



Revenue Circular PTA003
Payroll Tax Act 2011
Fringe Benefits

Circular history

| Circular number | Issued date | Dates of effect | | Status |
|-----------------|--------------|-----------------|--------------|---|
| | | From | To | |
| PTX003 | 30 June 2008 | 1 July 2008 | 30 June 2011 | Republished as PTA003 with minor amendments |
| PTA003 | 30 June 2011 | 1 July 2011 | - | Current |

Preamble

The *Payroll Tax Act 2011* (the Act), which commenced on 1 July 2011, rewrites the *Payroll Tax Act 1987* (the 1987 Act) and harmonises the payroll tax legislation in the Australian jurisdictions.

1. This circular addresses the following points:
 - (a) calculating the value of fringe benefits for payroll tax purposes;
 - (b) clarifying the treatment of fringe benefits with a nil taxable value and exempt benefits where such benefits also fall within another part of the definition of wages;
 - (c) explaining the requirements of the alternative method of declaring fringe benefits;
 - (d) explaining the method of calculating the ACT component of fringe benefits when they are not readily identifiable; and
 - (e) the adoption of Australian Taxation Office (ATO) fringe benefits tax rulings.

Circular

Value of Fringe Benefits for Payroll Tax Purposes

2. The definition of wages in Part 3 of the Act includes fringe benefits as defined in the *Fringe Benefits Tax Assessment Act 1986* (Cwth) (FBT Act), but does not include tax exempt body entertainment fringe benefits.
3. Prior to harmonisation, the value of the fringe benefit for payroll tax purposes was the grossed-up value of the fringe benefit as calculated under the FBT Act.

4. Under the FBT Act, fringe benefits are categorised into two types depending on the GST implications. The Type 1 fringe benefits for which the employer can claim a GST input tax credit are grossed-up by a factor determined by the ATO. Type 2 fringe benefits for which the employer cannot claim a GST input tax credit are similarly determined by the ATO.

5. From 1 July 2011, section 15 of the Act requires employers to gross-up all fringe benefits by using only the Type 2 factor.

Fringe Benefits with a Nil Taxable Value

6. Where a benefit has a nil taxable value under the FBT Act, some uncertainty may exist as to whether or not such benefits will be subject to payroll tax where the benefit also falls within another part of the definition of wages under the Act.

7. Fringe benefits which have a nil taxable value under the FBT Act will also have a nil taxable value for payroll tax purposes.

Exempt Benefits

8. The FBT Act provides specific exemptions for certain types of benefits. Such exempt benefits are not fringe benefits for the purposes of the FBT Act. Some uncertainty may exist as to whether or not such benefits will be subject to payroll tax where the benefit also falls within another part of the definition of wages under the Act.

9. Section 14 (2) of the Act ensures that exempt benefits are not fringe benefits for payroll tax purposes even where the exempt benefit would also fit within another part of the definition of wages under the Act. Deposits to a Superannuation Holding Account Special Account within the meaning of the *Small Superannuation Accounts Act 1995* (Cwth) are an exception to this rule, as specified in section 14(2) of the Act.

Election for Alternative Method to Declare Fringe Benefits

10. Employers are required to declare in their monthly returns the actual value of total fringe benefits (grossed-up by the Type 2 factor) provided in each month.

11. For administrative ease, section 16 of the Act allows employers to make a formal election to adopt an alternative method, whereby the amounts declared are based on the FBT returns.

12. Where such an election is made, employers must include in each monthly payroll tax return from July to May, one-twelfth of the total taxable value of fringe benefits in the FBT return for the year ending 31 March immediately preceding the start of each financial year, grossed-up by the Type 2 factor. The Annual Adjustment return for each financial year should include the total taxable value of fringe benefits declared in the FBT return ending 31 March immediately before the Annual Adjustment return, grossed-up by the Type 2 factor.

Example:

ABC Pty Ltd made the election to adopt the alternative method of declaring fringe benefits for payroll tax purposes. In the FBT year ended 31 March 2010, the total taxable value of the fringe benefits grossed-up by the Type 2 factor is \$100 000. Accordingly, ABC Pty Ltd would declare \$8 333 of fringe benefits in each payroll tax return for July 2010 to May 2011 (i.e. $1/12 \times \$100\,000 = \$8\,333$).

In its FBT return for the year ended 31 March 2011, the total taxable value of the fringe benefits grossed-up by the Type 2 factor is \$105 000, which is the amount that would be declared as the fringe benefits amount in the 2010-11 Annual Adjustment return.

13. Under the Act an employer may only take advantage of the formal election where:
 - (a) the employer was liable to pay FBT for a period of not less than 15 months prior to the commencement of the relevant tax year; and
 - (b) the Commissioner for ACT Revenue is notified of the election in the approved form.
14. An employer who does not meet these requirements must return the actual value of the fringe benefits paid during the relevant return period or make a written request for another method for declaring the fringe benefits.
15. Once an election is made, an employer will not be permitted to revert to declaring the actual value of fringe benefits in monthly payroll tax returns unless approval is given in writing by the Commissioner for ACT Revenue. Note: an employer must not use a combination of methods.
16. Employers seeking such approval must lodge an application in writing which explains why termination of the election is sought. (For example, if the employer provides fewer benefits during the current financial year compared with the previous FBT year.)
17. Where an employer ceases to be liable for payroll tax, regardless of whether or not the election has been made, the amount of fringe benefits declared in the employer's final payroll tax return is to be as follows:
 - (a) the actual value of the ACT fringe benefits paid or payable by the employer for the period from the preceding 1 July to the cease date, grossed-up by the Type 2 factor; less
 - (b) the value of the ACT fringe benefits declared in payroll tax returns during that period.

Determination of the ACT Component of Fringe Benefits

18. In relation to employers who employ in more than one State or Territory, it is recognised that existing FBT record-keeping systems may not allow an employer to identify the ACT component of the fringe benefits.

19. In such circumstances, the ACT component of the fringe benefit amount may be declared on an apportionment basis, calculated in accordance with the approved method.

20. The approved method of estimating the ACT component of the total value of fringe benefits is only available where:

- (a) existing records do not allow the identification of the actual fringe benefits which relate to the ACT; and
- (b) the employer has formally elected to declare fringe benefits based on the alternative method.

21. The approved method of calculating the ACT component of total fringe benefits involves two steps.

Step one — July to May monthly returns

The amount to be declared in each of the monthly returns July to May, is one-twelfth of the total value of the fringe benefits declared in the FBT return for the year ending 31 March (immediately preceding the current financial year) grossed-up by the Type 2 factor, adjusted by the ratio of total ACT taxable wages to total Australian taxable wages, for the full financial year (immediately preceding the current financial year).

Step two — annual adjustment return

The amount to be declared in the Annual Adjustment return is the total value of fringe benefits declared in the FBT return for the year ending 31 March, immediately preceding the Annual Adjustment return grossed-up by the Type 2 factor, adjusted by the ratio of ACT taxable wages to Australian taxable wages, for the current financial year.

22. The ACT taxable wages and the Australian taxable wages in the above two steps should not include fringe benefits.

Example:

The value of fringe benefits of XYZ Pty Ltd in its 31 March 2010 FBT return after grossing-up by the Type 2 factor is \$120 000. XYZ Pty Ltd paid a total of \$600 000 (excluding fringe benefits) in taxable wages for the 2009-10 financial year, of which \$300 000 (excluding fringe benefits) were ACT wages.

Step one

$$\frac{\$300\,000}{\$600\,000} \times \$120\,000 = \$60\,000 \text{ estimated ACT fringe benefits}$$

Therefore, $\$60\,000 \div 12 = \$5\,000$ of fringe benefits is to be declared in each monthly ACT payroll tax return from July 2010 to May 2011.

The value of fringe benefits of XYZ Pty Ltd in its 31 March 2011 FBT return after grossing up by the Type 2 factor is \$180 000. The total Australian taxable wages for the 2010-11 financial year were \$800 000 (excluding fringe benefits), of which \$600 000 (excluding fringe benefits) were ACT taxable wages.

Step two

| | |
|-----------|-------------------------|
| \$600 000 | x \$180 000 = \$135 000 |
| \$800 000 | |

The amount of ACT fringe benefits to be declared in the 2011 Annual Adjustment return is \$135 000.

23. Employers who are unable to calculate the actual ACT component of fringe benefits, and are unable to adopt the approved method or believe they would be disadvantaged by adopting the approved method, should make a written submission to the Commissioner for ACT Revenue detailing another method.

Adoption of ATO Fringe Benefits Tax Rulings

24. In order to follow as closely as possible the effect of the FBT Act, the Commissioner for ACT Revenue will adopt all rulings issued by the ATO which relate to fringe benefits tax (with the exception of rulings relating to employee share schemes).

25. Employers should contact the ATO for the current rates for Type 1 and Type 2 factors.

SIGNED

David Read
Commissioner for ACT Revenue
30 June 2011

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