Sport NZ

Fringe Benefit Tax
In the not-for-profit sector

BDO

BDO.CO.NZ

Some benefits provided by the not-for-profit sector may be subject to fringe benefit tax (FBT). We focus on some key benefits that may give rise to FBT, how to account for FBT on these benefits and the options available for returning FBT.

There is also an exclusion from FBT for some non-profit organisations, namely charities and other organisations that are not carried on for private pecuniary profit or an individual, and whose funds are applied wholly or mainly to charitable, benevolent, philanthropic, or cultural purposes within New Zealand.

Overview of FBT

FBT is a tax paid on fringe benefits. It was introduced to ensure that non-cash benefits provided by employers are taxed similarly to cash benefits and to stop employers from providing non-taxable benefits as a substitute for taxable salary and wages.

A fringe benefit is a non-cash benefit provided by an employer to a person in connection with their employment. Common fringe benefits include:

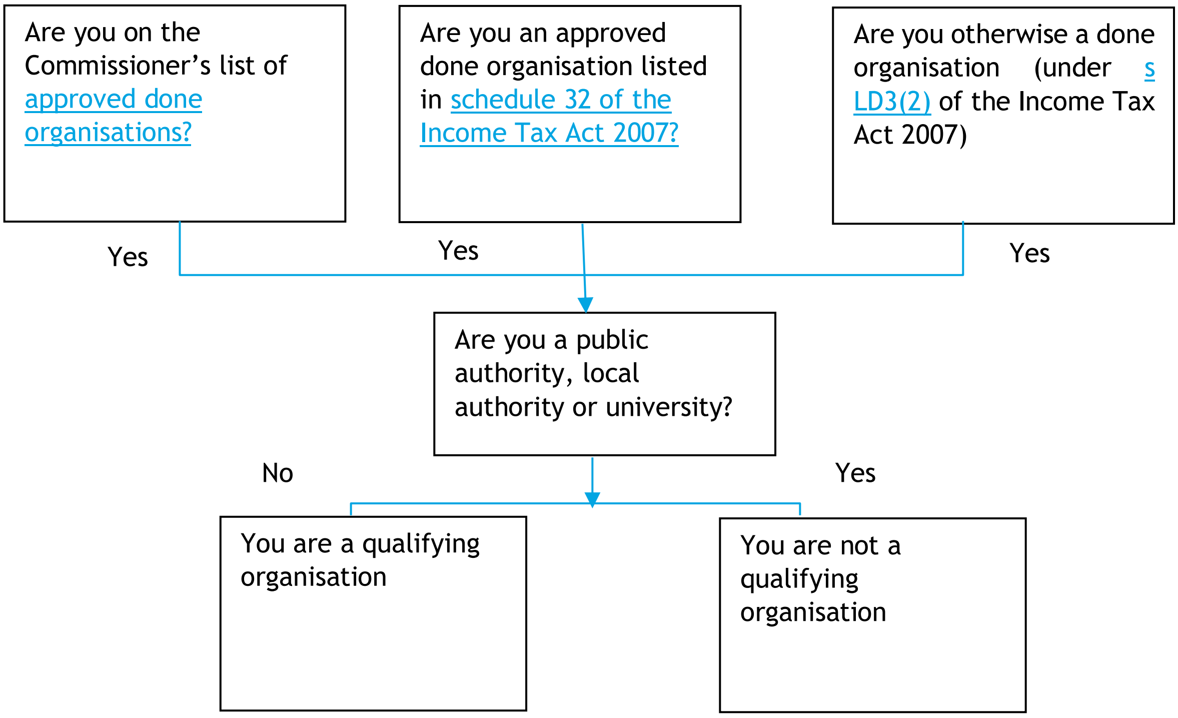
- Motor vehicles
- Carparks
- Health and life insurance
- Gift cards / vouchers
- Discounted goods or services

Cash 'benefits' (such as reimbursements or allowances), provided to an employee do not fall within the FBT regime, and will be taxable under the PAYE regime or carved out as exempt income.

Charities and other organisations

Benefits provided by "qualifying organisations" such as charities are generally exempt from FBT, unless the benefits are provided to the employee mainly in connection with employment that consists of the carrying on of the organisation whose activity is outside its benevolent, charitable, cultural, or philanthropic purposes. This exemption does not cover some short-term charge facility benefits either.

The exemption applies to qualifying organisations. Inland Revenue has the following flow chart to help determine whether you are a qualifying organisation.



Motor vehicles

Providing an employee with a motor vehicle, whether owned by the employer or leased by the employer will be a fringe benefit if the motor vehicle is made available to the employee to use for private purposes as well as work related purposes.

The FBT rules for motor vehicles will also capture motor vehicles that are given to the employer for free by a sponsor for the employees to use.

Private use of a motor vehicle includes:

- Being able to use the vehicle for travel between home and work, unless:
    - there are sound business reasons for the nature of the work for the work to be performed party from home, (and is not due to personal preference or choice of that employee)
    - travel between home and work is "on work" (that is, there are work-related reasons for the travel and any private benefit received is incidental or minor)
- Any other travel conferring a private benefit on the employee.

For a fringe benefit to arise, it is availability for private use that is important, not the actual use. This means, if a vehicle is allocated to an employee with the option to use it privately, but they don't use it, it will still be subject to FBT if it is *available* for private use.

A common example of when a motor vehicle will be available for private use is if an employee is provided with the motor vehicle for primarily business use but is also allowed to use of the vehicle for reasonable private use outside of work hours and during weekends, i.e. there is no restriction of the use of the vehicle for business purposes.

There are however some exemptions that could apply to motor vehicles that mean that it is not subject to FBT. The most common exemptions that could apply in the not-for-profit sector are the following:

- work-related vehicle exemption.
- business travel exemption.

Work related vehicles.

Broadly a work-related vehicle is:

1. a vehicle which is 'not designed exclusively or mainly to carry people' (so will exclude cars, but includes utes and vans), and
2. is sign written with the employer's name and their signage is 'permanently and prominently' displayed on the vehicle.

A work-related vehicle will *not* be a work-related vehicle on any day on which it is available for private use, except for private use that is:

- between home and work that is necessary in, and a condition of, the employees employment, or
- other travel in the course of the employee's employment, during which the travel arises incidentally to the business use.

Business travel exemption.

This exemption applies when:

- the employee is absent from home with the vehicle for at least 24 hours, and
- the employee is required to use a vehicle in the performance of their duties, and
- the employee is required to be regularly absent from home in the performance of their duties.

The business travel exemption will only apply where an employee is absent from home "with" the vehicle. If the vehicle is parked at an airport while the employee travels by plane to another destination, the vehicle is not "with" the employee, so the exemption will not apply.

That said, the commissioner considers that if the vehicle is parked at the airport for an extended period of time the vehicle would physically not be available for private use by the employee. However, the day of driving the car to and from the airport would be considered days in which the vehicle is available for private use. For example, a motor vehicle would need to be parked at the airport for at least three days to get one day in which the vehicle was not available for private use (as the day of departure and arrival do not count).

How to calculate FBT on motor vehicles

For quarterly filing, FBT on motor vehicles is calculated based on its taxable value. The taxable value is broadly either:

- 5% of the vehicle's cost – regardless of whether it is leased or owned by the employer or
- tax net book value (being the net book value of the vehicle after deducting accumulated depreciation calculated at the IRD approved rates) of the vehicle if owned, up to a minimum tax value of $8,333

Sometimes, there is no 'cost' to the employer as the vehicle may be paid for - for example, by a sponsor. In this case, the FBT cost will be based on the market value of the vehicle at the start of the arrangement with the sponsor, or when a fringe benefit is initially provided to the employee.

For example, where the vehicle is funded by a sponsor, and was not initially available for private use, but becomes available for private use, then fringe benefit tax is still based on the market value at the time of purchase or entering into the arrangement.

If the vehicle is not available for private use

If the motor vehicle is not available for private use for some or all of the quarter due to one of the above mentioned exemptions, you apportion the taxable value calculated above in relation to the number of days that the vehicle is available for private use using the following formula:

Number of days in the quarter on which the vehicle is made for available for private use *less* the number of that's the vehicle is not available for private use, *or* 90, whichever is less.	**x**	5% of vehicle cost *OR* tax net book value	**/**	90

Carparks

Carparks provided by an employer to an employee will usually be a fringe benefit, unless the carpark is part of the employers premises.

Employers premises includes premises which the employer owns / leases.

Where an employer provides carparks that are provided in a carparking building, whether FBT applies will depend on whether the employer has exclusive usage of the car park. Inland Revenue have set out the below indicative factors that assist in determining whether an employer has exclusive usage of the car park.

- specific car parking spaces are leased (some licence arrangements also qualify) and allocated to the employee by the employer and the employer has a right that is substantially exclusive to use the carpark.
- The carpark bays are reserved for the exclusive use by the employees of the employer and there is signage that states the bays are reserved for those employees.
- When the carpark is unoccupied no other member of the public has the right to park there when not used.
- Employer has the right to request unauthorised vehicles be removed from its reserved car park spaces.

Benefits provided on site

As well as carparks provided on site, there are a range of other benefits which are not subject to FBT if they are used or consumed by the employee on the employer's premises. A common example of this exemption is flu vaccinations provided in the workplace for employees.

Health and life insurance

Where an employer contributes to a health/ life insurance policy of an employee the insurance premium paid by the employer will be subject to FBT.

Insurance payments can be tricky from an FBT perspective, and whether a payment is liable to FBT depends on the insurance policy taken out, and who has the legal obligation to meet the premium payments.

Generally, if an insurance policy is taken out by the employer in the name of the employee and the employee is the beneficiary (i.e. any claims will go to the employee) but the employer is legally liable to make the premium payments this will be subject to FBT.

If the insurance policy is taken out by the employee, and the employee is the beneficiary and also legally obligated to meet the premium payments but agrees with their employer to have the premium payments deducted from their salary and paid to the insurance company, this will not be subject to FBT. This is because in this case the employer has no legal relationship with the insurance company other than processing the payment on behalf of the employee.

Discounted services

If an employer offers discounts on any of its services to employees, (e.g. discounted membership / club fees), the amount provided as the discount will be subject to FBT. However, the benefits will be exempt from FBT if the discount does not mean that the cost to the employee will fall below the price offered to the general public (i.e. the discount must be available to non-employees).

Third party discounted goods / services

From time-to-time companies may be approached by third party organisations offering their employees special discounts on goods / services provided by the third party.

Such discounted goods / services will not usually be subject to FBT if:

- The third party is not associated with the company, and
- The discount is also offered to other groups of employees of comparable size and
- The discount is negotiated on an arm's length basis (i.e. under normal commercial terms)

Usually where an employer goes out of their way to negotiate a group discount specifically and exclusively for its employees with a third party, FBT will apply on these discounted goods / services.

Gift vouchers

Gift vouchers provided to employees will be subject to FBT, unless the value falls below the de-minimis thresholds mentioned below.

Similarly, any other purchases made for employees (e.g. flowers, leaving presents etc), will be subject to FBT unless they also fall below the de-minimis thresholds.

De-minimis thresholds

There is a de-minimis exemption from FBT if the total value of unclassified benefits provided to a single employee is not more then:

1. $300 per quarter (for employers that pay FBT quarterly), or
2. $1,200 per annum (for employers that pay FBT annually); and
3. Total unclassified benefits provided to all employees is not more than $22,500 per annum.

Unclassified benefits include gift vouchers / purchases made for employees, discounted goods and services, benefits provided on site and carparks. Motor vehicles, and health / life insurance are not considered unclassified benefits.

If the value of unclassified benefits exceeds any of the above thresholds, then FBT is payable on the total value of all unclassified benefits gifted to employees (i.e. the first $22,500 is not exempt).

Ways to pay and return FBT

There are various options available in terms of filing FBT (quarterly or annually), as well as what FBT rates to apply in calculating your FBT liability. We have set out these options at a high level below.

Filing options

Quarterly
In general, you must file quarterly FBT returns unless you are eligible for a annual filing frequency. Quarterly FBT returns will cover the following three month periods (regardless of your financial reporting year end).

Quarter	Period covered in return	Return and payment due date
1	1 April - 30 June	20 July
2	1 July - 30 September	20 October
3	1 October - 31 December	20 January
4	1 January - 31 March	31 May

Annual
You can only file annual FBT returns if one of the following applies:

1. Your gross PAYE and employer superannuation contribution tax (ESCT) for the previous year was $1,000,000 or less, or
2. You were not an employer in the previous tax year.

Annual FBT returns cover the tax year from 1 April – 31 March and payment and return is due by 31 May.

FBT rates

Quarterly
As a quarterly filer there are a range of options to choose from for FBT rates. The FBT rate is the rate that you apply to the total taxable value of the fringe benefit to get to the the total FBT dollar value.

For quarters 1 to 3 you can use either the:

- Single rate 63.93%, or

- Alternate rate 49.25%

In quarter 4 if:

- The single rate was used you can use either the single rate or complete the alternate rate calculation for quarter 4.

- The alternate rate was used in any of the first 3 quarters you *must* use the alternate rate calculation in the fourth quarter.

There are then further options in terms of which alternate rate calculation you can adopt, the short form or full alternate rate calculation.

The alternate rate calculation effectively calculates FBT on benefits at a rate based on the employee's gross salary.

The option you ultimately choose will come down to the type of benefits you provide and which salary bands the employees receiving benefits sit within. Usually if employees provided with fringe benefits are earning less than $180,000 a year the full alternate rate is beneficial as it means you can pay FBT at rate lower than 63.93%. However, this method is quite involved as it requires tracking of benefits down to an employee level and collation of employee salary data so it will be a trade-off between the FBT saving vs the cost of performing the calculations.

Annual
As an annual FBT filer, FBT can be calculated on the taxable benefit using either:

- the singe rate of 63.93% or
- the alternate rate calculation.

Not sure if you've accounted for FBT correctly?

The FBT rules can be complicated especially in terms of determining how the exemptions apply. Inland Revenue can come down severely on organisations that are not properly accounting for FBT.

If you have concerns you have been accounting for FBT incorrectly or not at all, then contact your advisor to clarify whether a liability does arise and if it is material. They can then advise you whether to lodge a voluntary disclosure with Inland Revenue.

Doug Haines
Partner
Business Advisory Services

Email: doug.haines@bdo.co.nz
DDI: +64 4 495 8166