

# plan early for FBT returns

With the FBT year-end fast approaching, only a fool would delay the commencement of the FBT return preparation process – start planning today to ensure finishing on time.

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**G**ood FBT risk management dictates a level of commitment all year round. However, the lead up to the 31 March year-end demands an intense focus to ensure the compliance deadline (either in May or June) is met and, more importantly, so that the Public Officer can confidently sign off that the information in the FBT return is “true and correct”.

The task of pulling together the annual FBT return is dreaded by most and rarely is the return prepared in a systematic, managed and controlled fashion. Few employers have an FBT preparation manual. This is surprising when all would agree that FBT is a complex tax and return preparation is time-consuming and requires a high level of detailed analysis. With only a short timeframe in which to lodge and meet the administrative requirements, there are many consequences if it's not done properly. These range from being charged penalties and interest by the Australian Tax Office to disgruntled employees.

## UP-TO-DATE MANUAL

In an ideal world, the employer would have a well documented and up-to-date FBT manual – a detailed step-by-step guide to preparing the FBT return/s for their business (and in this ideal world FBT would be included in the board's tax risk management strategy). In the real world, the FBT return preparation process wheel is generally reinvented each year (the FBT wheels of years gone by are lying in the FBT yard of frustration and despair)

If an FBT manual is not available, serious consideration should be given to preparing one.

But manuals aside, how should you go about preparing an FBT return?

As the saying goes, to fail to plan is to plan to fail. Initial planning steps include:

- > prepare a high level project plan including timeline
- > identify the people responsible and understand to what extent they will need to be involved. Check on each person's availability from their day job, year-end/period-end commitments and any leave they may have booked – also note the public holidays and school holiday dates
- > while it will vary from business to business, at a minimum, the people involved should include representatives from finance, tax, payroll, purchasing, human resources, sales and marketing, sponsorships and events, facilities management and fleet management – by involving a broad range of people, this should go some way to reducing what may be the biggest key FBT risk: it's not what's in the FBT return that's the problem but what's not in the return that's the problem. Identification of benefits is crucial. Often the benefits provided are well hidden in the general ledger or may have been provided outside the accounts. For example benefits provided by a related entity (perhaps an offshore parent entity), under a contra deal or provided by a third party
- > identify the benefits by sub-category (ie expense payments may include sub-categories such as health insurance, gym memberships and home telephone expenses), a brief explanation of how they are provided and the key systems in place to track the benefits. Understand what information is needed, from whom, in what format and by when? In addition, understand if employee declarations are required
- > how will the return be prepared – spreadsheets or customised software? If customised software, when will the latest version be available, who can use it (is training required?) and how does it or can

it interact with your systems? What output do you need? If spreadsheets are used, who will update the format and formulas and how do you know the spreadsheets calculate the correct FBT liability?

> will the review/sign-off be done internally or externally? Either way, check the relevant people are available, understand their expectations and communicate your own expectations

> what were the big issues in last year's return/s – hopefully these have been well documented in the prior year file.

An issue can be technical, logistical, accounting or system-based or just plain in the too hard basket. More importantly, how have these issues been managed following lodgement of last year's FBT year? Chances are, last year's issues will remain as this year's issues

> are there any carried forward items from last year's FBT return that need to be considered this year. These may include deposits paid for events or carry forward employee contributions.

If some real concerns exist at the end of the initial planning phase, then, to borrow a cricketing term, it may be time to pull up stumps and look at outsourcing options – if you don't have the time, resources and, most importantly, the necessary technical expertise, then put the responsibility into the hands of the experts. You may find that the cost of outsourcing is far less than the internal cost.

Putting outsourcing aside and assuming that we'll be batting on, what else needs to be considered?

## POST-PLANNING CONSIDERATIONS

### Business changes

How has the business changed throughout the year, have there been changes in roles and responsibilities, have there been

changes in the group structure or changes to the salary packaging arrangements on offer? All of these, and more, will need to be considered.

### **Review any advice taken**

If advice has been provided throughout the year, it will be worthwhile reviewing this as it should provide good background to the issue and will help to understand if the advice was implemented and how this may impact the current year FBT.

### **UNDERSTAND LAW CHANGES AND THEIR IMPACT**

For 2010, the key change stems from the income tax amendments to section 23AG and will have significant impact for employers (local or foreign) who have employees working outside of Australia. Prior to the amendment, fringe benefits provided to employees whose income is exempt are also exempt from FBT. However, based on the amendments, previously exempt benefits will now be taxable unless a specific FBT exemption applies.

Clarity is needed on the above change and in particular the FBT impact. From an employer perspective, this could be an opportune time to have a complete and full review of your current expatriate, living away from home and relocation arrangements and policies. A review should identify areas for savings, new opportunities and drive risk management strategies.

As an aside, make sure you are across the changes to the reporting of superannuation on payment summaries for the year ended 30 June 2010.

### **Review big ticket items and new benefits**

It is prudent to look closely at the larger dollar value items, such as conferences, events, incentive programs (internal programs or third party programs) and also new benefits.

For example, with conferences and events it will be necessary to review agendas, detailed costings and promotional material.

Considering valuation options and application of exemptions

One of the key advantages to upfront planning is creating the opportunity to consider alternate valuation options and the applicability of exemptions. The key areas of opportunity for alternate valuation would include cars, car parking and entertainment.

### **Declarations and elections**

Chasing employees for declarations in May can be difficult, especially when

the employee has left the company or is overseas. When declarations are missing then the question arises, do you pay the FBT or not on the basis that the declaration will be received soon after lodgement date. Unless there is follow up made, all the open issues and outstanding items are usually forgotten after the FBT return is lodged and the file is closed.

Employer elections must be completed to effect the relevant valuation.

### **Odometer readings**

While not environmentally friendly, the opportunity for an employee (or their colleague, relative, friend) to put some kms on the odometer – can go some way to reducing the FBT bill and reduce (or possibly eliminate) reportable amounts.

### **What are the key interactions with FBT?**

FBT impacts on other taxes and employer obligations. Briefly, the following need to be considered:

- > payroll – reporting of individual fringe benefits amounts on employee payment summaries (also don't forget the new superannuation reporting requirements on payment summaries)
- > there must be consistency of treatment between income tax and FBT. This is especially true for entertainment benefits
- > special rules exist in the GST law to ensure consistency of treatment in relation to entertainment expenditure and certain minor benefits
- > salary packaging
- > payroll tax – while harmonisation has helped to align the rules across each state and territory, care still needs to be taken when valuing fringe benefits for payroll tax purposes. Beware that the NSW Office of State Revenue, in particular, has a key focus on fringe benefits
- > fringe benefit values are required to flow through to workers' compensation calculations.

### **Form changes**

While the ATO form has remained fairly static over the past few years, it is worthwhile checking for any disclosure changes or any changes in expectations from the ATO.

### **Payment and lodgement**

It is important to confirm EFT details and method of lodgement. In addition, it will be necessary to carefully identify the instalments paid for each entity.

### **Do you need an extension?**

It's always easier to organise an extension

of time to lodge with the ATO sooner rather than later.

### **Post-lodgement debrief**

As part of the timeline, include scope for a team debrief to understand the issues and challenges and formulate any necessary improvements. Importantly, document the debrief and assign responsibilities for follow up items

### **COMMON TECHNICAL CHALLENGES**

Due to the complexity of the FBT legislation, coupled with the difficulty in practical application of these rules on a day-to-day basis, a large number of technical-based issues provide continuing challenges. Examples of these include:

- > defining from a practical perspective pooled or shared cars
- > genuine team building versus entertainment
- > distinguishing a business conference from a junket
- > is an employee living away from home – how do you know?
- > when and how often can you claim the minor benefit exemption?
- > reporting benefits provided to employees by a third party
- > understanding what constitutes an after-tax employee contribution and the GST and income tax implications
- > trying to correctly categorise and value entertainment expenditure
- > determining if a car parking fringe benefit exists
- > identifying the lowest car parking rates
- > managing the FBT liability and reporting requirements for a fleet of vehicles.

### **SOME FINAL THOUGHTS**

Unfortunately consolidation or grouping are terms that do not exist in the FBT world – each employer in a group of companies is required to separately lodge individual FBT returns – the ATO is aware of de facto grouping arrangements.

Don't forget to consider if an adjustment is required to GST – there could be a refund waiting to be claimed or an unknown exposure.

Finally, never assume you won't be audited. The ATO has had an increased focus in many areas of FBT over the last few years. Particular focus areas include cars, SMEs and employee contributions.

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