

Fringe Benefits Tax

Case Study 1

Car Fringe Benefit

Lance is provided with the use of a car by his employer, the Discovery Channel.

During the 2008 year, he attends a 3 week conference in France. Whilst in France, Lance's car is garaged at his employer's business premises. Lance also provides a written statement confirming that the car was not used by any of his associates for private purposes during this time. In addition, the Chief Finance Officer at Discovery Channel also maintains a diary documenting Lance's trip.

Can Discovery Channel reduce the days available for private use for the time Lance was away and his car was garaged at business premises? What other types of evidence might Discovery Channel maintain to enable a reduction to days available for private use? Would it make a difference if the car was garaged at Lance's residence?

Case Study 2

Meal & Non-Meal Entertainment Fringe Benefit

Distinguish the following food and drink examples by marking a tick in the box that best describes meal entertainment or non-meal entertainment

Food & Drink Example	Meal Entertainment	Non-meal Entertainment
Sandwiches, pastries and orange juice consumed on business premises during a training session		
Food & Drink consumed whilst employee travelling overnight on business		
Food & Drink consumed at a work-related conference		
Business lunch at a restaurant		
Food & drink consumed at a social function held on business premises		
Food & drink consumed at a social function held off business premises		

Fringe Benefits Tax - Solution

Case Study 1

Car Fringe Benefit

Yes, it would appear Discovery Channel can reduce the days available for private use for the time Lance was away. The ATO expect that documentary evidence in the form of log books, diaries, fleet management records are maintained. However, it is important to note this is a question of fact and will depend on the circumstances. An employer should ensure appropriate procedures are in place to reduce days available for private use throughout the FBT year. Employees should have clear guidelines as to what will constitute a reduction to days available for private use.

Yes, it would make a substantial difference if the car was garaged at Lance's residence because the car is considered available for private use. As such, a car fringe benefit arises because the car is garaged at Lance's residence. The car is deemed to be available for private use regardless of the actual use. It would be very difficult to prove that the car has not been made available for private use.

Case Study 2

Meal & Non-Meal Entertainment Fringe Benefit

Distinguish the following food and drink examples by marking a cross in the box that best describes meal entertainment or non-meal entertainment

Food & Drink Example	Meal Entertainment	Non-meal Entertainment
Sandwiches, pastries and orange juice consumed on business premises during a training session		X
Food & Drink consumed whilst employee travelling overnight on business		X
Food & Drink consumed at a work-related conference		X
Business lunch at a	X	

restaurant		
Food & drink consumed at a social function held on business premises	X	
Food & drink consumed at a social function held off business premises	X	

Goods & Services Tax

Case Study 3

True or False – provide an explanation/ support for your answer

1. A payment made by a government entity to a non-government entity can be an appropriation for GST purposes
2. A grant is a taxable supply if the recipient enters into a binding obligation
3. If entities are grouped for GST purposes all members must lodge a separate BAS
4. Appropriations paid by a government related entity is excluded from the definition of consideration
5. If an adjustment event occurs and a tax invoice was issued for the supply, the entity that issued the tax invoice is required to issue an adjustment note
6. A gift made to a non-profit organisation will have no GST implications
7. The GST liability for non-monetary consideration will be 1/11th of the value of what is supplied and not what is received
8. Where an employee leaves an agency, neither the receiving agency nor the leaving agency are required to account for GST in respect to the payment of long service leave and annual leave entitlements

Goods & Services Tax - solution

Case Study 3

True or False

1. A payment made by a government entity to a non-government entity can be an appropriation for GST purposes

True – refer section 9-15(3)(c) of the GST Act. “A payment made by a government related entity to another government related entity is not the provision of consideration if the payment is specifically covered under an Australian Law.” Refer also GSTR 2006/11.

2. A grant is a taxable supply if the recipient enters into a binding obligation

True – as long as all the requirements of a taxable supply under section 9-5 of the GST Act are met, entering into a binding obligation will usually constitute a supply.

3. If entities are grouped for GST purposes all members must lodge a separate BAS

False – registering as a group means that only the ‘representative member’ needs to lodge a BAS.

4. Appropriations paid by a government related entity is excluded from the definition of consideration

True – refer 1 above.

5. If an adjustment event occurs and a tax invoice was issued for the supply, the entity that issued the tax invoice is required to issue an adjustment note

True – distinguish between a correction and adjustment event. An adjustment event will occur where a supply or acquisition is cancelled. However, a correction arises from a genuine and reasonable mistake. Important to note that if a recipient created tax invoice was issued by the customer for the supply, then the customer is similarly responsible for issuing an adjustment note relating to that supply. The GST Act requires that adjustments be reported in the tax period in which you became aware of the adjustment event. Corrections can generally be made in the next BAS subject to timing and amount limits (refer ATO Guide Correcting GST mistakes).

6. A gift made to a non-profit organisation will have no GST implications

True – however must ascertain whether the gift is a true gift and meets the common law tests of a gift.

7. The GST liability for non-monetary consideration will be $1/11^{\text{th}}$ of the value of what is supplied and not what is received

True – GST is determined based on the value of taxable supplies. The value is the price multiplied by 10/11ths and price includes monetary consideration as well as the GST inclusive market value of any non-monetary consideration.

8. Where an employee leaves an agency, neither the receiving agency nor the leaving agency are required to account for GST in respect to the payment of long service leave and annual leave entitlements

True – The ATO interpretation has been that the transfer of staff and associated payment for long service leave and annual leave entitlements does not constitute a supply or consideration for GST purposes. This applies only in situations where there is a legal or statutory requirement to transfer staff.