



***CR 2016/85 - Fringe benefits tax: employer clients of Community CPS Australia Limited trading as Beyond Bank Australia who are subject to the provisions of either section 57A or section 65J of the Fringe Benefits Tax Assessment Act 1986 and make use of the Meal Entertainment Card facility***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *9 August 2017*



## Class Ruling

Fringe benefits tax: employer clients of Community CPS Australia Limited trading as Beyond Bank Australia who are subject to the provisions of either section 57A or section 65J of the *Fringe Benefits Tax Assessment Act 1986* and make use of the Meal Entertainment Card facility

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### **📌 This publication provides you with the following level of protection:**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner’s opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

**[Note:** This is a consolidated version of this document. Refer to the Legal Database (<https://www.ato.gov.au/law>) to check its currency and to view the details of all changes.]

## What this Ruling is about

1. This Ruling sets out the Commissioner’s opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

### Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:
- subsection 5B(1E) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
  - section 5C of the FBTAA

- subsection 5C(4) of the FBTAA
- paragraph 5E(3)(a) of the FBTAA
- paragraph 5E(3)(c) of the FBTAA
- Division 9A of the Part III of the FBTAA
- section 38 of the FBTAA
- section 57A of the FBTAA
- section 65J of the FBTAA
- subsection 65J(2A) of the FBTAA
- section 149A of the FBTAA
- section 152B of the FBTAA, and
- Part XIB of the FBTAA.

## **Class of entities**

3. The class of entities to which this Ruling applies is those employers, who are subject to the provisions of either section 57A or section 65J of the FBTAA, who enter into an arrangement with a salary packaging provider to administer salary packaging on its behalf, with the salary packaging provider (acting on the employer's behalf) entering into an arrangement with Community CPS Australia Limited trading as Beyond Bank Australia (Beyond Bank Australia) to provide the Meal Entertainment Card facility to the employer's employees.

## **Qualifications**

4. The Commissioner makes this ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 8 to 21 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

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## Date of effect

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7. This Ruling applies from 1 April 2016. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

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## Scheme

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8. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them form part of and are to be read with the description:

- Class ruling application dated 13 September 2016
- Beyond Bank Australia Salary Packaging Cards Terms and Conditions (effective on and from 1 April 2016)
- Meal Entertainment Card Merchant Category Code 'Whitelist'
- Meal Entertainment Card Carrier
- Online application form
- Additional Cardholder application form, and
- Additional information provided on 26 September 2016.

**Note:** certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

9. The salary packaging provider, acting on the employer's behalf, enters into an arrangement with Beyond Bank Australia to provide the Meal Entertainment Card facility to employees of the employer.

10. Employees of participating employers may then apply to Beyond Bank Australia to be provided with a Meal Entertainment Card issued in the employee's (Cardholder's) name.

11. The Meal Entertainment Card is issued on a Prepaid Card Bank Identification Number (BIN) where the amount of credit available is restricted to the value of funds held at a particular time for the Cardholder in the participating employer's disbursement account.

12. Each employer enters into valid salary sacrifice arrangements<sup>1</sup> with that employer's participating employees to set aside salary sacrificed amounts in respect of meal entertainment expenditure.

13. The salary packaging provider, who is administering the salary sacrifice agreement on behalf of the employer, will have an account with Beyond Bank Australia which holds the funds on behalf of its principal clients (Principal's account). If the funds cannot be directly transferred to the Principal's account from the Employer, the funds may be initially transferred to another financial institution designated by the salary packaging provider before being transferred to the Principal's account. The sole purpose of the bank account with the other financial institution is to facilitate the transfer of funds between the Employer and Principal account. These funds will be used for no other purpose.

14. Funds are made available to the Cardholder's Account from the Principal's account on a periodic basis as determined under the relevant salary sacrifice arrangements. Access to the available funds is authorised by the salary packaging provider.

15. Cardholders use their Meal Entertainment Card to pay for meal entertainment or entertainment facility leasing expenditure. Expenditure amounts within any given period are limited to the funds made available from the Principal's account to the Cardholder. The only right Cardholders have is to charge expenses on the Meal Entertainment Card up to the available balance.

16. Beyond Bank Australia draws upon the available balance on a progressive basis when the merchant presents the relevant transaction for payment. Beyond Bank Australia reports upon request to the salary packaging provider, the transactions made by the Cardholder and the remaining balance available to the Cardholder. The Cardholder also has access to this daily information through a Beyond Bank Australia Internet Banking facility, or Mobile Banking application.

17. Cardholders are primarily liable to Beyond Bank Australia for all expenditure incurred using the Meal Entertainment Card. However, employers have a secondary liability in the event of a Cardholder's default. All unexpended balances remain the property of the employer.

18. The Meal Entertainment Card is restricted to ensure that cash advances, cash withdrawals and account transfers are not available.

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<sup>1</sup> Guidance on what constitutes a valid salary sacrifice arrangement is given in Taxation Ruling TR 2001/10 *Income tax: fringe benefits tax and superannuation guarantee: salary sacrificed amounts*.

19. Cardholders are restricted to using Meal Entertainment Cards only for meal entertainment and entertainment facility leasing by the process of Beyond Bank Australia Merchant Category Code blocking and also by the salary packaging provider carrying out reviews of the specific expenditure to ensure that there is accurate identification, usage and subsequent correction where required.

20. At the end of the fringe benefits tax year, any remaining funds available to the Cardholder can be rolled over for use in the following year or refunded to the employer depending on the employer's preference. It is the employer's responsibility to reduce any salary sacrificed amounts in the year following a rollover, to ensure that the relevant fringe benefits tax threshold is not exceeded.

21. At such time as the employment ceases, the employee must inform Beyond Bank Australia immediately, following which the Meal Entertainment Card will be cancelled. Any credit balance remaining will be returned to the employer via the salary packaging provider and will be paid to the employee as salary or wages subject to the pay as you go withholding provisions.

## **Ruling**

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22. The use of the Meal Entertainment Card for the acquisition of entertainment by way of food or drink, constituting meal entertainment, will be a tax-exempt body entertainment benefit under section 38 of the FBTA. A participating employer cannot make an election to use Division 9A of Part III of the FBTA to calculate the taxable value of the meal entertainment provided under a salary packaging arrangement.

23. The use of the Meal Entertainment Card for the hire or lease of an entertainment facility will be a tax-exempt body entertainment benefit under section 38 of the FBTA. A participating employer cannot make an election under section 152B of the FBTA to calculate the taxable value of tax-exempt body entertainment benefits attributable to entertainment facility leasing expenses provided under a salary packaging arrangement.

24. The benefits provided are not GST-creditable benefits in terms of section 149A of the FBTA and therefore are type 2 benefits for the purposes of section 5C of the FBTA.

25. The provision of meal entertainment or the hire or lease of an entertainment facility by way of the Meal Entertainment Card gives rise to an exempt benefit for a participating employer subject to the provisions of section 57A of the FBTA.

26. Benefits provided under the salary packaging arrangement that constitute the provision of meal entertainment or an entertainment facility leasing expense are an exempt benefit where the grossed-up taxable value does not exceed \$5,000. Any excess amount is included for the purpose of the capping thresholds in determining the employer's aggregate non-exempt amount under subsection 5B(1E) of the FBTAA for an employer subject to the provisions of section 57A of the FBTAA.

27. The provision of meal entertainment or an entertainment facility leasing expense by way of the Meal Entertainment Card may reduce the amount of rebate available to a rebatable employer under section 65J of the FBTAA. The provision of such benefits will form part of the employer's aggregate non-rebatable amount in the subsection 65J(2A) of the FBTAA rebate calculation where the grossed-up taxable value of such benefits exceeds \$5,000. Any excess amount is included in the capping thresholds for the purposes of determining the employer's aggregate non-rebatable amount under subsection 65J(2A) of the FBTAA for an employer subject to the provisions of section 65J of the FBTAA.

28. The provision of meal entertainment or an entertainment facility leasing expense by way of the Meal Entertainment Card provides a rebate to the rebatable employer of the gross tax that would otherwise be payable as the provision of the benefits are included in the calculation of the amount of gross tax, for the purposes of the subsection 65J(2A) of the FBTAA rebate calculation, per subsection 5C(4) of the FBTAA.

29. The provision of meal entertainment or an entertainment facility leasing expense under a salary packaging arrangement are not excluded benefits for the purposes of paragraphs 5E(3)(a) or 5E(3)(c) of the FBTAA. As such, the value of the benefits is included in the reportable fringe benefits provisions in Part XIB of the FBTAA.

## Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

### **Types of benefits arising from the use of the Meal Entertainment Card facility**

30. Section 37AD of the FBTAA defines the meaning of the phrase 'provision of meal entertainment'. The section refers to:

- (a) the provision of entertainment by way of food or drink;
- (b) accommodation or travel in connection with, or for the purpose of facilitating entertainment to which paragraph (a) applies; or
- (c) the payment or reimbursement of expenses incurred in providing something covered by paragraph (a) or (b).

31. An employee is able to use the Meal Entertainment Card to purchase meals and drinks at most bistros, cafes, hotels, restaurants and from caterers for social events. The expenditure on food or drink by an employee will come within the meaning of the phrase provision of meal entertainment under section 37AD of the FBTAA. That phrase, at paragraph 37AD(a) of the FBTAA, includes entertainment by way of food or drink.

32. A tax-exempt body entertainment benefit will arise under section 38 of the FBTAA where an entity that is wholly or partly exempt from income tax incurs non-deductible exempt entertainment expenditure.

33. The participating employers will be not-for-profit organisations, government entities or other tax-exempt bodies such as public benevolent institutions, health promotion charities, public hospitals and public ambulance services. These types of organisations are exempt from income tax.

34. In general terms, expenditure will be non-deductible exempt entertainment expenditure if section 32-5 of the *Income Tax Assessment Act 1997* (ITAA 1997) would prevent an income tax deduction from being claimed for the expenditure if the entity incurring the expenses was subject to income tax.

35. Section 32-5 of the ITAA 1997 states that (as is relevant here):

To the extent that you incur a loss or outgoing in respect of providing entertainment, you cannot deduct it under section 8-1 ...

36. Under paragraph 32-10(1)(a) of the ITAA 1997 the meaning of entertainment, for the purpose of the FBTAA, includes entertainment by way of food, drink or recreation.



37. Section 32-5 of the ITAA 1997 would apply in relation to the use of the Meal Entertainment Card to purchase food or drink that constitutes meal entertainment. The provision of such benefits will be non-deductible exempt entertainment expenditure.

38. Therefore, the use of the Meal Entertainment Card to purchase meal entertainment will be a tax-exempt body entertainment benefit under section 38 of the FBTAA. An employer cannot make an election under Division 9A of Part III that entertainment by way of food or drink be treated as meal entertainment benefits rather than as any other kind of benefit for the purposes of the FBTAA. This is because meal entertainment provided under a salary packaging arrangement is specifically excluded from being a meal entertainment benefit under section 37AC of the FBTAA. The elective valuation rules therefore cannot be used to calculate the taxable value of the benefit as it is not a meal entertainment fringe benefit. Consequently, the taxable value of the benefit provided is determined under section 39 of the FBTAA as a tax-exempt body entertainment benefit.

39. The term entertainment facility leasing expenses is defined in subsection 136(1) of the FBTAA as:

***entertainment facility leasing expenses***, for a person, means expenses incurred by the person in hiring or leasing:

- (a) a corporate box
- (b) boats, or planes, for the purpose of the provision of entertainment
- (c) other premises, or facilities, for the purpose of the provision of entertainment

but does not include so much of any of such expenses that:

- (d) is attributable to the provision of food or drink
- (e) is attributable to advertising and is an allowable deduction for the person under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

40. The expenditure on hire or lease of an entertainment facility in this instance will come within the meaning of entertainment facility leasing expenses under subsection 136(1) of the FBTAA.

41. A tax-exempt body entertainment benefit will arise under section 38 of the FBTAA where the participating employer is wholly or partly exempt from income tax and section 32-5 of the ITAA 1997 would prevent the employer from claiming an income tax deduction for the expenditure if it were subject to income tax.

42. The meaning of entertainment includes entertainment by way of recreation in paragraph 32-10(1)(a) of the ITAA 1997. Subsection 995-1(1) of the ITAA 1997 defines the term recreation to include amusement, sport or similar leisure-time pursuits. While the term recreation is defined, the words 'entertainment by way of recreation' are not defined. As these words are not defined, they have their natural meaning, taken in the context in which they appear in the legislation.

43. The term entertainment, which is the key to the operation of the relevant words, is defined in the Macquarie Dictionary, on-line edition, to mean:

1. the act of entertaining; agreeable occupation for the mind; diversion, or amusement.
2. something affording diversion or amusement, especially an exhibition or performance of some kind.
3. hospitable provision for the wants of guests.

44. Further, Taxation Determination TD 94/55 *Income tax: when does providing an item of property constitute the provision of entertainment within the meaning of subsection 32-10(1) of the Income Tax Assessment Act 1997?* states that in determining whether providing an item of property constitutes entertainment, regard should be had to all the circumstances of the case. In particular, regard should be given to the character of the entertainment to be derived from the item of property provided.

45. Specifically, in Example 2 in TD 94/55, costs incurred in providing holiday accommodation are incurred in providing property that would constitute the provision of entertainment.

46. It is considered, therefore, that where an entertainment facility is hired or leased, the hire or lease costs are incurred for the purposes of the provision of entertainment as that latter term is defined in subsection 32-10(1) of the ITAA 1997.

47. Consequently, the use of the Meal Entertainment Card to pay for the hire or lease of an entertainment facility will be a tax-exempt body entertainment benefit under section 38 of the FBTA. An employer cannot make an election under section 152B to calculate the taxable value of tax-exempt body entertainment benefits attributable to entertainment facility leasing expenses benefits under the 50/50 split method. This is because section 152B of the FBTA does not apply to a benefit provided under a salary packaging arrangement.

**Will the benefit be a type 1 or type 2 benefit arising from the use of the Meal Entertainment Card?**

48. To determine whether the provision of the benefit arising from the use of the Meal Entertainment Card is a type 1 or type 2 benefit it is necessary to ascertain whether that benefit is a GST-creditable benefit as defined in section 149A of the FBTA.

49. Taxation Ruling TR 2001/2 *Fringe benefits tax: the operation of the new fringe benefits tax gross-up formula to apply from 1 April 2000* points out that for the purposes of section 149A of the FBTAA, to be a GST-creditable benefit, the provider of the benefit must be entitled to an input tax credit because of either:

- the operation of Division 111 of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act), or
- because the fringe benefit is a ‘thing’ acquired or imported by the provider.

50. As it is the Cardholders who have the prime responsibility to pay Beyond Bank Australia, only the first point in paragraph 49 of this Ruling, regarding the operation of Division 111 of the GST Act, needs to be considered.

51. Paragraph 86 of the Goods and Services Tax Ruling GSTR 2001/3 *Goods and Services Tax: GST and how it applies to supplies of fringe benefits* states that the Division 111 of the GST Act provides that an employer makes an acquisition that can be a creditable acquisition, subject to certain conditions, where:

- an employee is reimbursed for an expense that constitutes an expense payment benefit; or
- a payment is made a behalf of an employee for an expense that constitutes an expense payment benefit.

52. Paragraph 89 of the GSTR 2001/3 points out, amongst other things, that for Division 111 of the GST Act to apply, the arrangement between the employer and the employee needs to be for the reimbursement of a particular purchase or purchases incurred on the card.

53. The discharging of the Cardholder’s debt to Beyond Bank Australia as described in the scheme involves no more than reimbursing the outstanding balance owing by the Cardholder at the particular time but without any reference to any specific purchase or purchases. Consistent with paragraph 89 of GSTR 2001/3, this is an input taxed financial supply that does not meet the requirements of Division 111 of the GST Act.

54. Therefore, the provision of benefits under the scheme is not GST-creditable benefits for the purposes of section 149A of the FBTAA.

**Employers subject to section 57A of the FBTA who participate in the arrangement**

55. Section 57A of the FBTA provides that benefits provided to employees by certain employers are generally exempt from FBT. This section applies to employers that are registered as a charity and endorsed as a public benevolent institution or health promotion charity, certain hospitals and an employer who provides public ambulance services (or services that support those services) where the employee is predominantly involved in connection with the provision of those services.

56. The exemption in section 57A of the FBTA also applies to benefits provided to an employee of a government body where the duties of employment are exclusively performed in, or in connection with, certain hospitals.

57. However, these exemptions are subject to the capping provisions in section 5B of the FBTA.

58. Subsection 5B(1E) of the FBTA limits the exemption to a general capping threshold on each employee's individual grossed-up non-exempt amount (that is, the total grossed-up taxable value of benefits not otherwise exempt) for the particular FBT year. For the FBT year ending 31 March 2017, this threshold is \$17,667 for each employee for employers who are public or non-profit hospitals, or who provide a public ambulance service. This threshold also applies in respect of employees of a government body whose duties are exclusively performed in, or in connection with, a public or non-profit hospital. Such employers are liable for full FBT on the grossed-up taxable value of benefits provided in excess of this threshold. This threshold will be \$17,000 for the year ending 31 March 2018 and subsequent years.

59. All other employers to which section 57A of the FBTA applies will have a capping threshold of \$31,177 for each employee for the FBT year ending 31 March 2017. These employers are liable for FBT on the grossed-up taxable value of benefits provided in excess of this threshold. This threshold will be \$30,000 for the year ending 31 March 2018 and subsequent FBT years.

60. If the employee's individual grossed-up non-exempt amount is greater than the capping threshold, an employer may further reduce the amount under step 4 of the Method Statement in subsection 5B(1E) of the FBTA by the lesser of \$5,000 and so much of the employee's individual grossed-up non-exempt amount that relates to salary packaged meal entertainment and entertainment facility leasing expenses under subsection 5B(1M) of the FBTA. The latter amount, for the purposes of subsection 5B(1M) includes the provision of meal entertainment or entertainment facility leasing expenses made through the use of the Meal Entertainment Card.

61. Each employee's individual grossed-up non-exempt amount is determined by multiplying the employee's type 1 and type 2 individual base non-exempt amounts by the applicable gross-up rate. Step 1 of the Method Statement contained in subsection 5B(1L) of the FBTAA does not specifically disregard the taxable value of benefits provided under a salary packaging arrangement that constitutes 'meal entertainment,' as that term is defined in section 37AD of the FBTAA, or those which are wholly or partially attributable to 'entertainment facility leasing expenses' in determining an employee's individual base non-exempt amount. This is because such benefits are not excluded fringe benefits for the purposes of paragraph 5E(3)(a) or 5E(3)(c) of the FBTAA.

62. Consequently, the use of the Meal Entertainment Card to purchase meal entertainment or to pay for the hire or lease of an entertainment facility may form part of any participating employer's aggregate non-exempt amount in the exemption calculation where the grossed-up taxable value of such benefits exceeds \$5,000, and the excess amount when added to the grossed-up taxable value of other benefits provided to an employee exceeds the relevant general capping threshold.

#### **Employers subject to section 65J of the FBTAA who participate in the arrangement**

63. Section 65J of the FBTAA provides that certain non-government and non-profit organisations (rebatable employers) are entitled to have their FBT liability reduced by a rebate. This section does not apply to public benevolent institutions or to registered health promotion charities.

64. If an employer is a rebatable employer, the employer is entitled to a rebate of tax in the employer's assessment for the year of tax concerned equal to the amount worked out using the relevant formula in subsection 65J(2A) of the FBTAA. The relevant formula depends upon the year in which the benefit is provided. For the FBT year ending 31 March 2017, if the employer is a rebatable employer for the full year, the rebate (provided the capping threshold is not exceeded) will be 49% of the amount of the gross tax that would otherwise be paid by the employer. In subsequent years, the amount of the rebate will be determined by multiplying the FBT rate for the relevant FBT year by the amount of tax that would otherwise be paid by the employer (provided the capping threshold is not exceeded).

65. If the total grossed-up taxable value of benefits provided to an individual employee exceeds the relevant threshold, the rebate will not apply to the tax that arises on the excess amount. That is, the rebate will only apply to the tax that would otherwise be paid up to the amount of the threshold. The amount of this threshold depends upon the FBT year in which the benefit is provided. For example, in the FBT year ending 31 March 2017 the threshold is \$31,177 grossed-up taxable value per employee. This will be \$30,000 for the year ending 31 March 2018 and subsequent years.

66. The amount of gross tax is the amount of tax that would be payable on the fringe benefits taxable amount of the rebatable employer assuming that section 65J of the FBTAA had not been enacted.

67. The rebatable employer's aggregate non-rebatable amount is calculated by aggregating the product of each employee's individual grossed-up non-rebatable amount less the capping threshold as set out in step 2 of the Method Statement in subsection 65J(2B) of the FBTAA. If that amount is positive it is further reduced under step 2A of the Method Statement in subsection 65J(2B) by the lesser of \$5,000 and so much of the employee's individual grossed-up non-rebatable amount that relates to salary packaged meal entertainment and entertainment facility leasing expenses under subsection 65J(2J) of the FBTAA (i.e. the amount of the meal entertainment or entertainment facility leasing expenses provided through the use of the card). If the amount is greater than nil it is multiplied by the FBT rate.

68. Each employee's individual grossed-up non-rebatable amount is determined by multiplying the employee's type 1 and type 2 individual base non-rebatable amounts by the applicable gross-up rate. Step 1 of the Method Statement contained in subsection 65J(2H) of the FBTAA does not disregard the taxable value of benefits provided under a salary packaging arrangement that constitutes 'meal entertainment,' as that term is defined in section 37AD of the FBTAA, or those which are wholly or partially attributable to 'entertainment facility leasing expenses' in determining an employee's individual base non-rebatable amount. This is because such benefits are not excluded fringe benefits for the purposes of paragraph 5E(3)(a) or 5E(3)(c) of the FBTAA.

69. Consequently, the use of the Meal Entertainment Card to purchase meal entertainment or to pay for the hire or lease of an entertainment facility will form part of a participating employer's aggregate non-rebatable amount in the rebate calculation where the grossed-up taxable value of such benefits exceeds \$5,000, and the excess amount when added to the grossed-up taxable value of other benefits provided to an employee exceeds the \$31,177 capping threshold in the year ending 31 March 2014 or \$30,000 for the year ending 31 March 2018 and subsequent years. The provision of meal entertainment and 'entertainment facility leasing expenses' may therefore reduce the amount of rebate available to a rebatable employer.

## **Reportable fringe benefits amount**

70. Part XIB of the FBTAA requires the taxable values of certain benefits to be included in the reportable fringe benefits amount of the relevant employee. As the use of the Meal Entertainment Card results in the provision of meal entertainment or an entertainment facility leasing expense under a salary packaging arrangement, paragraphs 5E(3)(a) and 5E(3)(c) of the FBTAA apply such that the benefits are not an excluded fringe benefit. The value of the benefits is included in the reportable fringe benefits amount of an employee of employers subject to either the provisions of section 57A or section 65J of the FBTAA.

71. Any participating employer therefore will be required to include the grossed-up taxable value of the salary packaged meal entertainment and entertainment facility leasing expenses benefits on an employee's payment summary where the value of these benefits, and that of other benefits provided to the employee in the particular FBT year, exceeds \$2,000.

## **Appendix 2 – Detailed contents list**

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72. The following is a detailed contents list for this Ruling:

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## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

TR 2001/10; TR 2006/10;  
TD 94/55; TR 2001/2;  
GSTR 2001/3

*Legislative references:*

- ANTS(GST)A 1999
- ANTS(GST)A 1999 Div 111
- FBTAA 1986
- FBTAA 1986 5B(1E)
- FBTAA 1986 5B(1L)
- FBTAA 1986 5B(1M)
- FBTAA 1986 5C
- FBTAA 1986 5C(4)
- FBTAA 1986 5E(3)(a)
- FBTAA 1986 5E(3)(c)
- FBTAA 1986 Pt III Div 9A
- FBTAA 1986 37AC
- FBTAA 1986 37AD
- FBTAA 1986 37AD(a)

- FBTAA 1986 38
- FBTAA 1986 39
- FBTAA 1986 57A
- FBTAA 1986 65J
- FBTAA 1986 65J(2A)
- FBTAA 1986 65J(2B)
- FBTAA 1986 65J(2H)
- FBTAA 1986 65J(2J)
- FBTAA 1986 Pt XIB
- FBTAA 1986 136(1)
- FBTAA 1986 149A
- FBTAA 1986 152B
- ITAA 1997
- ITAA 1997 32-5
- ITAA 1997 32-10(1)
- ITAA 1997 32-10(1)(a)
- ITAA 1997 995-1(1)
- TAA 1953

*Other references:*

- Macquarie Dictionary online edition
- 

ATO references

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