rego, insurance, etc) was \$5,000, the total benefit provided (including depreciation and interest) would total \$17,260. This is then multiplied by the private % of the car's use.*

*If 100% private, the value of the benefit will be the full \$17,260, and FBT would be \$15,306.04.*

*If 70% private, the figures would be \$12,082 and \$10,714.23 of FBT.*

*If 30% private, then they change to \$5,178 and \$4,591.81 of FBT.*

## Choosing a method

You can choose between the statutory formula and operating cost methods based on which gives you the best outcome, and that will largely depend on the private use of the car. In the above example, a private portion of around 46% is the point where the operating cost method becomes a better option.

## Living Away From Home Allowance

Where an employer pays an employee an allowance because the duties of employment require the employee to live away from their normal place of residence, it may be a Living Away From Home Allowance (LAFHA).

The amounts that are exempt from FBT differ between accommodation and food.

### Accommodation

The actual amount spent and substantiated by the employee is exempt from FBT. Any excess attracts FBT.

### Food

Food may be entirely FBT free, or partly depending on whether the employer is paying an allowance to compensate for the extra food costs of living away, or the total food costs.



If the employer is paying an allowance for only the extra costs of living away from home, then food will be FBT free subject to the allowance being actually spent and the substantiation requirements.

If the employer is paying an allowance for all food, then the first \$42 per person (\$21 per person under 12) attract FBT in addition to any unspent allowance (again subject to substantiation).

The substantiation requirements for food are:

- If the total is under the ATO's reasonable amounts (\$241 per week + \$121 per additional adult and \$61 per additional child in the 2016 year) – then no substantiation is required.
- If the total is over the above limits, then substantiation is required for the full amount.

*For example, an employer pays an LARHA of \$1,000 for one week to their employee for accommodation and extra food only. \$600 was actually spent on accommodation, and \$241 actually spent on food. The taxable amount will be \$1,000 - \$600 - \$241 = \$159.*

## Entertainment

Entertainment in the context of FBT can include food, drink, accommodation, or some sort of “entertainment” by way of a show or production – basically any gathering where the intention is to enjoy yourself.

The key part of this is whether there is a factor of entertainment involved.

Food and drink provided on a working lunch on-premises is not FBT entertainment, but food and drink provided while sitting in a corporate box is.

### Meal Entertainment

To work out if a meal (and associated accommodation) is “entertainment”, then all factors need to be considered. Why is the food provided? What type of food is provided? When is it being provided? Where is it being provided?

Examples of meal entertainment generally include things like:

- Lunches at a restaurant for meetings or networking;
- Friday night drinks in the staff room; and
- Food and drink at a social function, sporting event, or other production.

Examples of meals that are not entertainment are:

- Light meals on-premises with the purpose of nourishment only; and
- Reasonable food or drink provided while on overnight business travel.

In some cases, an employer can elect to not claim a tax deduction for the meal entertainment in order to avoid paying FBT, or can use a concessional method instead of keeping detailed records.

Meal entertainment FBT items are not reportable on employees group certificates.

### Other Entertainment

Other entertainment may include tickets to sports events, club memberships, overseas travel, ski lodges, and other similar items. These are all taxable based on the value provided.



## Car Parking

The provision of a car park to employees is a non-cash benefit and subject to the FBT rules.

However, it is only a taxable fringe benefit if there is a commercial car park within 1km and the lowest all day fee charged is higher than the car parking threshold (which is somewhere around \$9 per day).

In addition, if the employer is a small business, and the parking is provided on-premises, there is an exemption from FBT.

## Other Benefits

Most other benefits are simply taxed based on the value of the benefit provided. Some examples would include:

- Paying for gym fees;
- Paying for medical costs or health insurance;
- Books, newspapers, subscriptions, etc;
- Educational fees.
- Selling goods manufactured or sold by the business at a discount;
- Providing a loan at a discounted interest rate; and
- Provide housing at a discounted rate.

## Minor Benefits Exemption

A valuable exemption from FBT is for minor and infrequent benefits that are under \$300.

Regardless of what type of fringe benefit has been provided (car, property, travel, meal, etc), if the provision of benefits is infrequent, and the dollar value is under \$300, it is exempt from FBT.

## Other Exemptions

There are also various exemptions for specific benefits:

- Items such as laptops, computer software, uniforms, tools of trade, phones, etc, where the primary purpose of the item is work related;
- Newspapers and periodicals that used for business purposes;
- Memberships that are related to work;
- Medical treatment related to a WorkCover incident;
- Work related medical exams;
- Education that relates to the work activities of the employee, or are under a traineeship program;
- Relocation costs for a employee to move their home in order to perform work duties; and
- An item provided to an employee that would be 100% tax deductible to the employee should the employee have paid for it themselves (the “otherwise deductible rule”).



## Employee Contributions

Any amount paid by the employee back to the employer in respect to a non-cash benefit will reduce the taxable amount.

*For example, the employer provides the employee with the use of the company boat for the weekend, which would normally fetch \$1,000 over the weekend. If the employee pays \$800 for the hire, then the taxable benefit is reduced to \$200.*

## Strategies to Reduce FBT

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As with all taxes, we all want to minimise our exposure to paying them. When it comes to FBT, the following strategies are available:

- Don't provide non-cash benefits to employees. Provide a cash bonus instead and let the employee sort out the tax consequences (although make sure you withhold PAYG tax as per normal);
- Provide work related items such as portable electronic devices;
- Keep any fringe benefits under \$300 (and infrequent) so they qualify for the minor benefit exemption;
- Provide benefits that the employee would be eligible to claim a tax deduction for;
- Utilise benefits that have concessional rules – such as the statutory formula for cars; and
- Utilise employee contributions.

## Disclaimer

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We have provided this document as a very basic guide which is intended to assist people in improving their understanding of the tax laws and how they operate. When considering what actions to take however, there are more factors that should be considered.

This is not intended to be a comprehensive document that can be taken as tax advice, financial advice, or any other kind of advice. The content does not consider any of your personal circumstances and is only generic in nature.

This document is not to be taken as advice under any circumstances. If you are considering acting based on anything written in this document, we suggest you seek professional advice first.

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