A Summary of the Fringe Benefits Tax Rules

Fringe Benefits Tax is a tax on benefits provided to employees. It is complex and comprehensive legislation, even the FBT year is different to the usual tax year. The FBT year is from the 1st April to the 31st March.

All company directors are deemed to be employees, even if no director's fees are paid. This includes directors of trustee companies.

Fringe Benefits Tax is payable at 47% for 2017/18 onwards. Any fringe benefits are grossed up, virtually doubled, so that the tax on the benefit equates to a straight payment of salary at the top marginal tax rates.

Some common benefits caught by the FBT regulations are:

- Car benefits, - *for example private use of a company car.*
- Housing and/or food provided to employees,
- Property provided to or expenses paid for employees e.g. employee's vehicle expenses, home electricity or phone,
- Entertainment e.g. lunches with clients,
- Loans to employees.

Exemptions:

- Smart devices (mobile phones, IPads), limited to 1 per employee per annum. Unless provided by a small business entity, then unlimited smart devices are exempt.
- Minor Benefits – benefits with a value less than $300 each, if infrequent or irregular, are exempt from fringe benefits.
- Meals consumed on an employer's premises during a normal working day are exempt.
- Staff Purchases – if this relates to property sold to the public – the taxable value = lowest price sold to the public x 75% – and the first $1,000 per employee p.a. is exempt.

Motor Vehicles

Any motor vehicles available for employees to use privately are caught by the fringe benefits rules. If a vehicle is garaged at the employee's home, then it's 'available for private use'.

Vehicles fall into different categories:

1. If a vehicle is **designed to carry less than 1 Tonne then it is a 'Car Benefit'**

    <u>*Exception to the rule*</u> - If the car is a *utility* or a *van designed and fitted out as a commercial vehicle (so no non-business accessories) than any '**minor** private use' and home to work travel is disregarded and FBT rules won't apply.*

    However this 'minor private use' must:

    i. Be monitored by a policy like regular odometer checks and/or private trip diaries; and
    ii. Any private diversions on a home to work trip must not exceed 2 km in total; and
    iii. Other private use must not exceed in any one trip - 200 km, nor total private annual kms exceed 750 km;
    iv. And the GST Inclusive cost shouldn't exceed the Luxury Car Tax Threshold, currently $65,094.

These new 'minor private use' strict rules don't apply to a utility provided as a part of a salary sacrifice arrangement (1)

  - o All other vehicles in this category are treated as car fringe benefits.

2. If a vehicle is **designed to carry more than 1 Tonne it is a Residual Fringe Benefit.**

In the past, it was generally accepted that the provision of a utility or one tonner, for home to work travel and minor private use, would be exempt from FBT. Now, the ATO have applied the strict 'minor private use rules' discussed above, meaning many employer provided one tonner/utilities now fall within the FBT arena.

So with regard to business vehicles available for employee's private use, we would suggest the following:

- Enforce a general prohibition of private use policy on all business vehicles (e.g. include such a prohibition in Employee Agreements).
- Maintain a spreadsheet for each vehicle, to record
  - Employees residential address and the kilometres from home to work, and
  - The monthly odometer readings per vehicle.
- Issue each vehicle with a trip diary for the recording of private use trips (not including home to work travel).
- Each year calculate out the total of private use kilometres and ensure that the vehicle doesn't breach the above listed 'minor private use' guidelines.

(1) Although the released ATO practical compliance guidelines only relate to vehicles not subject to salary sacrifice arrangements, we believe it likely, if audited, the ATO will apply similar principles to all employer provided vehicles.

Car Benefits

Tips to minimise Fringe Benefits Tax on cars where the car is purchased by the employer:

1. *The lower the GST Inclusive purchase price the lower the fringe benefit;*
2. *Prepare a log book for a continuous 12 week period – the higher the business % the lower the fringe benefit;*
3. *Novated leases and effective salary packaging.*

The taxable value of a car fringe benefit can be measured in one of two ways:

1. **Statutory Formula method** – based on GST Incl. Cost x Statutory Fraction (currently - 20%) and the GST Incl. Cost is reduced to 2/3 after 4 years.

2. **Operating Cost method** – based on the log book private use % x operating costs

   Operating Costs include:
   - Car running expenses e.g. registration, insurance, repairs and fuel (all GST Incl.),
   - Deemed depreciation – calculated on GST Inclusive Cost x 25%,
   - Lease charges (GST Incl.),
   - Imputed interest - If car owned or financed, other than by lease and
     - Based on deemed depreciation opening written down value x 'Statutory Interest Rate', currently 5.25% for 2017/18.

Example:	
Jack Falcon is a director of Falcon Pty Ltd, a small business entity. Jack is provided with a car, mobile telephone, meals with clients, an overseas trip to the company's supplier and has his home electricity paid for.	
Car - 2017 Toyota Landcruiser Wagon, owned (not leased)	
Log Book	80% Business
Purchased	1st May 2017
GST Incl. Cost	$121,000
Car Running Expenses:	
Fuel	$ 930
Repairs	$ 451
Registration	$ 990
Insurance	$1,210
Total	$3,581
Statutory Formula Method:	
$121,000 x 20% x 335 days (01/05/2017 – 31/03/2018) 365 days	
Statutory Method Taxable Value	$22,211
Operating Cost Method:	
Total Car Running Expenses	$ 3,581
Deemed Depreciation (121,000 x 25% x 335/365)	$27,764
Imputed Interest (121,000 x 5.25% x 335/365)	$ 5,830
Total Operating Costs	$37,175
Operating Cost Taxable Value	$ 7,435 (37,175 x 20% private use)

So the Operating Cost Method has the lowest taxable value – *Jack should reimburse the company for $7,435 to reduce the car fringe benefit to Nil.* **If this full amount is not reimbursed by the employee then Fringe Benefits Tax is payable and the employer is required to lodge an annual Fringe Benefits Tax Return.**
If no reimbursement is made by Jack - the amount of FBT payable for the car would be $7,269.

Other Benefits provided to Jack:	
Mobile Telephone	Small business employers can provide unlimited smart devices to employees, providing they're used predominantly for business, and these devices will be exempt from FBT.
Meals with clients	The cost of Jack's meal, if not during overnight travel, will be subject to FBT – unless infrequent and less than $300 each – then exempt and not a tax deduction. *Note – the cost of the client's meal is not a tax deduction either.*
Overseas Travel	If more than 5 days – a travel diary is necessary to prove the business %. Any private component will be a fringe benefit, unless incidental e.g. 1 day sightseeing amongst a week of travel.
Home Electricity	The private % of the GST Incl. cost of electricity paid will be subject to FBT. (With a 50% reduction if certain 'remote area' rules are satisfied.)

Summary

As fringe benefits are:

- grossed up, currently x 2.0802 – so virtually doubled, and
- then taxed at the top marginal tax rate – 47%

BMO Accountants generally recommend calculating the fringe benefit's taxable value and have the employee/director reimburse that amount. Thus reducing the fringe benefit to nil.

The ATO data match motor vehicle purchases, registrations and income tax return disclosures – any of which could increase the risk of a fringe benefit tax audit.

Due to the complexity of this legislation we recommend you seek our specialist advice in ascertaining what fringe benefits you are providing and how to minimise any taxes.

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