



Client Alert



Accountants | Business and Financial Advisers

What's New in Fringe Benefits Tax



Litsa Christodoulou
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For a long time now, employers (particularly those in the not for profit sectors and public benevolent institutions) have been trying to find ways to improve the benefits provided to their staff without attracting fringe benefits tax (FBT).

In recent years questions have been asked as to whether the following types of private costs fall within the concept of entertainment leasing facilities expenses:

- Accommodation costs for employees and their families travelling on holiday, eg hotel rooms or apartments;
- Costs for hiring a function room or other facility for a private function, eg the cost of hiring a reception area for a wedding.

This issue has been raised as the provision of an entertainment leasing facility is actually excluded from the capping rules. Basically, for FBT-exempt employers such as PBI's, the total cap per employee relating to fringe benefits provided

is \$30,000. For the not for profit sector, the cap is \$17,000. Therefore, if the above two costs are excluded from these caps, there are clearly substantial tax benefits to their employees.

One of the important outcomes to arise from the FBT sub-committee's discussions on this matter is that an ATO Interpretative Decision (ID) has been issued. In this ID the exact questions as to whether holiday accommodation and private function cost would fall within the scope of the definition of entertainment leasing facilities has been raised.

By definition, expenses relating to the provision of an entertainment leasing facility are basically those incurred in the hiring or leasing of:

- A corporate box;
- A boat or plane for the purpose of providing entertainment;
- Other premises or facilities for the purposes of providing entertainment.

According to the ATO, there must effectively be a contract to lease or hire the relevant premises to the exclusion of other locations.

The ATO concluded that the employee's expenses qualify as entertainment leasing facility

expenses because the employee has incurred the expenses "hiring or leasing...other premises or facilities for the purpose of the provision of entertainment".

Why has this conclusion been reached by the ATO?

Both the word "hire" and "leasing" are not defined specifically within the FBT Act, which means that the words take on their ordinary meaning. According to the ATO, the employee has incurred the expenses in return for the temporary use of a private function room, which would fall within the ordinary dictionary definition of "hire" and "leasing". This is also the case, where an employee incurs expenses relating to obtaining the exclusive use of a hotel room.

In summary, this represents another win for PBI's and the not for profit sector, which often struggle to secure exceptional staff because of budget constraints.





Countdown to 30 June 2010 - Quick tips that can have a lasting impact



Robert Wilding
Manager
Business Advisory Services

If you found \$50 on the ground, would you pick it up? If the answer is an unsurprising “yes”, then you may find reading the following top tips worth considering. Requiring an investment of just a few minutes of your time to read, these simple but powerful strategies can be relevant at any time of the year, but especially as we approach the end of another financial year, and can potentially save you \$000s.

In last year’s *Client Alert* newsletter we published a similar listing of tax planning advice, topical at that time, and the response from clients was so overwhelming that we are pleased to provide an update to the perennial question in most clients’ minds; “What can I do to reduce my tax this year?”

10. Too good to be true?

Tax Effective Investments seem to gain momentum around this time of the year, and my rule of thumb is you should never invest simply for the tax benefits. Ultimately the investment needs to make sense and any tax benefits are a bonus.

9. Timing is everything.

Get advice before selling your business in order to maximise the small business concessions, bonus super contributions and your profit.

8. Keep your receipts.

The ATO’s motto is no receipt = no deduction. Another related pointer is to ensure that the highest income earner makes all donations.

7. Clean out the dead wood.

Review your investments for anything resembling dead wood that might be simply a drain. Realise the capital loss and reinvest these monies in to more promising investments. Losses can be offset against other capital gains. Be aware that the ATO has warned against ‘wash sales’ where the asset is reacquired in some format within a short period of time. Remember for capital gains, the sale date is the key -

not the settlement date.

6. To prepay or not to prepay?

Individuals and some small businesses can still benefit from prepaying some expenses for up to 12 months, such as rent, interest and insurance. Just remember that, importantly, your cash flow needs to be able to sustain the payment.

5. Write off bad debts before 30 June.

Trigger further tax deductions by reviewing your asset ledgers for obsolete and scrapped assets. Revalue closing stock at the lower of cost, market value or replacement value.

4. Document.

Ensure you identify all unpaid trade creditors as at 30 June. Many clients report their information on a cash paid basis in terms of their GST registration, thereby missing out on legitimate tax deductions.

3. Deadline for deduction.

Pay your staff’s superannuation entitlements before 30 June in order to get a deduction.

2. Free Money!

The Federal Government will match personal contributions into your (or your spouse’s) superfund up to \$1,000. The offer is subject to income and other tests but can be a risk free return of up to 100%.

1. That’s a super idea.

Superannuation remains our most tax-advantaged investment but if you exceed the contribution caps, it can be very costly. If you or your employees have salary sacrificed into super this year, be sure to check that you have not exceed the reduced contribution caps. Depending on your cash flow and marginal tax rate, there is still time to commence salary sacrificing into super, particularly if you believe you may be entitled to a bonus.

The above is a general summary of some opportunities and the devil can be in the detail, so for clarification and assistance about your personal circumstances and the implications that some of the above tips might have in your case, please contact your HLB Mann Judd Partner.

Employee Share Schemes Update



Peter Speechley
Partner
Business Advisory
Services

New rules on the tax treatment of Employee Share Schemes (ESS) became law on 14 December 2009.

Significant changes were made to the initial proposal announced in the 2009 Federal Budget some months ago now, and those considering issuing shares or options to employees in the following circumstances should be aware of these changes:

What are the new ESS taxation rules?

The new ESS taxation rules apply to all shares and rights acquired on or after 1 July 2009 and may also affect certain shares and rights acquired prior to 1 July 2009. They aim to tax the amount of any discount on the shares or rights payable to an employee that may otherwise have been paid as salary and been subject to income tax.

Employees no longer have the option to elect between up-front or deferred taxation on their ESS interests. Instead, the structure of the ESS offered by the employer will determine whether the interests are taxed up-front or on a deferred basis.

In order to take advantage of both the up-front and deferred tax concession, the ESS must meet the following conditions:

1. The employee must be employed by the company offering the scheme, or a subsidiary.
2. The scheme must relate to ordinary shares.
3. The scheme must be offered to at least 75% of resident permanent employees with at least three years service.
4. The ESS interest provided cannot be disposed of within three years unless the employee ceases to be employed at an earlier time.
5. No more than 5% ownership or control of the company can be obtained by one employee due to participation in the ESS.

To assess the implications as they affect you or to obtain a copy of the HLB Mann Judd booklet on Share Remuneration Strategies, please contact:

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Announcement

Violet Lim



HLB Mann Judd is pleased to announce the appointment of Violet Lim to the role of Director, Tax Consulting, effective from 1

January 2010.

Violet has a Master of Taxation degree, is a Fellow of the Taxation Institute of Australia, a member of CPA Australia and a member of the State Council of the Taxation Institute of Australia (Western Australian Division).

Having joined HLB Mann Judd in 1987, Violet brings over 25 years experience as a specialist tax consultant to the role, with her areas of speciality being taxation consultancy and planning for a wide range of clients from individuals to listed companies.

Some of Violet's particular areas of expertise are providing advice to small business on CGT concessions and taxation of foreign income. Violet presents tax seminars to various Taxation and Accounting professional bodies and industry groups. She also lectures in the Structured Education Program for the Taxation Institute of Australia.

Electronic version

✓ Copies of "Client Alert" are available on our website at www.hlb.com.au



Critical Dates

Critical Dates during the period

31 March 2010 to 30 June 2010

By Ben Drezner,
Manager Business Services

	Date
End of the fringe benefits tax year	31/03/10
March monthly BAS & IAS due for lodgement (PAYG Withholding)	21/04/10
January to March quarterly BAS & IAS due for lodgement	28/04/10
Deadline for making superannuation contributions for March 2010 quarter to avoid incurring penalties	28/04/10
Companies and superannuation funds taxable last year with total income < \$2m, 2009 income tax return and final payment of tax due to the ATO (Superannuation Regulatory Return due for superannuation funds)	15/05/10
New companies registered with no previous lodgement history, 2009 income tax return and final payment of tax due to the ATO	15/05/10
Individuals and trusts with tax payable last year < \$20,000, 2009 income tax return due to the ATO	15/05/10
April monthly BAS & IAS due for lodgement (PAYG Withholding)	21/05/10
Fringe Benefits Tax Return due to the ATO together with final payment of tax	28/05/10
Companies and superannuation funds, non taxable or refund received last year as well as non taxable or refund in current year, 2009 income tax return due to the ATO (Superannuation Regulatory Return due for superannuation funds) where original lodgement due date is 15 May 2010	05/06/10
Individuals, partnerships and trusts non taxable or refund received last year as well as non taxable or refund in current year, 2009 income tax return due to the ATO where original lodgement due date is 15 May 2010	05/06/10
May monthly BAS & IAS due for lodgement (PAYG Withholding)	21/06/10
Superannuation contributions to have been paid and cleared by the bank, in order to claim tax deduction	30/06/10

Introducing

Flo Tamminga



It is always good to put a face to a name and so, we take great pleasure in introducing our new Receptionist, Flo Tamminga.

Flo joined HLB Mann Judd at the end of 2009 after having previously worked for three years as a Receptionist at the Intercontinental Hotel Burswood.

Flo is currently studying Tourism Management part time through Curtin University and has a love of cooking and trying different cuisines. She would love to travel and go on a culinary tour of Europe. Flo is an avid watcher of cooking shows like Master Chef and at the moment My Kitchen Rules.

When she has spare time, Flo spends it tending to her vegetable garden, playing tennis and going for a bike ride around the South Perth foreshore.

Please take a moment to introduce yourself to Flo when you visit or call into our offices.

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All material contained in this Newsletter is written by way of general comment. No material should be accepted as authoritative advice and any reader wishing to act upon the material should first contact our office for properly considered professional advice which will take into account your own specific conditions. No responsibility is accepted for any action taken without advice by readers of the material contained herein.

Please email us at hlb@hlbwa.com.au if you DO NOT wish to receive this newsletter.