

TAX TALKS

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22 | Meal Entertainment Fringe Benefits

Meal entertainment is confusing. There are so many moving parts that it is easy to lose track. One reason for this confusion is that an employer can choose how to treat meal entertainment, either under Div 9A FBTAA or as a property or residual fringe benefit. This tends to make it so confusing. And the fact that the definition of meal entertainment is fairly vague.

Meal Entertainment Fringe Benefits

Entertainment is a fringe benefit, but it isn't a separate type of fringe benefit. Instead entertainment is included under the specific type of fringe benefit to which it relates, for example expense payment or property or residual fringe benefit.

The big exception is "meal entertainment". Where an employer provides meal entertainment, employers have a choice. They can elect to treat these benefits under Div 9A or they can elect to treat these benefits under the other FBT provisions (s37 AF FBTAA). Div 9A is only available where the employer provides the meal entertainment. Where an associate or arranger provides meal entertainment to an employee, Div 9A is not available and the other FBT rules (s37 AE FBTAA) apply.

The Div 9A methods of valuation are also available to tax exempt bodies.

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What is meal entertainment?

s 37 AD FBTAA defines meal entertainment similar to the definition of 'entertainment' in the ITAA97. It includes entertainment by way of food and drink, associated travel and accommodation costs, and the payment or reimbursement of such expenses. It therefore includes not only the cost of a restaurant meal, but also the cost of the taxi fare to and from the restaurant.

Only include meals that are entertainment. TR 97/17 provides a comprehensive guide as to those situations in which meals constitute entertainment. The definition of meal entertainment also includes amounts that might otherwise qualify for an exemption or reduction in FBT taxable value. Accordingly, where the Div 9A methodologies are elected, the other exemptions (for example s41 or s58P FBTAA) are not available.

Examples of expenditure included are food and drink provided at eligible seminars or exempt training seminars or on the employer's premises including at an in-house dining facility or that would otherwise constitute an exempt minor benefit.

What to exclude?

Not included are for example:

- Food and drink not amounting to entertainment, e.g. morning / afternoon tea,
- Recreation or amusement not connected with food or drink, e.g. tickets to a sport match,
- Meals consumed by employees while travelling on business (TR 97/17)
- Light refreshments provided after a professional development program (TD 93/195)
- Light meals provided on the business premises during a business meeting (TR 97/17)

Taxable Value

You calculate the taxable value of these benefits under one of three methods: 50/50 split method, 12-week register method and actual expenditure method.

50/50 Split Method

You pay FBT on 50% of the amount you spend on providing meal entertainment to employees, their associates and non-employees.

Exemptions, employee contributions or the 'otherwise deductible' rule do not reduce the taxable value when using the 50/50 method.

The taxable value of meal entertainment provided to employees by associates or arrangers is not included here. These benefits are assessed as residual benefits.

The tax deduction is only available for half of the meal entertainment expenses. This method reduces the amount of record-keeping you need to do – a considerable advantage.

12-Week Register Method

This method requires the employer to complete a register to enable determination of the proportion of total meal entertainment expenditure that was provided a fringe benefit.

You then calculate taxable value by reference to that proportion. You can generally rely on the register for five FBT years.

Exemptions, reductions or employee contributions amount do not reduce the taxable value when using the 12-week register method.

There is a tax deduction for the relevant proportion of the meal entertainment expenditure.

Actual Expenditure Method

The actual expenditure method is compulsory if the employer doesn't choose one of the other two methods.

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