



**WALTERTURNBULL**  
*your extra asset*

**ACT Government Tax Managers  
FBT and GST Training**

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# Agenda



■ **FBT**

■ **GST**

■ **Case Study**

# FBT - Agenda



## ■ FBT Update

## ■ Types of Fringe Benefits

- Car
- Meal entertainment
- Car parking
- Expense payment
- Residual
- Exempt

# FBT Update



## **New FBT rate**

- **46.5% (from 1 April 2006)**
  - align with the highest personal marginal tax rate
- **Subsequent changes to gross-up rates**
  - Type 1 – from 2.1292 to 2.0647
  - Type 2 – from 1.9417 to 1.8692

## **Salary packaging – is it still worthwhile?**

- **Federal Budget 2007**
- **Impact of personal marginal tax rate changes on salary packaging fringe benefits**

## **Reportable Fringe Benefits Amount (RFBA)**

- **Increase to \$2,000 (from 1 April 2007)**

## **Reporting exclusion for Pooled cars**

- **Car fringe benefits arising from pooled/ shared cars are not counted towards the \$2,000 RFBA threshold (from 1 April 2007)**
  - Aim to significantly reduce administration burden
- **Watch out – what is a ‘pooled’ or ‘shared’ car?**

# FBT Update



## Minor benefit Exemption (s 58P of FBT Act)

- Increase to \$300 per benefit (from 1 April 2007)
- TR 2007/ D6 – Commissioner’s preliminary views
- 5 matters to consider:
  - Infrequency & irregularity of similar or identical benefits are provided (not appropriate to stipulate the maximum number of times before criterion is met)
  - Value of benefit & similar benefits in current or any other year
  - Value of benefit in conjunction with associated benefits (eg. Meal in connection with night’s accommodation & taxi travel)
  - Practical difficulty in determining value of the minor benefit & associated benefits (record keeping requirements)
  - Circumstances in which the minor benefit & associated benefits are provided (unexpected event or reward for services)

# FBT update



## Other relevant changes

- Benchmark interest rate – 8.05% (TD 2007/ 10)
- LAFHA – reasonable food components (TD 2007/ 9)
- Overnight Travel and spouses

# Car



## Section 7 of FBT Act

**Benefit arises where a car, is held (owned or leased) by the employer, is provided to the employee for private use in respect of employment**

- Deemed to be available for the private use of an employee

**Car = motor car, station wagon, panel van, utility designed to carry a load of: (s.136(1) of FBT Act)**

- < 9 passengers
- < 1 tonne
- Not a motor cycle

## Owned or leased

- Lease must be in employer name

# Car



## **Provided to employee for private use**

- **Not in the course of producing assessable income**
  - Home garaging taken to be available for private use
  - Not for private use if emergency vehicle fitted with sirens etc
  - Not for private use if carrying bulky equipment (MT 2027)

## **Car fringe benefit may be concessionally taxed compared to other fringe benefit types**

- **Still attractive from salary packaging perspective**

## **Distinguish car fringe benefit from expense payment benefit**

- **Where employer reimburses an employee for a car-related expense**
- **The employer does NOT have access to the concessional valuation rules using either statutory or operating cost methods**

## **Motor vehicle other than a car = residual fringe benefit**

- **NOT an automatic FBT exemption**

# Car



## Exempt car benefits (s.8 of FBT Act)

- Essentially taxis, panel vans, utilities and other such commercial vehicles designed principally NOT to carry passengers (MT 2024)
- private use of the car is limited (ie. minor, infrequent, irregular)
- work related travel of the employee includes travel between place of residence and place of employment or any other place where employment duties are performed

# Car



## Calculating taxable value

- Statutory formula method v operating cost method
- Use method that gives lowest taxable value

## Statutory formula method:

$$\frac{ABC - E}{D}$$

A: base value

B: statutory fraction

C: number of days benefit provided

D: number of days during year of tax

E: recipient's payment

# Car



## Operating Cost Method:

$$[C \times (100\% - BP)] - R$$

C: operating costs

BP: business percentage

R: recipient's payment

# Car



## Recipient's payment

- GST must be remitted on any contributions paid directly to employer by the employee

## Which gross-up rate?

- Depends on whether GST applies to lease/purchase
- If GST in purchase/lease costs then Type 1

# Meal entertainment



## **Benefit arises where an employer provides entertainment by the way of food, drink or recreation**

- Not easy for an employer to correctly identify what is or what is not entertainment.
- Important to get it correct – result in different FBT and GST outcome
- Watch out for meal entertainment valued under the 50/ 50 method

## **The Commissioner's view of what constitutes Meal Entertainment is discussed in TR 97/17**

- Making it easier
  - Ask 4 factors ... Why, What, When and Where?
  - Analyse all the circumstances of a particular situation

# Meal entertainment



**There must be an element of entertainment for the provision of food and drink to result in meal entertainment**

# Meal entertainment



## Calculating taxable value

- Actual, 12-week register or 50/50 methods
- Method applies for entire FBT year
- Weigh up choice of method to give lowest taxable value

## Actual Method

- FBT consequences
  - Access to Property (ie on premises), Minor benefit and Taxi travel exemptions
- Disclosed on FBT return as expense payment, property or residual benefit
- Record keeping requirements
  - Determine cost via credit card statements, receipts, invoices
  - Distinguish employees from non-employees
  - Best practice - employees determine as part of reimbursement process

## 12-Week Register

- Continuous period of 12 weeks that is representative
- Register is invalid if more than 20% variation
- Disclosed on FBT return as meal entertainment fringe benefit
- Election must be made & documentary evidence maintained

# Meal entertainment



## 50/50 Method

- **FBT consequences**
  - No access to Property, Minor benefit and Taxi travel exemptions
- **Disclosed on FBT return as meal entertainment fringe benefit**
- **GST consequences**
  - Only 50% eligible for ITC's
- **Record keeping requirements**
  - Election must be made
  - Maintain sufficient records to determine meal entertainment

## Which method to use?

- **Extent to which property, minor benefit exemptions may be applicable**
- **50/50 method is simple to use and can reduce compliance costs**
- **Employee versus non-employee entertainment**

# Car parking



## Section 39A of FBT Act

**Benefit arises when an employer provides a car parking space for the use of an employee when:**

- the car is parked at employer premises; and
- within a *1 km radius* of the premises there is a *commercial parking station* that charges a fee for all day parking, which is more than the *car parking threshold* (>\$6.78 per day from 1 April 2007 –TD 2007/17); and
- the car is parked for > 4 hours between 7am and 7pm; and
- the car is used for travel between home and work.

# Car parking



## 3 options to value the benefit

- the lowest all day fee (GST incl) charged for all day parking on a particular day;
- a valuation given by a suitably qualified valuer; or
- the average lowest fee (GST incl) for the year
  - The average of the fee on the first and last day of the FBT year

# Car parking



## Calculation of the number of benefits can be measured under either:

- Actual method
  - Involves keeping records of the actual number of benefits provided
  
- 12 week register
  - Employer is required to keep records of the use of car spaces for 12 week period once every 5 years

# Car parking



- Statutory formula

$$\text{Taxable Value} = A \times \frac{B}{365} \times 228$$

A: value of one car park

B: # days car park was used

228 days to exclude weekends & public holidays.

- Note that no car parking fringe benefit arises for the car spaces allocated for customer/ client use

# Expense payment



## **Situation where employer pays third party or reimburses employee for expense**

- Any expense incurred by employee
- Common examples are HECS, home telephone

## **Otherwise deductible and no private use reductions**

- Otherwise deductible (s. 52 of the FBT Act) – where the employee is entitled to once only deduction, where a declaration is signed by the employee
- No private use – declaration may be signed by the employer

# Residual



**Captures situations of fringe benefits that do not fall into any other category**

- eg. use of desktop computer, short term motor vehicle lease

**Exemptions:**

- child care on premises
- use of property on business premises

**Valuation depends whether benefit is**

- **In-house** – the benefit would be provided to the public in the ordinary course of business
- **External** – the benefit is not in the ordinary course of business for the employer

**Motor vehicle other than car**

- Extensive business use – set rate per kilometre (TD 2007/8)
- Regular private use – operating cost method (MT 2034)

# Exempt



## Division 13 of FBT Act

### Three most common types of exempt benefits

#### ■ Work related items – section 58X, 58Y

- Superannuation
- Mobile phone, PDA
- Protective clothing
- Brief case
- Calculator
- Tool of trade
- Portable computer (one item per employee per year)
- Trade or professional journal
- Use of corporate credit card
- Airport lounge membership

#### ■ Taxi travel - section 58Z

- Travel to from place of work
- Travel between home & work
- Sickness or as a result of injury

#### ■ Minor, infrequent benefits – section 58P

- The value of the benefit is less than \$300; and
- It would be unreasonable to treat the benefit as a fringe benefit having regard to 5 criteria in 58P(1)(f)
  - Commissioner has released his preliminary views on how s 58P applies in Draft TR 2007/D6.

# Completing the FBT return



- FBT form – 2007, 2008
- Software – ie. FBT calculator
- Checklists ie. Joint ATO/ ANAO Better Practice Guide for the Administration of FBT – February 2006
- Documenting procedures
- Internal & external review, Final sign-off

## Case Study

# Questions?



## Open Forum

# GST - Agenda



## GST Update

### Government specific areas

- Appropriations
- Grants
- Supplies
- Machinery-of-Government
- Employee reimbursements

### General areas

- BAS adjustments
- Recipient Created Tax Invoices
- No ABN withholding
- GST groups and branches

# GST update



- **New Appropriations ruling GSTR 2006/11**
- **New supplies ruling GSTR 2006/ 9**
- **From 1 July 2007 purchases \$75 or less (excl GST) no longer require an approved tax invoice to claim ITC (*A New Tax System (Goods & Services Tax) Amendment Regulations 2007 (No 1)*)**
- **Joint ATO/ ANAO Better Practice Guide for the Administration of GST**

# GST update



## ■ Increase to registration threshold

- From 1 July 2007 GST registration threshold increase
- GST turnover from \$50,000 to \$75,000
- GST turnover to \$150,000 for non-profit bodies
- Impact for dealing with small suppliers
- *A New Tax System (Goods & Services Tax) Amendment Regulations 2007 (No 2)*

# GST update



- Under Division 81 of the GST Act the Assistant Treasurer has made the *A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2007 (No.1) [Determination 2007 (No.1)]* to list those taxes, fees and charges that are excluded from the scope of the GST
  - with effect from 1 July 2007

# Appropriations



- Replaced GSTR 2004/ 5 – what's changed, supporting docs – Budget papers & Appropriations Act.
- Review funding arrangements to ensure appropriately covered by the new ruling
- ***Section 9-15(3)(c) – payment made by GRE to another GRE is not the provision of consideration if the payment is specifically covered by an appropriation under an Australian law***
  - GRE = Government Related Entities
- **3 requirements to satisfy s 9-15(3)(c)**
  - There is an 'appropriation' under Australian law;
  - The payment is made by one GRE to another GRE; and
  - The payment is specifically covered by the appropriation.

# Appropriations



## The payment is specifically covered...

- Final clarification provided in GSTR 2006/11
  
- This does not mean it must be specified in wording of relevant appropriation.
  
- **BUT that the payment is specifically covered by the appropriation.**
  - The following must be specified:
    - Purpose of the payment; and
    - Amount of the payment.
  
  - Often this information is detailed in relevant documents supporting the appropriation
    - Eg. Budget papers, Agency Budget Statements, Portfolio Budget Statements

# Appropriations



## Managing the risk

- **Not all payments between GRE's will be of a funding nature**
- **Distinguish commercial from non-commercial transaction**
- **Once funds are appropriated, the use of those funds in course or furtherance of the agencies operations will be subject to the basic GST rules**

# Grants



**A grant will be subject to GST where it represents consideration: GSTR 2000/11**

**Grant is made without any strings or conditions attached**

- NO GST liability
- Examples:
  - Grants not involving any obligation
  - Grants only involving an obligation to provide information

# Grants



**Grant is paid for a specific purpose or subject to conditions**

- **MAY give rise to GST liability**
- **Examples:**
  - Grants involving an obligation to do something
  - Grants involving an obligation to act and an obligation to provide information

**What is an Obligation?**

- **Binding condition**
- **Regulating the disposal of the funds**

# Grants



## Distinguish gifts to non-profit bodies

- **Gifts to non-profit bodies cannot be treated as consideration in any circumstances: s 9-15(3)(b)**
  - Payment is voluntary and does not carry any obligations
- **The Commissioner's view to whether GST will apply depends on if the recipient gained a *material advantage* from the payment : based on GSTR 2000/11**

# Grants



## Distinguish sponsorships

- **Sponsorships are normally subject to GST, since recipient is supplying sponsor with advertising services.**
  - GST is to be remitted, and ITC claimable
  
- **Where sponsor provides goods or services instead of cash**
  - GST must be paid on both supplies
  - Valuation issues
  
- **Non-monetary consideration**

# Supplies



## **GSTR 2006/9: Supplies**

- **Recap from previous tax manager's forum**
- **Meaning of “supply” s.9-10**
- **Common supply arrangements**
  - Two party – how is transaction structured, person paying and person receiving, claiming ITC's
  - Multi-party
- **Distinguish UK & NZ regimes**
- **Note GSTR 2006/ 9 effective from January 2006**
  - Is an amendment required to the BAS?

# Machinery-of-Government (MoG)



- **Recent clarification provided by ATO Technical Advice Unit for statutory authorities being incorporated into various departments**
- **Continue to have separate identity**
- **Maintain separate ABN**
- **Must notify ATO to update ABN & GST registration**
- **No longer 'territory government statutory authority' but 'territory government entity'**

# Machinery-of-Government (MoG)



- **3 month timeframe from date of gazettal within which to claim ITC's**
- **Salary reimbursements & transfer of leave entitlements**
- **Invoicing / notification to suppliers/ customers**
- **Impact of GST Agency rules (Div 153, GSTR 2000/37)**
- **Distinguishing separate taxable supplies**

# Employee reimbursements



**Division 111 of the GST Act allows for the flow through of ITC to employer in following situations:**

- Reimbursement of employee for expense incurred related to their employment
- Reimbursement of employee which constitutes an expense payment benefit

**The ITC will not pass through where**

- The employee is entitled to the ITC
- The supply was not a taxable supply

# BAS adjustments



**Adjustments to the BAS return is required where an adjustment event occurs**

- **Adjustment event**
  - The supply is cancelled
  - Consideration for the supply changes
  - The supplier changes its GST status
  
- **Adjustment v Correction**
  
- **Correcting GST mistakes**
  - Original BAS or next BAS
  
- **BAS preparation queries/ comments**

# BAS adjustments



## Adjustment Notes

- Required where event results in a decreasing adjustment
- Note must be issued by the supplier within 28 days
  - The recipient requests, or
  - The supplier becomes aware of the adjustment

## Adjustment Note requirements

- Example
- Not required where adjustment amount < \$50

# Recipient Created Tax Invoices



**The use of Recipient Created Tax Invoices (RCTI) are permitted by the Commissioner in specific circumstances**

## **Requirements for RCTI**

- **Similar to Tax Invoice requirements**
- **Must prominently state “Recipient Created Tax Invoice”**

# No ABN withholding



**The ABN of the supplier is a requirement of a valid tax invoice**

- Where no ABN is provided – must withhold tax at the top marginal rate
- Possible reasons why no ABN provided by supplier
- The ABN can be verified on the ABR website
  - [www.abr.gov.au](http://www.abr.gov.au)
- Situation where incorrect ABN given and ITC is claimed

# GST groups & branches



**GST groups are very different to GST branches**

**GST Group** – are effectively treated as a single entity.

- **Transactions within the GST group are not treated as taxable supplies**
- **Activity statement lodged by representative entity**
- **Requirements to form GST group**
  - All members are at least 90% owned
  - Are registered for GST
  - Have same tax periods
  - Account for GST on same basis
  - Don't belong to another GST group
  - Are not branched

# GST groups & branches



**GST Branch** – operate effectively as a separate entity

- Transactions between related branches of a business entity are treated as taxable supplies
- Each branch must lodge an activity statement

**Case Study**

# Questions?



## Open Forum