

Fringe Benefit Tax (FBT)

All provisions below refer to the Fringe Benefits Tax Assessment Act 1986 (FBTAA) unless otherwise specified.

(COPY) Fringe benefit tax is imposed on the employer in relation to the provision of benefits to employees: s66(1) FBTAA.

Step 1: Is there a fringe benefit?

(COPY) s136(1) FBTAA provides the definition of a fringe benefit as a benefit provided during the year of tax (1 April to 31 March: s136(1)) by an employer to an employee in respect of employment of the employee.

A) BENEFIT

(COPY) s136(1) provides a broad definition of benefit, including any right, privilege service or facility provided under an arrangement in relation to the performance of work.

In respect of the employee's employment

(COPY) Defined in s136(1) as 'by reason of... that employment'

(COPY) According to J&G Knowles, Starrim and Slade Bloodstock, 'in respect of employment' requires a 'sufficient and material relationship' between the employment and the provision of the benefit.

CHOOSE ONE

(COPY) On the facts, it is obvious that the benefit arises purely from the employment relationship as the employee would not have received the employee but for said relationship.

OR

(COPY) ~~There are other relationships between the employer and the employee. Thus, we ask whether the benefit would have been received by the employee without the employment relationship: FBT: Guide for Employers (NAT 1054). On the facts, the employee would not/would have received the benefit without their capacity as an employee. Therefore, the benefit is/is not in respect of the employment~~

Conclusion

(COPY) The FBT liability of each item will be assessed on a case-by-case basis as below.

.....

1) SALARY

Expressly excluded under s136(1)(f) → no consequences

2) ALLOWANCE OR REIMBURSEMENT

Step 2: Allowance or reimbursement?

(COPY) An allowance is determined in Roads & Traffic and TR92/15 as a predetermined amount made to cover an estimated expense which is paid regardless of whether that expense is incurred; meanwhile, reimbursements are compensation for the actual amount of expenditure incurred by an employee.

CHOOSE ONE

Allowance (predetermined amount)

~~(COPY) On balance, it is more likely that the benefit received is an allowance rather than reimbursement. (COPY) Therefore, allowance is assessed as ordinary income (s6-5 ITAA97) or by specific inclusion as statutory income under s15-2 ITAA97 and is not subject to FBT.~~

~~(THE END! don't move on to following steps)~~

OR

Reimbursement (compensate actual amount)

(COPY) On balance, it is more likely that the benefit received is a reimbursement rather than allowance. Therefore, there are FBT consequences.
(move on to following steps)

Step 3:

CHOOSE

(OPTIONAL; not car fringe benefit and not for work related purpose) Reimbursement is an expense payment FB under s20b

(OPTIONAL; in relation to car fringe benefit) Generally, reimbursement of the employee's motor vehicle expenses would be qualified as an expense payment FB. However, it is exempt under s53.

~~(OPTIONAL; for work related purpose) Reimbursement of ____ (eg. Phone bill) is an expense payment under s20. However, since the employee uses the ____ (eg. phone) for work related purpose only; therefore, if the employer provides a 'no private use declaration', the expense payment will be an exempt benefit under s20A. Besides, the taxable value of the expense payment FB will be reduced to 0 due to otherwise deductible rule under s24 as the expenses would have been deductible to the employee if s/he had incurred them himself/herself. (END HERE).~~

Step 4: Exemption

CHOOSE ONE:

(COPY; satisfy exemption) The reimbursement benefit is an exempt benefit as it falls under the exemption of:

CHOOSE ONE

-(COPY; <300) Minor benefit under s58P which states that a benefit with a notional taxable value of less than \$300 will be exempt.

-(COPY) work-related item under s58X which states that a benefit that is primarily for use in the employee's employment is exempted. Example of work-related item: A portable electronic device (see ATO ID2008/133 definition, including mobile phones, laptop computers)

-(COPY; taxi single trip) single-trip taxi travel under s58Z which states that the provision of single-trip taxi journeys beginning or ending at the employee's workplace is an exempt benefit.

OR

(COPY; no fall any exception) The reimbursement benefit does not fall under any of the exemptions.

Step 5: Prima facie, taxable value is: \$_____

CHOOSE ONE:

In house

-(COPY) An expense payment fringe benefit is in-house where the expense relates to goods or services provided by the employer to outsiders in the ordinary course of their business: s136(1). Under s22A,

Taxable Value = taxable value of the fringe benefit as if it was a property or residual fringe benefit (i.e. assume the employer did not reimburse the employee but provided the property or services directly)

OR

External

-(COPY) An expense payment fringe benefit is external if it is not an in-house expense payment fringe benefit: s136(1). Under s23,

Taxable Value = Amount of the expense or reimbursement incurred by the employer

Step 6: Reduction in taxable value

-(COPY) In-house FB- this doesn't apply in this case.

-(COPY) Recipient's contribution- this doesn't apply as it is reimbursed.

-(COPY) Otherwise Deductible Rule- If the employee incurred the expense himself/herself, would he/she get deductions?

CHOOSE ONE

- xx Expense (Deductible- fulfills positive limb)

(COPY; fall under general deduction) The employee could have received deduction if s/he incurred the expense himself/herself as (*eg. the expense satisfies the positive limbs, incurred in gaining or producing AY and not the negative limbs*). Therefore, the taxable value of fringe benefit is reduced by . THE END!

OR

- xx Expense (Deductible- falls under specific deduction)

(COPY; falls under specific deduction) The employee could have received deduction if s/he incurred the expense himself/herself as the expense is specifically deductible under s
CHOOSE:

Repairs- s25-10

Tax-related expenses (Eg. accountant cost to deal with tax return)-s25-5

Bad debts- s25-35

Payment to associations- s25-55

Travel between two workplaces- s25-100 (home to client/work to client)

Gift to deductible gift recipient- Div30

Therefore, the taxable value of fringe benefit is reduced by . THE END!

OR

- xx Expense (Not deductible- falls under negative limbs) (*egwork to home*)

(COPY; falls under negative limb) The employee could **not** receive deduction if s/he incurred the expense himself/herself as the expense is (*eg. private or domestic purpose in nature to put the TP in position to earn AY, generally denied (See list) as*). Therefore, the taxable value is not reduced and remains the same. (move on)

Generally denied:

- HECS (s26-20)
- Relative' travel expenses (s26-30)
- Payment to related entities (s26-35)
- Recreational club expenses (s26-45)
- Entertainment expenses (s32-5)
- Gifts or donations (s26-22)

Step 7: Type 1 or type 2?

Type 1: Where the employer is entitled to ITC

Type 2: Where the employer is not entitled to ITC

Is this a creditable acquisition (s11-5) for the employer?

-Acquisition (s11-10)- yes, there is acquisition

-Creditable purpose (s11-15)- yes, the acquisition is provided as fringe benefit for business which is a creditable purpose

-Taxable supply

CHOOSE ONE

- It is clear that the supply is taxable as the amount includes GST. (type1)

OR

-As it is not clear that the acquisition price includes GST, it is necessary to ascertain this element from the supplier's perspective: ss9-10, 9-15, 9-20, 9-25, 23-5, 23-15, r 23.15 GST Regulations 1999, Div 38 and Div 40. (refer GST notes)

-Consideration (s11-5(c)) - yes, reimbursement is treated as a consideration for an acquisition that the employer makes from the employee: s111-5, GSTR2001/3

-Registered for GST (s11-5(d))- yes, as the annual turnover of the employer is approximately \$_____ which exceeds the turnover threshold of \$75,000: s23-5, s23-15, s188-10 & r23.15 of the GST Regulations 1999. This shows that the employer must register for GST.

CHOOSE ONE:

Here, there is creditable acquisition. Therefore, it is type 1: ss5C(3) and 149A

Here, there is no creditable acquisition. Therefore, it is type 2: s5C(4)

Step 8: FB Taxable amount

CHOOSE ONE:

(COPY;TYPE 1) Fringe Benefits Taxable Amount (s5B) = Total taxable value of all Type 1 Fringe Benefits \times 2.0802

OR

(COPY;TYPE 2) Fringe Benefits Taxable Amount (s5B) = Total taxable value of all Type 2 Fringe Benefits \times 1.8868

3) OTHER EXPENSE PAYMENTS FB (NOT REIMBURSEMENT-eg. HECS payment, residential rent, accountant cost, employee's children school fees)

Step 2: The benefit falls under none of the exclusions (e.g. salary, superannuation contributions, benefits under employee share scheme) in s136(1), and hence we can now move on.

Step 3: **XXX** is an expense payment FB under s20A because an employer pays an expense incurred by the employee.

(OPTIONAL; IF CAN ONLY USE FOR WORK RELATED, THEN EXEMPT!;) However, since the employee uses the _____ (eg. phone) for work-related purpose only; therefore, if the employer provides a 'no-private-use declaration', the expense payment will be an exempt benefit under s20A. Besides, the taxable value of the expense payment FB will be reduced to 0 due to otherwise deductible rule under s24 as the expenses would have been deductible to the employee if s/he had incurred them himself/herself. (END HERE).

Step 4: Exemption

CHOOSE ONE:

- (COPY; satisfy exemption) The expense is an exempt benefit as it falls under the exemption of:

CHOOSE ONE

-(COPY; <300) Minor benefit under s58P which states that a benefit with a notional taxable value of less than \$300 will be exempt.

-(COPY) work-related item under s58X which states that a benefit that is primarily for use in the employee's employment is exempted. Example of work-related item: A portable electronic device (see ATO ID2008/133 definition, including mobile phones, laptop computers)

-(COPY; taxi single trip) single-trip taxi travel under s58Z which states that the provision of single-trip taxi journeys beginning or ending at the employee's workplace is an exempt benefit.

OR

- (COPY; no fall any exception) The expense does not fall under any of the exemptions.

Step 5: Prima facie, taxable value is: \$_____

CHOOSE ONE:

- *In house*

-(COPY) An expense payment fringe benefit is in-house where the expense relates to goods or services provided by the employer to outsiders in the ordinary course of their business: s136(1). Under s22A,

Taxable Value = taxable value of the fringe benefit as if it was a property or residual fringe benefit (i.e. assume the employer did not reimburse the employee but provided the property or services directly)

OR

- *External*

-(COPY) An expense payment fringe benefit is external if it is not an in-house expense payment fringe benefit: s136(1). Under s23,

Taxable Value = Amount of the expense or reimbursement incurred by the employer