

## **FRINGE BENEFIT TAX**

This week, we look at Employers that provide employee incentives especially non-cash benefits as they entice and motivate individuals in their respective businesses.

Prior to 2012, employees that were provided with non-cash benefits e.g. housing quarters, company vehicle, free tuition fees at universities, private club membership fees etc., had to pay PAYE on the value of the benefit. The value was added to their annual salary and tax applied on the total amount.

Whilst the income tax rates were reduced to 20%, the Law now requires that companies or specifically employers are responsible for the payment of tax on non-cash benefits provided to employees.

Out of the 12,000 businesses registered with FRCA, most businesses provide employees with non-cash benefits and this has to be declared as there is a tax on it that must be paid to FRCA. All employers that provide non-cash benefits are required to register first as an employer and also for Fringe Benefit Tax purpose.

As we draw near to the end of the first quarter for 2017, it is important for employers to be aware of their responsibility to calculate and pay the right amount of Fringe Benefit Tax.

Fringe Benefit Tax is a tax imposed on any non-cash benefit provided by an employer to employees. This also applies when benefits are provided to an associate of the employee e.g. family members etc. If the employer's income is exempt from Income Tax, the employer will still need to pay the Fringe Benefit Tax.

Fringe Benefit Tax at the rate of 20% applies on the employer's Fringe Benefit value for the quarter. The value of a fringe benefit is the fair market value of the benefit at the time it is provided to the employee.

The Fringe Benefit Tax payable for the period January to March 2017 is due by the end of April 2017.

Our inspectors are currently visiting employers and will provide advice and assistance on general PAYE and Fringe Benefit Tax matters. The following are the types of benefits that are subject to Fringe Benefit Tax.

### **Debt Waiver Fringe Benefit**

When an employee owes money to an employer and the employer does not require the employee to repay it, the employer is treated as having granted a fringe benefit to the employee. It is called a 'debt waiver fringe benefit'. The value of the benefit is the amount of the debt that is waived by the employer.

Example: An employer has lent an employee \$10,000 at market interest rates. The employee pays the interest owing under the loan but does not repay any of the capital. After one year, the employer waives the employee's obligation to repay the loan. The waiver of the debt is a debt waiver fringe benefit and the value of the fringe benefit is \$10,000. If the employee had repaid \$5,000 before repayment of the loan was waived, the value of the fringe benefit is \$5,000 (i.e. the amount waived).

### **Household Personnel Fringe Benefit**

The provision of the services of a housekeeper, driver, gardener or other household personnel by an employer to an employee is a household personnel fringe benefit. The value of the benefit is the total emoluments paid by the employer to the employee for the household personnel, reduced by any contribution made by the employee for the benefit.

Example: A person employs a housekeeper to work at the residence of an employee for a monthly salary of \$1,000. The provision of the housekeeper is a household personnel fringe benefit and the value of the benefit for a quarter is \$3,000 ( $\$1,000 \times 3$ ). If the employee reimburses the employer for half the salary, the value of the benefit for the quarter is reduced to \$1,500.

### **Housing Fringe Benefit**

The provision of accommodation or housing to an employee by an employer is a housing fringe benefit. Accommodation is interpreted broadly and would include, a house, apartment or a flat, and accommodation in a bunkhouse, hotel, guesthouse, or on board a boat or other vessel. (Note: Remote area housing may be an exempt fringe benefit for employees except for executives).

If the employer owns the accommodation or housing, the value of the housing fringe benefit is the fair market rent for the accommodation or housing for the quarter. The fair market rent is the value of the housing fringe benefit if the total rent paid by the employer for the accommodation or housing for the quarter. In both cases, the value of the benefit is reduced by any payment made by the employee for the accommodation or housing.

Example - An employer rents a furnished house for the benefit of an employee. The employer pays a monthly rent of \$600 for the house and the employee makes no contribution to the rent. The employee's emoluments for the quarter is \$12,500. Consequently, the employer has provided the employee with a housing fringe benefit. The value of the benefit for the quarter is \$1,800 ( $\$600 \times 3$ ).

### **Interest on Loan Fringe Benefit**

Special or no interest on loan provided by an employer to an employee is a loan fringe benefit. The value of the benefit is the difference between the interest that would have been paid if the loan was made at the market lending rate for the quarter and the actual interest (if any) paid by

the employee. The “market lending rate” for this year 2017 is 7.91%. This is determined by FRCA in consultation with the Reserve Bank of Fiji.

Example1: Bank provides Employee with a housing loan of \$500,000, at an interest rate of 5% pa. In the quarter, Employee pays Bank \$6,250 as interest. With the market interest rate for the quarter is 7.91% pa, the interest paid by Employee to the Bank for the quarter (\$6,250) is less than the interest that would have been paid if the loan were at the market rate (\$9,887.50). The difference (\$3,637.50) is the value of the loan fringe benefit provided by Bank to the Employee for the quarter. If the loan was at a 7.91% interest rate, the interest paid would equal the market interest rate and the value of the benefit would be zero.

Example 2: If, in the example above, Employee had used the loan funds to purchase a rental property, the value of the benefit will be reduced to zero under subsection (3). This is because, if the discounted interest were subject to FBT, Employee would have to be provided with a tax deduction for the discounted interest, otherwise there would be over-taxation in relation to the rental property. Rather than taxing the discounted interest of \$3,637.50 under the FBT to the employer and then providing Employee with a notional deduction for the \$3,637.50 discounted interest, the value of the fringe benefit is reduced by the part of the loan funds used to derive total income

If Employee had used 50% of the loan funds to purchase a yacht for private use and 50% to purchase a rental property, the value of the fringe benefit is reduced by 50% ( $\$3,637.50/2 = \$1,818.75$ ).

### **Meal and Refreshment Fringe Benefit**

The value of a meal and refreshment fringe benefit is the employer’s cost of providing the meal or refreshment to the employee reduced by any amount paid by the employee for the meal or refreshment. This includes meals for a director and family in restaurants etc. but does not include work meals or those stipulated under the work conditions.

Employers should note that a meal or refreshment provided in a canteen, cafeteria, or dining room operated by or on behalf of an employer solely for the benefit of employees and which is available to all non-casual employees on equal terms is an exempt fringe benefit.

### **Motor Vehicle Fringe Benefit**

The provision of a motor vehicle by an employer to an employee wholly or partly for the private use of the employee is a motor vehicle fringe benefit.

The term “motor vehicle” is intended to cover, for example, a motor car (including a four-wheel drive vehicle), utility van and motor bike. Private use includes any use of the vehicle that is not wholly for the business purposes of the employer. This applies when a motor vehicle is provided by an employer for the private purposes of an employee. A motor vehicle that is garaged at or near an employee’s residence or that is in the employee’s custody or control

while not performing his or her duties of employment would be regarded as provided, at least partly, for the private purposes of the employee. If an employer places a prohibition on an employee's private use of a motor vehicle but that prohibition is not regularly enforced by the employer, the vehicle may be regarded as provided to an employee for private purposes.

The value of a motor vehicle fringe benefit is computed on a periodic basis by reference to statutory amounts based on the engine size of the vehicle (refer table below). For high value vehicles (i.e. vehicles with a cost in excess of \$100,000), the statutory amount is increased by reference to the value of the vehicle.

ENGINE CAPACITY	VALUE FOR EACH QUARTER
Under 1,800cc	\$656
1,800cc and < 2,000cc	\$778
2,000cc and above	\$958
Irrespective of engine capacity, if the cost \$958 exceeds \$100,000	\$958 plus 2.5% of the excess of the cost over \$100,000

If the motor vehicle is provided partly for the employee's private use, 50% of the value of the benefit is apportioned by reference to private use.

A motor vehicle is treated as used for private purposes on a day if it is actually so used or available for such use on that day. A motor vehicle used or available for use on a part of a day is treated as used or available for use for the whole of the day.

If a motor vehicle is used for both work and personal purpose for the whole of a quarter, the value of the benefit computed will be subject to 50%.

Example: Employer provides a car with an engine capacity of 1,800cc to Employee costing \$50,000. The car is provided wholly for personal use and, therefore, the provision of the car is a motor vehicle fringe benefit. The value of the benefit for a quarter is \$778.

If for a quarter, Employee uses the car 50% of the time for work purposes and 50% of the time for private purpose, the value of the benefit for the quarter is \$389 (\$778 x 50%).

If the car is used wholly for private purposes but is available only 45 days of the March quarter (90 days). The value of the benefit is \$389 (\$778 x 45/90).

Suppose that the cost of the car was \$125,000 and the car was provided wholly for private use. The value of the benefit for a quarter is \$1,583 (\$958 + \$625 (2.5% of the excess of the cost over \$100,000))

### **Private Expenditure Fringe Benefit**

The payment of expenditure by an employer is a private expenditure fringe benefit if the expenditure is for the private benefit of an employee.

Examples of expenditures incurred for the private benefit of an employee include the payment of the school fees of the employee's children, the payment of utility expenses (such as electricity, gas, phone and water) relating to the employee's residence, the payment of non-work related medical expenses, the payment of medical insurance premiums of the employee, and the payment of life insurance premiums when the employee is the beneficiary under the policy.

The value is apportioned if the expenditure incurred by an employer is partly for work purposes and partly for the private benefit of an employee.

It is possible that some items of private expenditure may be covered by other specific categories of fringe benefit.

### **Property Fringe Benefit**

The transfer of property or provision of services by an employer to an employee is a property fringe benefit. "Services" is defined to include the use of property or the making available of any facility, such as a childcare or recreational facility (e.g. access to a gymnasium).

There are two valuation rules:

1. First, if the employer supplies the property or services to customers in the ordinary course of business (i.e. the employer trades in the property or services), the value of the benefit is the normal selling price of the goods or services. The value of the benefit is reduced by any amount paid by the employee for the property or services.
2. In any other case, the value of the benefit is the cost to the employer of acquiring the property or services provided to the employee. In both cases, the value of the benefit is reduced by any amount paid by the employee for the property or services.

A special rule exists for subsidised air travel provided by an employer that is an airline operator, travel agent or tour operator. The value of the benefit is 40% of the standard economy fare for the particular flight.

### **Residual Fringe Benefit**

Any benefit provided by an employer to an employee not covered by one of the specific categories of fringe benefit listed above is a residual fringe benefit. The value of a residual fringe benefit is the fair market value of the benefit provided less any payment made by the employee to the employer for the benefit.

There are three benefits that are not treated as residual fringe benefits and, therefore, are not subject to Fringe Benefit Tax. This is because these benefits are taxed under the income tax. The benefits are –

(a) An allowance related to private expenditure. This is included in the emoluments of an employee and taxed to the employee under the income tax.

(b) A contribution by an employer for the benefit of an employee to the Fiji National Provident Fund or a superannuation fund, superannuation scheme, pension or provident fund, or a retirement plan.

Employers should note that:

- 50% of employer's statutory contribution and 100% of voluntary contributions for employees (or excess FNPF) is not a deductible expense for the employer under the income tax
- Since employer FNPF contributions are not covered under the FBT, excess FNPF employee benefits continue to be taxed to the employee under the income tax.

(c) A benefit provided under an employee share scheme in the Income Tax Act is taxed to the employee under the income tax.

### **FBT Quarterly Payments and Returns**

Employers must pay the FBT for each quarter on or before the end of the month following the end of each quarter. If the last day of the month falls on a weekend or public holiday, the due date for payment is the last working day of the month.

<b>Quarter</b>	<b>Period</b>	<b>FBT Return &amp; Payment Due Date</b>
1 <sup>st</sup>	January - March	30 <sup>th</sup> April of current year
2 <sup>nd</sup>	April - June	31 <sup>st</sup> July of current year
3 <sup>rd</sup>	July - September	31 <sup>st</sup> October of current year
4 <sup>th</sup>	October - December	31 <sup>st</sup> January of following year