



Christmas 2008 Edition



Hello and welcome to our Christmas edition of the Practice.

Fringe Benefits Tax looms large when an employer provides gifts and/or Christmas functions to employees.

As a general rule, any gifts provided to an employee give rise to an FBT liability in the hands of the employer. This edition explains the many exceptions that can be used to eliminate any FBT liability and effectively provide tax free benefits to employees.

We hope you enjoy reading this edition and wish you all a very merry Christmas and a safe and happy New Year. Regards, Tom

Minor Benefits to employees

The general rule for employers is that 'minor' benefits are exempt from FBT if provided infrequently and irregularly, and the value is less than \$300. It is important there is no pattern or regularity, and that the number supplied is small; eg. gifts of less than \$300 to employees at Christmas and on birthdays are exempt. It is also important that the minor benefit is not in the form of 'entertainment' (e.g. meals, parties etc) as these types of benefits are not tax deductible.

Example 1:

An employee and his family are given a Christmas hamper to the value of \$290. This is the only gift given during the year. The gift is a minor benefit and as the hamper is not considered to be 'entertainment' (TD94/55), the cost is tax deductible and exempt from FBT.

Example 3:

An employer gives each employee a Christmas gift of a hamper worth \$250, which also includes a \$50 gift voucher. The total value of the gift exceeds \$300, so the minor benefit exemption does not apply. Both gifts are subject to FBT, but the employer can claim a tax deduction for the cost of the benefit and any FBT paid.

Example 2:

Each employee is given a bottle of Scotch or a perfume valued at \$220 as a Christmas present. It is the only benefit received. The Scotch is not an entertainment expense and is a minor benefit. The cost is therefore deductible to the employer and there is no FBT. The cost of the perfume is also deductible and not subject to FBT because it is a minor benefit.

Gifts to Clients

For gifts of alcohol or food hampers to clients a deduction is allowable provided that they are taken away for private consumption (ie. not given in circumstances where there is immediate consumption such as would occur at a restaurant). Gifts of other items such as perfume etc would also be deductible. The ATO view on what constitutes 'entertainment' is contained in TR 97/17.



Christmas Parties

Entertainment not on employer's premises

Generally, any function provided for employees not on the employer's premises is subject to FBT, except in limited circumstances.

Christmas parties are exempt from FBT as minor benefits if the total value of the benefit to the employee (and any family member attending) is under \$300 (see 'Minor benefits'). A common trap for employers is to calculate the cost per head rather than per employee.

Note, the employer is NOT entitled to a tax deduction as it is treated as 'meal entertainment'.

Example

An employer provides a Christmas party at a local restaurant for all employees.

The catering cost per person is \$160 for food and drink. Employees are entitled to bring their spouses to the function. If an employee attends the function alone, the cost is below \$300 and there is no FBT liability as the cost qualifies as a minor benefit.

The employer would not be entitled to claim a deduction for the cost of providing that benefit.

If an employee attends the function with his/her spouse, the total value of the benefit is \$300 or more. Consequently, the entire amount is subject to FBT but the employer can claim a tax deduction for both the cost of the benefit and any FBT paid.



Entertainment on employer's premises

Except for tax exempt organisations, food and drink provided to employees on the employer's premises on an ordinary working day are exempt from FBT. 'Food and drink' similarly provided to associates of employees (eg. family members) on the employer's premises is not exempt from FBT under this rule. 'Food and drink' provided to family members on the employer's premises can be exempt if it is a minor benefit and the aggregate value of the benefit provided to the employee and any family members is under \$300.

Laptop/Portable Computers

An FBT exemption exists for an employer providing a laptop or portable computer to an employee. The exemption applies to giving the computer to the employee, an expense payment benefit, or making it available for use. However -

- there is a limit of one computer (also applies to briefcases, calculators, electronic diaries or personal organisers) per person per FBT year; and
- the exemption does not apply to associates.

TIP

This is an excellent alternative to a Christmas party or provision of minor benefits. Unlike benefits provided under the minor benefit exemption, there is no limit on the value of a portable computer that can be provided to an employee. This type of benefit is completely FBT exempt provided that the relevant conditions are satisfied. The cost is fully deductible to the employer. The added bonus is that there is no requirement in the law for the equipment to be used for work related purposes. Consequently, this can be an effective way to provide a tax free benefit to an employee. Note that a desktop computer is not regarded as 'portable' and consequently does not qualify for this concession.

Christmas Entertainment Guide

Following is a checklist of situations where the Tax Office believes the provisions of food and drink constitute an 'entertainment meal' and a 'non-entertainment meal' (see TR 97/17). This table provides a quick reference to the FBT and income tax treatment of each circumstance. Depending on what is provided, food or drink may or not amount to provision of meal entertainment.

Circumstances in which food & drink provided	Meal entertainment Yes/No	Reportable fringe benefit Yes/No	Taxable FBT Yes/No	Employer deduction Yes/No
Consumed on employer's business premises				
• by employees				
- at a social function	Y	N	N	N
- in an in-house dining facility - not at a social function	Y/N	N	N	Y
- in an in-house dining facility - at a social function	Y	N	N	N
• by associates				
- at a social function	Y	N	Y	Y
- in an in-house dining facility - at a social function	Y	N	Y	Y
• by clients				
- at a social function	Y	N	N	N
- in an in-house dining facility - at a social function	Y	N	N	N
Food and drink consumed off employer's premises at a social function or business lunch				
• by employees	Y	N	Y	Y
• by associates	Y	N	Y	Y
• by clients	Y	N	N	N



On behalf of all of us here at Della & Associates, we would like to wish you a very Merry Christmas and a wonderful and prosperous New Year.

We look forward to seeing you all next year!



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