

Submission to the Treasury regarding changes to FBT concessions

Background

Treasury has released the consultation paper Limiting fringe benefits tax concessions on salary packaged entertainment benefits. The exposure draft implements the 2015-16 Budget measure and applies from 1 April 2016. Submissions close on Friday 21 August 2015.

<https://www.ato.gov.au/Non-profit/Non-profit-News-Service/In-detail/Articles--2014-15/Non-Profit-News-Service-No--0427---Public-consultation--limiting-FBT-concessions-on-salary-sacrificed-entertainment-benefits/>

Submission

Our staff use cards (Meal and Entertainment, Leisure and Accommodation) to claim salary packaged entertainment benefits

1. Why this policy change is not beneficial for our organisation

From a Human Resources perspective, the potential of a reduction or capping of the salary packaged entertainment benefits option we currently offer to our employees is a big concern. Salary packaged entertainment benefits are strategically used by our organisation in our recruitment process to encourage the employment and retention of highly skilled staff.

The ability to offer salary packaged entertainment benefits in our remuneration package when recruiting, means that our organisation becomes substantially more attractive to potential employees and provides us with a significant advantage, as a not-for-profit organisation competing with the higher, annual salaries offered by For Profit organisations.

Salary packaged entertainment benefits are not only beneficial to new employees, but also our current staff, who are more inclined to keep working for an organisation that offers salary packaged entertainment benefits, without capped limits. The reduction or removal of this benefit will have a significant impact on both our ability to recruit, and our retention levels.

Across the board, salary packaged entertainment benefits are an extremely important factor in enabling our organisation to acquire, maintain, and retain top talent.

We have approximately 60 contracted FTEs, of which 24 use one or both of the cards and half of these would spend more than the proposed limit per year. However, historically staff members have not generally used them to pay for large events costing tens of thousands of dollars.

In the past year the highest gross up amount put on an employees card was \$18,500, which is a cash amount of \$9,250. This constitutes a significant saving for this employee, who earns a relatively low salary in the organisation, however it is not an example of the misuse of the cards you are looking to stop. The average use is \$8,000 (grossed up), which clearly indicates our staff are not misusing the cards.

Additionally, of the staff that use these cards, more than half are in non-managerial positions and therefore on lower salaries. This illustrates that this assumption in the consultation paper that *'The benefit of this concession is also not evenly spread among [not-for-profit (NFP)] employees, tending to be more highly utilised by eligible employees on higher salaries'* is not actually correct for our organisation.

Furthermore the administrative burden associated with managing the cap will be significant, on an already very busy finance team.

2. Why this policy does not effectively provide a solution

1. This does not target people who the proposed policy is intended for. This does not target those working in the not for profit environment on large salaries who are misusing the original intention of the cards. That is not the situation at our organisation where salaries are low as with many other NGOs that will also be affected.
2. This policy adds a huge administrative burden in an industry where organisations such as our own are trying to keep costs down in line with donor wishes, for example, through managing the cap on another set of cards to identify whether people are going over cap and extra reporting for FBT.
3. This policy would mean an extra FBT liability if the cards become reportable which many Not For Profits are not in a position to be able to afford.

3. Some alternative suggestions, in order of preference.

1. One of the issues is large events, therefore an alternative is to put tighter restrictions on use of salary packaged entertainment benefits (e.g.: not to be used for functions, only for meals totalling less than \$xx etc).
2. Place a cap on gross salary. Under the cap, the salary packaged entertainment benefits continue to apply to an unlimited extent as is currently the case, and over the salary cap there is a limit of \$5,000.
3. Cap spending to within FBT year (like the Employee Benefits Master Card) therefore can't 'save' funds for big occasions.
4. Continue to make it unlimited, but make it reportable.

4. Clarification requested

1. Under the new proposal what would happen to old balances on salary packaged entertainment benefits cards? Would they need to be spent prior to the policy coming into force?
2. Would the \$5,000 limit have to be placed onto the cards and spent with the same FBT year, or could it be rolled over from one year to the next?

5. Summary

In summary, this policy will have a significant negative impact on our organisation despite the issue with the usage of salary packaged entertainment benefits not stemming from organisations such as ours, who do not have high salaries. We urge you to reconsider this policy in light of the views put forward.

6. Further Discussion

We would be happy to contribute further to this discussion.