



CHARTERED ACCOUNTANTS
AUSTRALIA • NEW ZEALAND

3 August 2015

Mr Tom Reid
General Manager, Law Design Practice
The Treasury
Langton Crescent
PARKES ACT 2600

Email: taxlawdesign@treasury.gov.au

Dear Mr Reid,

Limiting FBT concessions on salary packaged entertainment benefits

Chartered Accountants Australia and New Zealand welcomes the opportunity to comment on the exposure draft *Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015: Limiting FBT concessions on salary packaged entertainment benefits (ED)* and the accompanying explanatory material (**EM**).

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We are represented on the Board of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance, and Chartered Accountants Worldwide, which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

Summary comment

A review of the detailed legislative changes in the ED highlights fringe benefit tax (FBT) impacts that extend beyond the not for profit sector. These impacts were not obvious from the original 2015-16 Budget announcement and thus may be overlooked by 'for-profit' employers.

Thus, the regulatory impact statement for the ED and the ATO's administrative response to this ED needs to explicitly cover off the wider impacts.

Chartered Accountants Australia and New Zealand

33 Erskine Street, Sydney NSW 2000,
GPO Box 9985, Sydney NSW 2001, Australia
T +61 2 9290 1344 F +61 2 9262 4841

charteredaccountantsanz.com

Observations on ED and EM

1.1 50/50 split method for meal entertainment and entertainment leasing costs

Under the existing FBT rules, employers can elect that the taxable value of meal entertainment expenses and entertainment facility leasing expenses is 50% of the total expenses incurred by the employer in respect of such expenses. Such FBT elections also have ramifications for income tax purposes (i.e. 50% of such total expenses become non-deductible).

Pursuant to items 6, 10 and 11 of the ED it is now proposed that the 50/50 split method cannot be applied to entertainment benefits provided under a salary packaging arrangement.

The EM at 1.47 notes that the 50/50 split method was introduced as a compliance cost saving, allowing employers to avoid apportioning different types of benefits to different types of recipients. It is argued, however, that the method can produce a concessional result (i.e. the value of a packaged benefit is halved) and moreover salary packaged entertainment is considered as being easily valued and easily attributed for particular employees, so it is said the ED change is justified. These changes appear to expand on the 2012 FBT changes covering salary packaged in-house benefits.

Given this proposed change potentially applies to all employers and was not obvious from the 2015-16 Budget announcement, the ED's regulatory impact statement and the ATO's administrative response to the ED needs to explicitly cover off these tax compliance changes that go beyond the not for profit sector.

1.2 Reportable FBT amounts for meal entertainment and entertainment leasing costs

The ED proposes that the reportable fringe benefits for all employees will now include salary packaged entertainment benefits.

Thus, once again, the proposed change potentially applies to all employers but this was not clear from the original announcement. Accordingly, our comments in 1.1 above are equally applicable her.

1.3 Other comments

We observe the EM has a considerable amount of detail (27 pages) compared to the actual legislative changes (5 pages). However, we submit that an expansive EM explaining the current law as against the proposed law is entirely warranted given the intricacies of the FBT and income tax interactions in respect entertainment expenses.

Indeed, we would support the development of additional practical examples (possibly in the form of amendments to existing ATO material) which clearly highlights the impacts on both non-profit and for-profit employers, including those employers using the 50/50 split.

Should you have any queries concerning the matters discussed in our submission, or wish to discuss them in further detail, please contact me via email at:

michael.croker@charteredaccountantsanz.com or telephone (02) 9290 5609.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Croker". The signature is fluid and cursive, with a horizontal line extending from the end.

Michael Croker

Tax Australia Leader

Chartered Accountants Australia and New Zealand