

***CR 2007/15A1 - Addendum - Fringe benefits tax: employer clients of Community Sector Banking Pty Ltd who are subject to the provisions of section 57A of the Fringe Benefits Tax Assessment Act 1986 that make use of a CSB Salary Benefit Card Account facility***

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! This document has changed over time. This is a consolidated version of the ruling which was published on *7 September 2016*

! View the [consolidated version](#) for this notice.



## Addendum

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### Class Ruling

Fringe benefits tax: employer clients of Community Sector Banking Pty Ltd who are subject to the provisions of section 57A of the *Fringe Benefits Tax Assessment Act 1986* that make use of a CSB Salary Benefit Card Account facility

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Class Ruling CR 2007/15 to take account of the application of the *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015* to the concessional treatment of meal entertainment and entertainment facility leasing expense benefits provided under a salary packaging arrangement from 1 April 2016.

**[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.]

#### CR 2007/15 is amended as follows:

##### 1. Paragraph 2 (Relevant provision(s))

Omit the dot points; insert:

- subsection 5B(1E) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
- subsection 5B(1M) of the FBTAA
- paragraph 5B(1M)(a) of the FBTAA
- section 5C of the FBTAA
- subsection 5E(3) of the FBTAA
- section 5E(3)(a) of the FBTAA
- section 20 of the FBTAA
- Division 9A of Part III of the FBTAA
- section 37AC of the FBTAA
- paragraph 37AC(b) of the FBTAA
- section 37AD of the FBTAA

- section 38 of the FBTA
- section 39 of the FBTA
- section 40 of the FBTA
- section 45 of the FBTA
- section 57A of the FBTA
- Part XIB of the FBTA
- subsection 149A(2) of the FBTA, and
- section 152B of the FBTA.

## 2. Paragraph 20

Before the paragraph; insert:

### **Salary packaged benefits provided on or before 31 March 2016**

19A. Paragraphs 20 to 24A of this Ruling (and paragraphs 25 to 43A of the Explanation section) apply to benefits provided on or before 31 March 2016 and refer to provisions in the FBTA before the application of the *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015*.<sup>1</sup>

## 3. Paragraph 24

After the paragraph; insert:

24A. The provision of meal entertainment is an excluded fringe benefit for the purposes of paragraph 5E(3)(a). The value of such benefits are excluded from the reportable fringe benefits provisions in Part XIB.

### **Salary packaged benefits provided from 1 April 2016**

24B. Paragraphs 24C to 24K of this Ruling (and paragraphs 25 to 38 and 43B to 43E of the Explanation section) apply to benefits provided from 1 April 2016 and refer to provisions in the FBTA following the application of the *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015*.

24C. The use of the card for the acquisition of entertainment by way of food or drink constitutes the 'provision of meal entertainment' as defined in section 37AD.

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<sup>1</sup> The *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015* makes changes to the FBTA and applies to salary packaged meal entertainment benefits provided on or after 1 April 2016.

24D. The provision of meal entertainment by way of the card gives rise to an exempt benefit under section 57A.

24E. The benefit is a 'tax-exempt body entertainment benefit' under section 38 and the taxable value of the fringe benefit is determined under section 39.

24F. The meal entertainment is provided under a salary packaging arrangement<sup>2</sup> as described in paragraph 37AC(b). As a result Division 9A of Part III (election for meal entertainment expenses) cannot apply.

24G. Paragraph 5B(1M)(a) applies as the benefit is provided under a salary packaging arrangement and is constituted by the provision of meal entertainment as defined in section 37AD.

24H. The grossed-up taxable value of the salary packaged meal entertainment benefits (as well as the grossed up-taxable value of any other fringe benefits provided to the employee in that year) are included in the '*individual grossed-up non-exempt amount*' under step 1 of the method statement in subsection 5B(1E).

24I. Under subsection 5B(1E) the employee's '*individual grossed-up non-exempt amount*' is reduced by:

- the general capping threshold<sup>3</sup>, and
- if any amount remains, by 'salary packaged entertainment cap'.<sup>4</sup> This cap is the lesser of \$5,000 and an employee's total grossed-up taxable value of the salary packaged meal entertainment benefits and salary packaged entertainment facility leasing expenses covered by subsection 5B(1M).

24J. This reduced amount for all employee's forms the employer's '*aggregate non-exempt amount*' for the year of tax under subsection 5B(1E).<sup>5</sup>

24K. The provision of salary packaged meal entertainment is not an excluded fringe benefit for the purposes of paragraph 5E(3)(a). The grossed-up value of such benefits is included in the reportable fringe benefits provisions in Part XIB.

<sup>2</sup> 'Salary packaging arrangement' is defined in subsection 136(1).

<sup>3</sup> The general capping threshold under subsections 57A(2), (3), and (4) for public hospitals and public ambulance services is \$17,667 for the FBT year commencing on 1 April 2016. The general capping threshold under subsections 57A(1) and (5) for public benevolent institutions and health promotion charities is \$31,177 for the FBT year commencing on 1 April 2016.

<sup>4</sup> Refer to step 4 of the method statement in subsection 5B(1E).

<sup>5</sup> Refer to step 5 of the method statement in subsection 5B(1E).

## 4. Paragraph 37

After '\$17,000' in the second sentence; insert new footnote:

<sup>6</sup> This threshold is increased to \$17,667 for the FBT years ending 31 March 2016 and 31 March 2017.

## 5. Paragraph 38

(a) After '\$30,000' in the second sentence; insert new footnote:

<sup>7</sup> This threshold is increased to \$31,177 for the FBT years ending 31 March 2016 and 31 March 2017.

(b) After the paragraph; insert new heading:

**Salary packaged meal entertainment benefits provided on or before 31 March 2016**

## 6. Paragraph 41

After 'Taxation Ruling TR 2001/2'; insert new footnote:

<sup>8</sup> 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.*

## 7. Paragraph 42

Omit 'of the FBTA' in the first sentence of the paragraph.

## 8. Paragraph 43

After the paragraph; insert:

43A. Part XIB 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 card results in the provision of meal entertainment, paragraph 5E(3)(a) will apply to make the benefit an excluded benefit. This conclusion holds regardless of whether or not the employer has elected that Division 9A of Part III applies. Thus the value of the meal entertainment benefits is not included in the reportable fringe benefits amount of the employees.

### ***Taxable supply with a GST exclusive value of \$75 or less***

43B. Section 29-80 of the GST Act and regulation 29-80.01 of the *A New Tax System (Goods and Services Tax) Regulations 1999* (GST Regulations) provide that the recipient of a taxable supply can claim an input tax credit without holding a tax invoice if the GST-exclusive value of the thing acquired is \$75 or less (or such higher amount as the regulations specify).<sup>5</sup>

43C. Where multiple taxable supplies are made in a single transaction, this low value threshold should be applied to the aggregate value of those taxable supplies.

43D. Consequently, an employer does not need to hold a tax invoice to claim an input tax credit in relation to the provision of 'meal entertainment' and 'entertainment facility leasing expenditure' to the employee from the use of a card provided such benefits are a GST-creditable benefit with a GST-exclusive value of \$75 or less. However, the employer must have records to explain its entitlement to an input tax credit for a creditable acquisition for the purposes of section 382-5 of Schedule 1 to the *Taxation Administration Act 1953*.

#### **Salary packaged meal entertainment benefits provided from 1 April 2016**

43E. From 1 April 2016, the *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015* makes changes to the FBTAA to limit the concessional treatment of salary packaged entertainment benefits (for both meal entertainment and entertainment facility leasing expenses) by:

- removing the subsection 5E(3) reporting exclusion in respect of salary packaged entertainment benefits so that these benefits now form part of the employee's individual fringe benefits amount under section 5E;
- removing access to the Division 9A and section 152B elections; and
- introducing a \$5,000 cap on the grossed-up value of salary packaged entertainment benefits under subsections 5B(1E) and 5B(1M).

43F. For employers subject to the provisions of section 57A, the provision of salary packaged entertainment benefits are capped at \$5,000 of the grossed-up taxable value of fringe benefits for each employee. Any salary packaged entertainment benefits that exceed this cap will be included in the general cap of either \$17,667 or \$31,177 for the FBT year commencing 1 April 2016. This is because of the interaction between section 57A and subsection 5B(1L). For benefits provided from 1 April 2016, step 1 of the method statement in subsection 5B(1L) no longer disregards the provision of salary packaged entertainment in calculating an employer's fringe benefits taxable amount.<sup>9</sup>

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<sup>9</sup> Subsection 5B(1L) continues to apply to non- salary packaged entertainment expenses and car parking benefits.

43G. The benefit is a 'tax exempt body entertainment benefit' under section 38 which applies when a not-for-profit employer incurs non-deductible expenditure on entertainment of an employee or associate of an employee. Elections under Division 9A of Part III no longer apply where there is a salary packaging arrangement.<sup>10</sup>

43H. In relation to salary packaged entertainment benefits provided from 1 April 2016, under part XIB, the employer will be required to include the grossed-up taxable value of salary packaged entertainment 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.

## 9. Paragraph 44 (Detailed Contents List)

- (a) Omit '20' in the paragraph reference for 'Ruling'; substitute '19A'.
- (b) After 'Ruling'; insert:
- |   |     |
|---|-----|
| Salary packaged benefits provided on or before<br>31 March 2016 | 19A |
| Salary packaged benefits provided from 1 April 2016             | 24B |
- (c) After 'Appendix 1 – Explanation'; insert:
- |  |     |
|--|-----|
| Salary packaged meal entertainment benefits provided<br>on or before 31 March 2016 | 39  |
| <i>Taxable supply with a GST exclusive value of \$75<br/>or less</i>               | 43B |
| Salary packaged meal entertainment benefits provided<br>from 1 April 2016          | 43E |

## 10. Legislative references

Insert:

- FBTA 1986 5B(1M)
- FBTA 1986 5B(1M)(a)
- FBTA 1986 5E(3)
- FBTA 1986 5E(3)(a)
- FBTA 1986 Pt III Div 9A
- FBTA 1986 37AC
- FBTA 1986 37AC(b)
- FBTA 1986 37AD
- FBTA 1986 39
- FBTA 1986 57A(1)
- FBTA 1986 57A(2)
- FBTA 1986 57A(3)
- FBTA 1986 57A(4)
- FBTA 1986 57A(5)

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<sup>10</sup> Refer to paragraph 37AC(b).

- FBTA 1986 Pt XIB
- FBTA 1986 152B
- TAA 1953 Sch 1 382-5
- ANTS (GST)A 1999 29-80
- ANTS (GST)R 1999 29-80.01
- Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015

This Addendum applies on and from 1 April 2016.

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**Commissioner of Taxation**

8 June 2016

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## ATO references

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Fringe benefits tax ~~ Tax-exempt body entertainment benefits ~~ Taxable value  
Fringe benefits tax ~~ Property benefits ~~ Other  
Fringe benefits tax ~~ Residual benefits ~~ Other

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