

Paul Mather



FBT SHOWTIME!!!

FBT on Entertainment, Gifts, Awards and other Fun things.

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Paul Mather, Founder and Director of FBT Salary Packaging Solutions with over 20 years hands-on, FBT & Salary Packaging experience.

- Various commercial roles, 10 years Big 4 and 12 years own practice
- prepared, reviewed, lodged thousands of FBT returns;
- delivered hundreds of FBT & Salary Packaging training sessions;
- worked with businesses from SME's, Large Corporates, Government and Not for Profits across all Industry sectors;
- current member of the ATO FBT Stakeholder Group
 - Representing the Salary Packaging industry
- member of the former ATO NTLG FBT Subcommittee from 2005 to 2013;
- member of the ATO's Small Business Group (SBSG) from 2016 to 2019; and
- participated in Board of Taxation FBT Cost of Compliance Review 2019

Attendance certificates for 1 CPD hour will be issued.

Recording and slides will be distributed within 24 hours.

Please type in your questions!

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Recent FBT queries

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- do we really need a Logbook?
 - a car park near us charges below the annual threshold – do we have to pay FBT?
 - how far back can we go to claim a FBT refund
 - we acquired a company and they have never lodged a FBT return
 - we acquired a company and they have overpaid FBT
 - an employee returned to Australia from a temporary assignment in Hong Kong early last year – can we claim exemption on the 6 months temporary accommodation cost and utilities we have reimbursed?
 - our Head Office in the USA implemented a rewards program last year and many of our employees have received multiple gift vouchers ranging from \$50 to \$1,000 in value
 - in last years FBT return we included benefits in USD...do we have to amend?
- What about the employee reportable amounts?

- objection period for car parking
- liability to car parking at Norwest – does sub-leasing create a FBT liability
- multiple gifts for birth of a child – both parents work for same organization, can we claim the minor benefit exemption?
- permanent relocation – incidental costs of sale and purchase – but there was no sale, only a purchase
- relocation from Brisbane to Gold Coast, 4 years ago
- pre-employment checks, continuing employment checks

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2021 / 2022: FBT Updates

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FBT: What's new in 2021-22

- reasonable food and drink – see Commissioner's determination for 2021-22
- indexation factors for valuing non-remote housing – 2021-22 updated
- the FBT benchmark interest rate for 2021-22 is 4.52% per annum
- FBT cents per kilometre for vehicle other than a car, (no change) for 2021-22
- FBT record-keeping exemption threshold for 2021-22 uplifted to \$8,923
- Car parking FBT daily fee threshold – \$9.25 @ 1 April 2021;
- Small Business exemptions extended to employers with aggregated turnover of up to \$50 million (car parking and work-related devices)

Finalisation of Car Parking ruling

TR 2019/D5 Fringe benefits tax: car parking benefits

TR 2021/2 Fringe benefits tax: car parking benefits

The suburban shopping centre car park issue gets real

There is a Compendium for this document: [TR 2021/2EC](#) .

ATO to address recent Virgin airlines case at some stage

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**Feedback Questions on last webinar:
Associate Leasing**



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Associate Leasing

Feedback Question: Did you find this webinar useful?

Not really	1
Somewhat	14
Very	23

Feedback Question: After attending the webinar, do you think there is scope to introduce Associate Leasing in your organisation?

No or We already offer Associate Leasing	16
Yes, but would need to understand the level of interest first	18
Yes, definitely	4

Associate Leasing

Feedback Question:

By attending the webinar, do you have a better understanding of Associate Leasing?

No, still doesn't make much sense	2
Not really, I already had a good understanding	13
Yes, much better understanding	23

Feedback Question:

Would you like to discuss Associate Leasing or Salary Packaging or Fleet Management further with one of the team from Pay@bility?

No, not at this time	28
Yes please	10

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A background image showing a sunset over a range of mountains. The sun is low on the horizon, creating a warm, golden glow. The mountains are silhouetted against the bright sky.

Today's Registration Questions FBT SHOWTIME

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Registration Question:

Does your organisation reward employees with non-cash benefits such as Entertainment, Meals, Gifts or Awards?

Never / Once a year	21 (11%)
Sometimes	97 (52%)
Regularly	68 (37%)

Registration Question:

How does your organisation value Meal Entertainment for FBT purposes?

50/50	36 (20%)
Actual	108 (58%)
Not sure	42 (22%)

Registration Question:

What is the most challenging area of FBT in your organisation?

Extracting information from Directors and Senior Executives	Can I say all? But seriously, probably would be travel related benefits and the issues around travel vs LAFHA vs relocation
LAFHA Visas / Permanent Residency In-house Benefits	Motor Vehicles / Logbooks / Proving exemption Convincing my boss that exemption on certain motor vehicles is not available Car Parking
Size and scale Where do I begin! Identifying odd benefits Salary Packaging	Everything / All Obtaining / Collecting / Analysing Data Educating staff / clients in recognising it (FBT) exists

**Registration Question:
What is the most challenging area of FBT in your organisation?**

CHALLENGES RELATING TO MEALS, ENTERTAINMENT AND TRAVEL

Entertainment

Travel v Entertainment

Coffee catch ups / meetings

Light meals

Minor Benefits

Attendee details

Extracting information from Directors
and Senior Executives

Lack of documentation

Work meetings at restaurants

Reviewing meetings / dinners

Gifts / Awards

Sporting events

Conferences

Team building exercises

Poor accounts set up

Lack of policy guidance

Understanding the FBT rules



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Long Service Awards

- \$1,000 for 15 years service
- \$100 for each additional year
- Capped threshold, if breached FBT payable on total

Safety Awards

- \$200 per employee per FBT year
- Capped threshold, if breached FBT payable on total

MT 2032 FBT: sporting clubs

Awards to players in better paid teams which have a functional utility or are in the form of valuable and useful goods such as cars or TVs are subject to tax — either to **FBT** if provided by the employer club (or associates) or to income tax in the players' hands if awarded by an independent source. **Awards** in trophy form such as **medals**, plaques and cups, are not subject to **FBT** or income tax.

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ENTERTAINMENT!!!

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Tax Law Definition

"Entertainment" = entertainment by way of food, drink or recreation; or accommodation or travel to do with providing entertainment by way of food, drink or recreation. Includes payment or reimbursement of expenses incurred.

Whether or not:

- A. business discussions or business transactions occur;
or
- B. in connection with the performance of the duties of any office or employment; or
- c. for the purposes of promotion or advertising.



Entertainment – split into three types

Meal entertainment
e.g. Food and Drink
– Actual method,
50/50 split method
or 12 week register

Entertainment
Facility Leasing
Expense e.g. Venue
hire costs – actual
or 50/50 split

Other recreational
entertainment e.g.
individual sporting
tickets – actual
method only

Taxation Ruling 97/17

Traditional analysis

'Entertainment' by way of food or drink

- ▶ Why is it provided?
- ▶ What is provided?
- ▶ When is it provided?
- ▶ Where is it provided?
 - 1 and 2 strongest factors



Separating the Sustenance from the Meal Entertainment

- ▶ What is clearly sustenance?
 - ▶ Morning & afternoon teas
 - ▶ Birthday morning tea celebrations
 - ▶ Light lunches
 - ▶ Meals whilst travelling (ie you have to be travelling)
 - ▶ CPD breakfasts / lunches
 - ▶ Attending training or conference
- ▶ What is clearly meal entertainment?
 - ▶ Team function
 - ▶ Work lunch / dinner
 - ▶ Lunch with client
 - ▶ Friday night drinks
 - ▶ Christmas party / Work party

Separating the Sustenance from the Meal Entertainment:

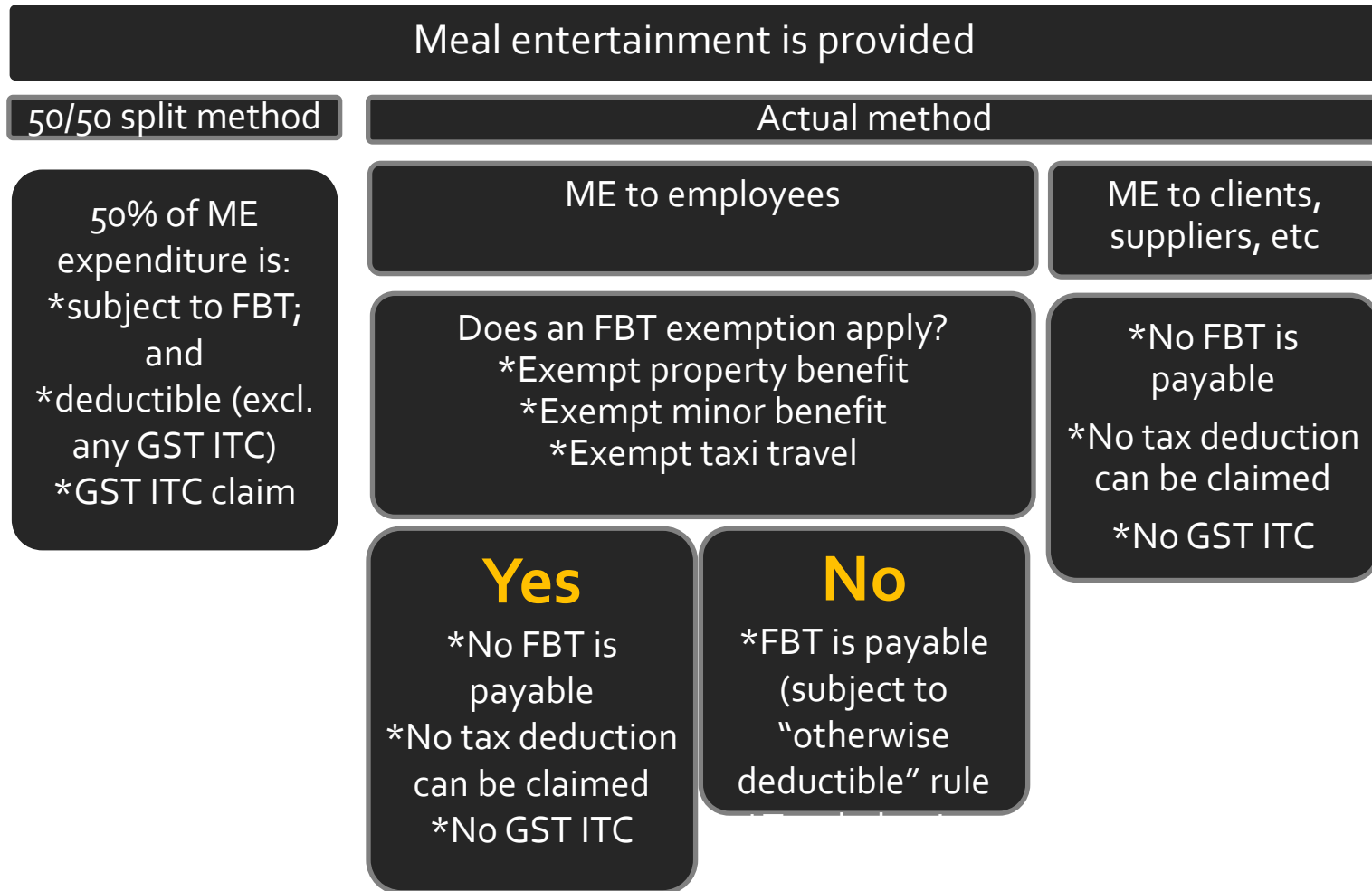
Examples:

- ▶ Meetings over light lunches
- ▶ Café meal meetings
- ▶ Coffee meetings
- ▶ Taking coffee / light meals / snacks back to business premises v consuming at café

Why?

- ▶ Working from home scenarios
- ▶ Working at client site
- ▶ No meeting rooms / lack of space in the office / business premises not suitable for meeting
- ▶ Meeting halfway between work locations
- ▶ Meeting near construction site or near operations site

Meal Entertainment Valuation



Example – Meal reimbursement

- An employee travels from Sydney to Melbourne and claims back an evening meal he enjoyed with:
 - 1 travelling colleague
 - 1 travelling client
 - 1 non-travelling client
 - 2 non-travelling colleagues
- What constitutes meal entertainment and what constitutes sustenance? (they enjoyed a 3 course meal with alcohol)

- Meal entertainment v Sustenance:
 - 1 non-travelling client MEAL ENTERTAINMENT
 - 2 non-travelling colleagues MEAL ENTERTAINMENT

MEAL ENTERTAINMENT 50/50 method

- FBT applies to 50%, claim 50% GST & 50% deductible

MEAL ENTERTAINMENT Actual Per Head method

- 1 non-travelling client = no FBT, no GST & non-deductible
- 2 non-travelling colleagues = subject to FBT, claim GST & fully deductible

Example – Tax outcomes under Actual

Actual method

FBT emphasis is on the meal entertainment benefits provided to employees

Attendee	Type of Meal	ACTUAL METHOD					
		Amount	GST	Non GST	Deduct	Non-Deduct	Subject to FBT
1 travelling employee	Sustenance	110	10		100		0
1 travelling colleague	Sustenance	110	10		100		0
1 travelling client	Sustenance	110	10		100		0
1 non-travelling client	Entertainment	110		10		100	
1 non-travelling colleague	Entertainment	110	10		100		110
1 non-travelling colleague	Entertainment	110	10		100		110
Totals		660	50	10	500	100	220

Example – Tax outcomes under 50/50

50/50 method

FBT emphasis is on the meal entertainment benefits provided to employees and all others

Attendee	Type of Meal	50 / 50 METHOD					
		Amount	GST	Non GST	Deduct	Non-Deduct	Subject to FBT
1 travelling employee	Sustenance	110	10		100		0
1 travelling colleague	Sustenance	110	10		100		0
1 travelling client	Sustenance	110	10		100		0
1 non-travelling client	Entertainment	110	5	5	50	50	55
1 non-travelling colleague	Entertainment	110	5	5	50	50	55
1 non-travelling colleague	Entertainment	110	5	5	50	50	55
Totals		660	45	15	450	150	165

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MINOR BENEFITS

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- **The distinction between entertainment and sustenance**, and application of exemptions such as the minor benefit exemption **are the most common issues encountered with respect to entertainment**
- Most employers (and the ATO) are uncertain as to what is considered to be infrequent and irregular, and what is a reasonable total value of associated benefits, incurring high cost of compliance
- To address some of these concerns the ATO are in the process of reviewing TR 2007/12 (ruling on minor benefits).

The Ruling discusses the five matters that must be considered in conjunction with the threshold test. These are:

- (1) *Infrequency and irregularity with which benefits are provided.* The words “infrequency and irregularity” and “identical or similar” take on their ordinary meaning and do not mean isolated or rare. The more regularly the benefits are provided, the less likely it is that this criterion would be met.
- (2) *Value of the minor benefits in current year and any other year.* Even if the value of each benefit is below the minor benefits threshold, the sum of the values of identical benefits in the current year of tax, the previous year, and those that are reasonably expected to be provided in the future, are all taken into consideration.
- (3) *Value of the minor benefits and other associated benefits.* This criterion is illustrated using the example of an employee who is provided with a meal (minor benefit) in connection with a night's accommodation and taxi travel. Each benefit is assumed to be a separate benefit. The greater the total value of the other associated benefits, in this case the accommodation and the taxi travel, the less likely it is that the minor benefit, being the meal, will qualify as an exempt benefit.

The Ruling discusses the five matters that must be considered in conjunction with the threshold test. These are:

- (4) *Practical difficulty in determining value of benefits.* The employer must keep records that explain all transactions and acts that are relevant for the purposes of ascertaining the employer's **FBT** liability.
- (5) *Circumstances in which benefits are provided.* A benefit would not be treated as a minor benefit if it is regarded as principally in the nature of a reward for services. Any benefits provided by the employer under a salary sacrifice arrangement are wholly or principally by way of a reward for services rendered, and do not qualify for the minor benefits exemption.

13. It should be noted that the provision of meal entertainment is exempt from **fringe benefits tax (FBT)** when provided by public benevolent institutions, health promotion charities, public hospitals, non-profit hospitals and public ambulance services. Therefore the minor benefits exemption does not need to be considered when these organisations provide meal entertainment.
14. Where an employer elects to use the 50-50 split method under Division 9A of Part III (Division 9A) to value meal entertainment fringe benefits, **the minor benefits exemption cannot apply** to reduce the taxable value of the fringe benefit. Similarly, if an employer elects to use the 50-50 split method for valuing entertainment facility leasing expenses, **the minor benefits exemption cannot apply.**
16. The minor benefits exemption in section 58P **does not apply to benefits that are provided to an employee under a SSA.**

TR 2007/12

Example 8: staff incentive scheme

88. An employer operates a monthly Sales Incentive Scheme for the benefit of its employees. Employees who achieve their monthly sales targets are rewarded with store vouchers having a face value of less than \$300 which are redeemable for goods or services at the nearby shopping centre. There is an expectation from past experience that most employees will achieve this target.
89. An employee does achieve this target and is provided with a store voucher. The employee has achieved the target on a number of occasions and has received other store vouchers both in the current and previous years of tax.
90. The value of the store voucher is below the minor benefits threshold and therefore it is necessary to consider the criteria listed in paragraph 58P(1)(f) to determine if it would be unreasonable to treat the minor benefit as a fringe benefit.
91. Vouchers, which are identical or similar, can reasonably be expected to be provided to the employee on a frequent and regular basis.

TR 2007/12

Example 8: staff incentive scheme

92. Even though the value of each benefit is below the minor benefits threshold, the sum of the values of the associated benefits in this year and other years is considered to be substantial.
93. There would be no difficulties in determining the value of the benefit; the benefit was not provided to assist the employee deal with an unexpected event; and the benefit is wholly or principally a reward for services rendered.
94. On balance, having regard to the various criteria in paragraph 58P(1)(f), it would be concluded that it would not be unreasonable to treat the benefit as a fringe benefit.
95. Accordingly, the benefit provided to the employee is not an exempt benefit.

TR 2007/12

Example 9: staff recognition

96. An employer recognises the effort of an employee who has worked diligently over a period of time and who has met a particularly tight work project deadline. The benefit provided as a result of this recognition is not part of any formal staff incentive scheme.
97. The employer provides the employee with a store voucher with a value of less than \$300.
98. The employee had also been recognised on another occasion in the current year and a previous year and was provided with similar store vouchers, each with a value of less than \$300.
99. The value of the store voucher is below the minor benefits threshold and therefore it is necessary to consider the criteria listed in paragraph 58P(1)(f) to determine if it would be unreasonable to treat the minor benefit as a fringe benefit.
100. Due to the ad hoc nature of the recognition by the employer, vouchers which are identical or similar are not reasonably expected to be provided to that employee on a frequent and regular basis.

TR 2007/12

Example 9: staff recognition

101. The sum of the values of the minor benefit and any associated benefits in this year and other years would not be substantial.
102. There would be no difficulties in determining the value of the benefit, the benefit is not provided to assist with an unexpected event and the benefit is provided wholly or principally as a reward for services rendered.
103. On balance, having regard to all of the criteria in paragraph 58P(1)(f), it would be concluded that it is unreasonable to treat the benefit as a fringe benefit.
104. Accordingly, the benefit provided to the employee is an exempt benefit.

Minor Benefits and Gifts....

Two employees – we'll call them Mum and Dad

Mum goes on leave to have a baby

Multiple gifts

\$45, \$125, \$80 = Total \$250

Baby is born

Multiple gifts for baby

\$10, \$15, \$30, \$90, \$95, \$180, \$210, \$280 = Total \$910

One employee...receives

- 1. Flowers for illness \$65*
- 2. Movie tickets as a thank you \$40*
- 3. Christmas hamper \$100*
- 4. Christmas party attendance \$120*
- 5. End of financial year end party attendance \$60*
- 6. Ticket to NRL game \$25*
- 7. Ticket to Art Gallery exhibition \$80*
- 8. Team party attendance – lawn bowls and BBQ \$60*

Under 50/50 method exemption not available for meal entertainment

Complimentary webinars....

- 1. 2021 Salary Packaging Update (Recording)**
- 2. Motor Vehicles and FBT (Recording)**
- 3. Salary Packaging Managers & Fleet Managers – how to decide? (Recording)**
- 4. The Associate Lease – how it works and why it works (Recording)**
- 5. FBT Showtime – Thursday 1 July, 12noon - 1pm AEST**

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What's coming up.....

6. How do I know if I'm Living Away From Home or on Business Travel? – Thursday 8 July, 1-2pm AEST (awaiting ATO finalisation of TR 2021/D1 & PCG 2021/D1)

Other topics

Car Parking (ATO ruling TR 2021/2 finalised)

Remote Area

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TAXPO 2021 – Hilton Sydney

- **Friday 15 October 2021 from 9am – 5pm (followed by networking event)**
- **Minimum 16 sessions - Live, Streamed & Recorded**
- **Limited to 400 in person attendees, unlimited online attendees**
- **Attendance is complimentary**
- **Register your interest - Sponsor, Exhibitor, Speaker or Attendee for TAXPO 2021: info@fbtsolutions.com.au**

- **Contact:**

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**Thank you for attending
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