

A photograph of a lighthouse with a white top section, a red middle section, and a black base, situated on a concrete pier extending into the ocean under a blue sky with scattered clouds.

# Viewpoint

Private & Entrepreneurial Clients

## FBT - is the party over?

*Eddie Chung, Partner, Private & Entrepreneurial Clients, BDO Kendalls*

*Now is a good time for businesses to revisit how the FBT rules apply to Christmas parties.*

It's that time of the year again and many businesses across the country are planning their Christmas parties as we speak. It is therefore a good time to revisit how the fringe benefits tax (FBT) rules apply to Christmas parties:

- If you hold the party in-house and provide food and drinks to employees for consumption on a working day on your business premises, no FBT will normally apply (unless you elect to use the 50/50 method in calculating the FBT for meal entertainment). However, if the employees' associates (eg, spouse) are invited, FBT will apply to their portion of the expenditure.
- If you hold the party somewhere else other than your business premises, the cost of the party will normally be subject to FBT. However, if the cost is 'minor' on a per employee (including his/her associate) basis, that part of the cost may be exempt from FBT. For example, if you incurred total expenditure of \$1,100 and 6 employees and their spouses attended, the cost per head to determine if the minor benefit exemption applies is  $\$2,400 / 6 = \$400$ , not  $\$2,400 / 12 = \$200$ .
- A benefit is 'minor' if it is provided on an infrequent basis and is less than \$300 per employee since 1/4/2007. The \$300 is a GST-inclusive figure. Just because the cost of a benefit is less than \$300 does not mean it is automatically minor; if the same type of benefit has been provided to the employee frequently during the year, FBT will still apply.
- Unfortunately, the law does not provide a specific definition of 'infrequent'. I am aware that some people use 5 times as a benchmark, ie, if a particular type of benefit has been provided for more than 5 times to an employee, the benefit will be treated as frequent, which will not qualify for the minor benefit exemption.
- If you incurred travelling and accommodation expenses in connection with the Christmas party, those expenses will be included in the total



cost of the food and drink, so are any tips you made. In other words, all these expenses are aggregated and treated as the cost of a single meal entertainment benefit for the purpose of determining if the \$300 minor benefit exemption applies.

- On the other hand, the cost of recreation provided at the party (hiring a DJ, band, etc) is not included in the meal entertainment benefit.
- To make it even trickier, the cost of hiring the venue may or may not be considered as part of the meal entertainment benefit. The general rule is that if the employer has exclusive possession of the premises to the exclusion of others, the cost will be included in the meal entertainment benefit but not otherwise.
- The main difference between a meal entertainment benefit and other types of recreation benefit is that you can choose to use the 50/50 method in calculating your FBT liability for a meal entertainment benefit while the actual cost method must be used in calculating the FBT for the other types of recreation benefits. Be careful if you use the 50/50 method because certain exemptions are not available under this method (eg, if the party is held in-house on a working day).
- Be careful with Christmas gifts. The rules are somewhat bizarre in that if a gift is provided at the Christmas party, it will be counted towards the \$300 minor benefit exemption threshold. If the same gift is provided say two weeks before the party, the cost will not be aggregated with the cost of the meal entertainment benefit associated with the party.
- The above rules are modified if your organisation is exempt from income tax.
- Don't forget the FBT rules interact with the income tax and GST rules. Broadly, expenditure that is subject to FBT is tax-deductible and you can claim back the GST on such expenditure. Reciprocally, any expenditure that is not subject to or exempt from FBT is not tax-deductible and you cannot claim the GST included in the expenditure.

Evidently, the existing FBT rules are ridiculously complicated and given the current state of the financial market, employers might very well tighten their belts this Christmas, which means that the minor benefit rules will be more important than ever.

*for further information on how we can provide solutions for your organisation, please contact your usual business adviser on the number below or visit our website.*

## More information

Phone 1300 138 991 or visit [www.bdo.com.au](http://www.bdo.com.au)

**Adelaide, Brisbane, Cairns, Canberra\*, Darwin, Hobart, Melbourne, Perth, Sydney\***

\*Liability limited by a scheme approved under Professional Standards Legislation. BDO Kendalls is a national association of separate partnerships and entities. Disclaimer: This publication is issued exclusively for the general information of clients and staff of BDO Kendalls. The contents are not a substitute for specific advice and should not be relied upon as such. Accordingly, whilst every care has been taken in the presentation of the publication, no responsibility is accepted for persons acting on this information.