



CR 2019/16 - Fringe benefits tax: employer clients of EML Payment Solution Limited who are subject to the provisions of section 57A of the Fringe Benefits Tax Assessment Act 1986 that make use of the Maxxia Wallet or Remserv Wallet

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 This document has changed over time. This is a consolidated version of the ruling which was published on *11 September 2019*



Class Ruling

Fringe benefits tax: employer clients of EML Payment Solution Limited who are subject to the provisions of section 57A of the *Fringe Benefits Tax Assessment Act 1986* that make use of the Maxxia Wallet or Remserv Wallet

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This publication (excluding appendices) 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.]

Summary – what this Ruling is about

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

Relevant provisions

2. The relevant provisions dealt within this Ruling are:
- subsection 5B(1E) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
 - section 5C of the FBTAA
 - paragraph 5E(3)(a) of the FBTAA

- Division 9A of Part III of the FBTA
- section 20 of the FBTA
- section 37AD of the FBTA
- section 38 of the FBTA
- section 57A of the FBTA
- Part XIB of the FBTA
- section 149A of the FBTA.

All legislative references in this Ruling are to the FBTA unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies are those employers, who are subject to the provisions of section 57A, who enter into an arrangement with Maxxia Pty Ltd (Maxxia) or Remuneration Services (QLD) Pty Ltd (Remserv) subsidiaries of McMillian Shakespeare Ltd (MMS) who incorporate the services of EML Payment Solutions Limited (EML) to either:

- under an arrangement with Heritage Bank, provide a Maxxia Wallet or Remserv Wallet to their employees, or
- under an arrangement with Australia and New Zealand Banking Group Limited (ANZ Bank), provide a Mastercard Salary Packaging and Meal Entertainment Card branded as a Maxxia Wallet or Remserv Wallet to their 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 28 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.

Date of effect

7. This Ruling applies from 1 April 2018 to 31 March 2024. The Ruling continues to apply after 31 March 2024 to all entities within the specified class who entered into the specified scheme during the term of the Ruling. 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 *Public Rulings*).

Scheme

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 2 August 2018
- Maxxia salary Packaging Application Form for Health sector employees
- Employee Information Guide Salary Packaging prepared for Health/Charity Employers March 2018
- Benefit Description – Maxxia Wallet
- Maxxia Wallet Frequently asked questions
- Salary Packaging Card Product Disclosure Statement and Terms and Conditions (Maxxia branded and EML – Mastercard branded).

The Card facility

9. Participating employers wish to offer their employees salary packaging purchase cards to purchase eligible meal entertainment and other products.

10. EML under separate arrangements with Heritage Bank and ANZ Bank, has developed salary packaging cards for use by employees of Australian employer customers.

11. MMS, with its subsidiaries, Maxxia and Remserv, provides salary packaging services to Australian employers. Through MMS, current employees of a MMS employer client may be provided with a Maxxia Wallet or Remserv Wallet to purchase eligible meal entertainment and other expenses.

12. The Maxxia Wallet and Remserv Wallet are MMS branded cards provided by EML, and except for their name, they operate identically, and will be referred to as the 'Card' in this Ruling.

13. Participating employers will be employer clients of MMS that are not-for-profit organisations, government entities, or other tax-exempt bodies who are subject to the provisions of section 57A.

14. MMS, acting on the employer's behalf, will enter into an arrangement with EML to provide the salary packaging card facility to participating employees of the employer.

15. Cardholders use their Card to pay for meal entertainment and living expenses. Expenditure amounts from these transactions are limited to the funds available in the Card account.

Funding

16. Participating employers will enter into valid salary sacrifice arrangements (SSAs) with their participating employees under which the employer will agree to contribute funds to the participating employees Card account. Individual SSAs will be unique to each participating employer. The use of the Card will form an integral part of those arrangements.

17. Contributions of funds to the Cardholder accounts will be as follows:

- the participating employers will periodically send to MMS an electronic funds distribution file detailing the individual amounts salary sacrificed by each Cardholder. MMS will on-forward the file to EML
- EML will use the file to allocate the funds received to a disbursement account held by the participating employer at the Heritage Bank or ANZ Bank, and
- EML then allocates (pre-loads) the relevant amounts of salary sacrificed funds against the particular Cardholder's Card.

18. Funds in the Cardholder's account, while held for expenditure purposes, will remain the legal property of the employer.

The Card

19. The Card manages both the living expenses and meal entertainment expenses through a single card. The Card has an integrated smart chip which identifies whether the expense is meal entertainment and will classify the expense accordingly. Meal entertainment amounts on the Card are funded from the meal entertainment account balance (up to an annual \$5,000 benefit cap) and any remaining salary packaging debt on the Card is extinguished from the salary packaging account balance.

20. When a Cardholder uses the Card to make an authorised purchase, the EML Card Management System verifies:

- there are sufficient funds against the Cardholder's Card in the participating employer's disbursement account to fund the transaction
- if the merchant, as registered under the Merchant Category Codes, falls under a meal entertainment category, there is sufficient available balance of the meal entertainment cap under subsection 5B(1E)
- any excess from step 2, or where the merchant ID is not a meal entertainment code, the funds will be taken from the employee's living expense balance.

21. The EML system approves and processes the transactions made by the Cardholder against the funds pre-loaded onto the Cardholder's Card.

22. The Cardholder has the primary liability for the expenses incurred on the Card.

23. Cardholders will have the ability, as and when required, to upload receipts or other transaction documents such that purchases using the card can be identified for meal entertainment purposes.

Using the Card to pay meal entertainment expenses

24. When the Cardholders uses the Card to pay for meal entertainment expenditure:

- the participating employee will incur a primary obligation to pay an amount to the merchant equal to the transaction amount
- Heritage Bank or ANZ Bank will settle the transaction by paying the transaction amount to the merchant
- as a result of the settlement referred to, the participating employee will incur an obligation to pay Heritage Bank or ANZ Bank an amount equal to the transaction amount
- Heritage Bank or ANZ Bank will apply the funds from the Card account, which remains the property of the participating employer up to the time they are expended, to discharge the participating employee's obligation to Heritage Bank or ANZ Bank
- as a result of the Merchant Code check which determines if the merchant is a meal entertainment provider, the employer has specific knowledge of the particular acquisitions involved.

Using the Card to pay living expenses

25. When the Cardholder uses the Card to pay for living expenses:

- the participating employee will incur a primary obligation to pay an amount to the merchant equal to the transaction amount
- Heritage Bank or ANZ Bank will settle the transaction by paying the transaction amount to the merchant
- as a result of the settlement referred to, the participating employee will incur an obligation to pay Heritage Bank or ANZ Bank an amount equal to the transaction amount
- Heritage Bank or ANZ Bank will apply the funds from the Card account, which remains the property of the participating employer up to the time they are expended, to discharge the participating employee's obligation to Heritage Bank or ANZ Bank with no reference to any specific purchases.

26. The benefit provided to the Cardholder will be the complete extinguishment of the Cardholders liabilities to Heritage Bank or ANZ Bank using employer funds held in the Card account.

27. The aggregate grossed-up value of salary packaged benefits from the use of the Card will not exceed the relevant grossed-up exemption cap as per the method statement in subsection 5B(1E). Where living expenses are salary packaged by the relevant employee through mechanisms other than the card product, the packaging limit on the relevant card will be adjusted down to ensure card expenditure is restricted to the available threshold.

Restrictions

28. The Card may be subject to merchant blocking depending on individual arrangement with employers. Further restrictions on the use of the card include that funds cannot be used:

- to make cash advances from the card account
- to make direct debit payments
- to repay other financial accommodation (such as personal loans or mortgage repayments)
- for gambling or gambling services
- for the purchase of money orders and traveller's cheques
- to transfer to another account.

Ruling

29. The use of the Card for the acquisition of entertainment by way of food or drink constitutes a tax-exempt body entertainment benefit.
30. The payment to extinguish the Cardholder's liability in relation to debts arising from the use of the Card for living expenses constitutes an expense payment benefit.
31. Benefits arising from the use of the Card for meal entertainment expenses will be a type 2 benefit.
32. Benefits arising from the use of the Card for living expenses will be a type 2 benefit.
33. The use of the Card for the acquisition of entertainment by way of food or drink gives rise to an exempt benefit for an employer subject to the provisions of section 57A, and those benefits are disregarded for the purposes of the relevant capping thresholds in determining the employer's aggregate non-exempt amount under subsection 5B(1E).
34. The use of the Card for the acquisition of living expenses gives rise to an exempt benefit under section 57A.
35. The value of meal entertainment provided under a salary packaging arrangement is not an excluded fringe benefit, and the grossed-up value is included on an employee's payment summary where the value of those benefits, and any other benefits provided to an employee in a particular FBT year, exceeds \$2,000.

Commissioner of Taxation

20 February 2019

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.*

Does the use of the Card for the acquisition of entertainment by way of food or drink constitute the provision of meal entertainment as defined in section 37AD of the FBTAA?

36. Under the terms of the salary sacrifice arrangement, the Cardholder is primarily liable for any expenditure incurred using the Card.

37. Through the automated Merchant Code check, which determines if the merchant is a meal entertainment provider, the employer has specific knowledge of the particular acquisition involved. MMS also performs reviews of the meal entertainment transactions categorised by the Merchant ID checking to validate this process. As such, MMS and its employer clients have specific oversight over meal entertainment benefits they are providing.

38. When a Cardholder uses the Card at an approved merchant, a Cardholder is able to use the card for the acquisition of food or drink.

39. Relevantly, section 37AD provides:

A reference to the **provision of meal entertainment** is a reference to the provision of:

- (a) entertainment by way of food or drink; or
- (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);.

40. The expenditure on food or drink by a Cardholder will come within the meaning of the phrase ‘provision of meal entertainment’ under section 37AD. The reimbursement of expenses by the transfer of funds from the employers account to discharge a debt incurred by the Cardholder in relation to entertainment by way of food and drink, will come with the meaning of paragraph 37AD(c).

41. A tax-exempt body entertainment benefit will arise under section 38 where an entity that is wholly or partly exempt from income tax incurs ‘non-deductible exempt entertainment expenditure’.

42. The participating employers in the arrangement 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.

43. 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 expense was subject to income tax.
44. Section 32-5 of the ITAA 1997 states (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.
45. Under paragraph 32-10(1)(a) of the ITAA 1997, the meaning of 'entertainment', for the purposes of the FBTAA, includes 'entertainment by way of food, drink or recreation'.
46. Section 32-5 of the ITAA 1997 would apply in relation to the use of the Card to purchase food or drink that constitutes 'meal entertainment'. The provision of such benefits will be 'non-deductible exempt entertainment expenditure'.
47. Therefore, the use of the card to purchase meal entertainment will be a tax-exempt body entertainment benefit under section 38. 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 37AC. 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 as a 'tax-exempt body entertainment benefit'.

Does the payment to extinguish the Cardholder's liability in relation to debts arising from use of the Card for living expenses, constitute an expense payment benefit as defined in section 20 of the FBTAA?

48. Paragraph 20(a) provides that where a person (the provider) makes a payment in discharge, in whole or in part, of an obligation of another person (the recipient) to pay an amount to a third person in respect of expenditure incurred by the recipient, the making of that payment gives rise to an expense payment benefit.
49. The Cardholders are primarily liable for all expenditure incurred where the benefits being provided to the Cardholders are the complete extinguishment of the Cardholders' liabilities to Heritage Bank or ANZ Bank. The obligation that is discharged is therefore the Cardholder's obligation to Heritage Bank or ANZ Bank for any debt incurred using the card.

50. The provider (participating employer) is making payments in the discharge, in whole or part, of the obligations of other persons (the Cardholder) to pay amounts to third persons (Heritage Bank or ANZ Bank) in respect of amounts of expenditure incurred by the recipient (the Cardholder).

51. Therefore, the benefit provided is an expense payment fringe benefit.

Will benefits arising from the use of the Card for meal entertainment expenses be a type 1 or type 2 benefit?

52. The distinction between type 1 or type 2 benefits is set out in section 5C as follows:

- A type 1 benefit is a fringe benefit that is a GST-creditable benefit as defined in section 149A.
- A type 2 benefit is a fringe benefit that is not a type 1 benefit.

53. 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* (TR 2001/2) provides that, for the purposes of section 149A, a GST-creditable benefit arises where the provider of a fringe benefit is entitled to an input tax credit either:

- for the provision of that fringe benefit by the operation of Division 111 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), or
- where the fringe benefit is a 'thing' acquired or imported by the provider, and the provider is entitled to an input tax credit because of that acquisition or importation of the thing.

54. Division 111 of the GST Act allows an entity to obtain input tax credits for fringe benefits that are expense payment benefits. This arrangement does not give rise to an expense payment benefit.

55. Whether a tax-exempt body entertainment benefit will be a type 1 or type 2 benefit will depend on whether the participating employer (as provider) is entitled to input tax credits for the 'thing' acquired.

56. Where the 'thing' acquired by the participating employer is a taxable supply it is a creditable acquisition and where the 'thing' acquired by the employer is not a taxable supply it is not a creditable acquisition.

57. Benefits of the underlying goods and services provided to Cardholders arising from the use of the Card for meal entertainment expenses will be GST-creditable benefits if the employer is entitled to an input tax credit because of the acquisition of those goods and services. The requirements of section 149A will be satisfied and the benefits will be type 1 benefits for the purposes of section 5C.

58. Benefits of the underlying goods and services provided to Cardholders arising from the use of the Card for meal entertainment expenses will not be GST-creditable benefits if the employer is not entitled to an input tax credit because of the acquisition of those goods and services. The requirements of section 149A will not be satisfied and the benefits will be type 2 benefits for the purposes of section 5C.

59. One of the conditions which prevent an entitlement to an input tax credit for an acquisition by an employer is the application of the special rules set out in Division 69 of the GST Act.

60. Division 69 limits input tax credits for certain acquisitions and importations, including entertainment, to the extent that they would not be deductible expenditure under certain provisions of the ITAA 1997.

61. Section 32-5 of the ITAA 1997 denies a deduction for entertainment under section 8-1 of that Act. However, section 32-20 of the ITAA 1997 allows an exception where entertainment is provided by way of a fringe benefit.

62. Benefits provided by employers subject to section 57A are exempt benefits. As an exempt benefit is not a fringe benefit, the fringe benefit exception rule in section 32-20 of the ITAA 1997 does not apply. This means that subsection 69-5(3) of the GST Act can apply to these employers.

63. In these circumstances the employer is not entitled to an input tax credit because the benefit arising from the use of the Card for meal entertainment expenses is an exempt benefit and not a fringe benefit.

64. The requirements of section 149A are not satisfied and so the benefits of the underlying goods and services provided to Cardholders arising from the use of the Card for meal entertainment expenses will not be GST-creditable benefits and thus will be type 2 benefits for the purposes of section 5C.

Will benefits arising from the use of the Card for living expenses be a type 1 or type 2 benefit?

65. The distinction between type 1 or type 2 benefits is set out in section 5C as follows:

- A type 1 benefit is a fringe benefit that is a 'GST-creditable benefit' as defined in section 149A.
- A type 2 benefit is a fringe benefit that is not a type 1 benefit.

66. TR 2001/2 provides that, for the purposes of section 149A, a GST-creditable benefit arises where the provider of a fringe benefit is entitled to an input tax credit either:

- for the provision of that fringe benefit by the operation of Division 111 of the GST Act, or
- where the fringe benefit is a 'thing' acquired or imported by the provider, and the provider is entitled to an input tax credit because of that acquisition or importation of the thing.

67. In respect of living expenses the benefits being provided to the Cardholders are the complete extinguishment of the Cardholders' liabilities to the Heritage Bank or ANZ Bank, the Cardholders have the prime responsibility to pay the Heritage Bank or ANZ Bank.

68. The second point in paragraph 66 of this Ruling does not apply, as there is no 'thing' acquired or imported under the scheme. In this case, there is a reimbursement for the purposes of the GST Act. Consequently, only the first point of paragraph 66 of this Ruling needs to be considered.

69. Paragraph 86 of Goods and Services Tax Ruling GSTR 2001/3 *Goods and Services Tax: GST and how it applies to supplies of fringe benefits* (GSTR 2001/3) states that 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 on behalf of an employee for an expense payment benefit that constitutes an expense payment benefit.

70. Paragraph 89 of 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.

71. The terms and conditions of the SSAs specify that the benefits provided by the participating employers to the Cardholders are the complete extinguishment of the Cardholders' liabilities to the Heritage Bank or ANZ Bank. The employers do not have oversight as to what particular living expense they are reimbursing. Expenses on the Card are simply repaid by way of the debt repayment from the Cardholder's salary packaging account, with no review of the nature of those living expenses. Therefore, the employers have no knowledge about the particular acquisitions underlying the debt repayment.

72. 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.

73. Therefore, the provision of expense payment benefits under the scheme are not GST-creditable benefits for the purposes of section 149A. The expense payment benefits under the scheme are type 2 benefits for the purposes of section 5C.

Does the use of the Card for the acquisition of entertainment by way of food or drink give rise to an exempt benefit for an employer subject to the provisions of section 57A of the FBTAA and are they disregarded for the purposes of the relevant capping thresholds in determining the employer's aggregate non-exempt amount under subsection 5B(1E) of the FBTAA?

74. Section 57A 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.

75. The exemption in section 57A 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.

76. However, these exemptions are subject to the capping provisions in section 5B.

77. Subsection 5B(1E) 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 commencing on 1 April 2018, and subsequent FBT years, this threshold is \$17,000 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.

78. All other employers to which section 57A applies will have a capping threshold of \$30,000 for each employee for the FBT year commencing on 1 April 2018 and subsequent FBT years. These employers are liable for FBT on the grossed-up taxable value of benefits provided in excess of this threshold.

79. 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) 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). The latter amount, for the purposes of subsection 5B(1M) includes the provision of meal entertainment made through the use of the card.

80. 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) 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, 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 paragraphs 5E(3)(a) or 5E(3)(c).

81. Consequently, the use of the card to purchase meal entertainment 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.

82. Use of the card for the acquisition of entertainment by way of food or drink will be restricted such that the total grossed-up value of benefits delivered via the card will be restricted to \$5,000 per employee, per FBT year, and therefore purchases via the card will not be subject to FBT.

83. Use of the Card for the acquisition of entertainment by way of food or drink will give rise to an exempt benefit for an employer subject to the provisions of section 57A, and the benefits can be disregarded for the purposes of the relevant capping thresholds in determining the employer's aggregate non-exempt amount under subsection 5B(1E).

Does the use of the Card for the acquisition of living expenses give rise to an exempt benefit under section 57A of the FBTAA?

84. As stated in paragraphs 77 and 78 of this Ruling, employers subject to section 57A are subject to capping thresholds of either \$17,000 or \$30,000 per annum per employee.

85. Where the grossed up taxable value of the expense payment fringe benefit does not exceed the relevant threshold, either \$17,000 or \$30,000 for the FBT year, the benefit will remain exempt for employees of participating employers subject to section 57A.

Is the value of the meal entertainment benefit acquired using the Card excluded from the reportable fringe benefit provisions in Part XIB of the FBTAA?

86. 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 under a salary packaging arrangement, paragraph 5E(3)(a) applies such that the benefits are not an excluded fringe benefit amount of an employee of an employer subject to the provision of section 57A.

87. Therefore, any participating employer will be required to include the grossed-up taxable value of salary packaged meal entertainment 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

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

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References

- Previous draft:*
- Not previously issued as a draft
- Related Rulings/Determinations:*
- GSTR 2001/3; TR 2001/2;
TR 2001/10; TR 2006/10
- Legislative references:*
- ANTS(GST)A 1999
 - ANTS(GST)A 1999 Div 111
 - ANTS(GST)A 1999 69-5(3)
 - FBTAA 1986
 - FBTAA 1986 5B
 - FBTAA 1986 5B(1E)
 - FBTAA 1986 5B(1L)
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 - FBTAA 1986 5C
 - FBTAA 1986 5E(3)(a)
 - FBTAA 1986 5E(3)(c)
 - FBTAA 1986 Pt III Div 9A
 - FBTAA 1986 20
 - FBTAA 1986 20(a)
 - FBTAA 1986 37AC
 - FBTAA 1986 37AD
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 - FBTAA 1986 Part XIB
 - ITAA 1997
 - ITAA 1997 32-5
 - ITAA 1997 32-10(1)(a)
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-

ATO references

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