



VHIA SUBMISSION

**“FAIRER, SIMPLER AND MORE EFFECTIVE TAX CONCESSION
FOR THE NOT-FOR-PROFIT SECTOR”**

December 2012

Introduction

Victorian Hospitals' Industrial Association "VHIA" welcomes the opportunity to make a submission to the consulting paper "Fairer, simpler and more effective concessions for the not-for-profit sector" dated November 2012.

About VHIA

VHIA is a Registered Employer Organisation that was established in 1994. We are a nationally registered not for profit organisation representing metropolitan, regional, rural and community public health services in Victoria. In addition, VHIA serves public and private employers in Aged care, Disability, Women's health, GP networks, Medicare Locals and other miscellaneous health related organisations such as nursing agencies.

VHIA is structured and derives its incorporation in accordance with its Registered Rules as an employer association registered under the Fair Work Act. VHIA is directed by a 14 member Board of Management which includes public hospital and community health centre representatives.

Submission

The majority of our membership are either Public Hospitals which currently receive \$17,000 grossed up exemption or PBIs which receive a \$30,000 grossed up benefit.

Our organisation is interested to see the continuation of the broad guidelines for FBT concessions for our members, with some modification, as articulated below, to ensure that the system is fair and equitable for all concerned.

Consultation Question - 28.

Assuming that the current two-tiered concessions structure remains, what criteria should determine an entity's eligibility to provide exempt benefits to its employees?

VHIA considers that types of organisations that are currently covered by the exemptions including Public Hospitals, NFP Hospitals, Ambulance Services, Health promotion Charities (HPC) and PBIs should continue to be able to access the broad measures. The overwhelming guideline in determining eligibility should be a not for profit entity that is for the primary purposes of preventing and treating illness in humans.

Outsourced services of these entities such as cleaning, catering, pathology, radiology should also be eligible for the exemption, if they are conducted by an entity solely engaged in that activity. For example a firm that does contract cleaning solely for exempt employers should also be eligible to receive the exemption, but a company that does cleaning for a range of different types of employers should not receive the exemption. It is not fair to treat employees differently solely due to the corporate arrangements that are changed from time to time and from place to place for which they have no control over.

Consultation Question - 29.

Assuming that the current two-tiered concessions structure remains, what criteria should determine an entity's eligibility to provide rebateable benefits to its employees? Should this be restricted to

charities? Should it be extended to all NFP entities? Are there any entities currently entitled to the concessions that should not be eligible?

Employees of income tax exempt organisations related to social welfare that do not meet the criteria for exemption should maintain their rebateable status. Sporting and community clubs with a turnover in excess of \$100,000 per annum should not be eligible for any concessions.

Consultation Question - 30.

Should there be a two-tiered approach in relation to eligibility? For example should all tax exempt entities be eligible for the rebate, but a more limited group be eligible for the exemption?

The two tiered approach should be maintained. The reason for the introduction of the exemption for public hospitals and PBIs was the difficulty in recruiting and retaining workforce. Not for profits in the health sector do not have the ability to raise their fees in order to cover increased costs of labour. The exemption was established to enable these employers to compete with the private operators of private hospitals and nursing homes.

If the two tiered approach was removed so that organisations resorted to being rebateable, there would be limited staff on typically low wages that would benefit from the rebateable status at all.

Consultation Question 31.

Should salary sacrificed meal entertainment and entertainment facility leasing benefits be brought within existing caps on FBT concessions?

VHIA considers that it is inappropriate to bring the current uncapped benefits within the existing cap, as this would have the same effect of removing these benefits entirely.

Consultation Question 32.

Should the caps for FBT concessions be increased if meal entertainment and entertainment facility leasing benefits are brought within the caps. Should there be a separate cap for meal entertainment and entertainment facilities leasing benefits? If so what is the appropriate amount for such a cap?

VHIA considers that a separate cap should be introduced for these currently uncapped items. In order to ease the administrative burden these two benefits should be combined within a single cap. The majority of commercial salary packaging operators have credit card arrangements which could be used to segregate these items from general spending within the existing cap.

A reasonable maximum for the entertainment cap would be \$100 per week, expressed as \$5200 per annum.

Consultation Question 33

Are there any types of meal entertainment or entertainment facilities leasing benefits that should remain exempt/rebateable if these items were subject to the cap.

VHIA considers that all items currently including in meal entertainment or entertainment facilities leasing benefits should be included in the additional cap.

Consultation Question 34

Should there be a requirement on eligible employers to deny FBT concessions to employees that have claimed a concession from another employer? Would this impose an unacceptable compliance burden on those employers? Are there other ways of restricting access to multiple caps?

VHIA considers that employees should only be able to access a concession from one employer of their choosing. This would be achieved by adding a question on the Employee Declaration Form, requiring employees to declare that they are not accessing this concession at another employer. Although FBT is a tax on the employer, any penalties for incorrectly completing this information should be borne by the employee.

A further difficulty exists in ensuring that only one concession is claimed per annum in the use of “accelerated packaging” whereby an employee who works for Employer A between April and September can claim the full value of the concession in this period, and then move to Employer B for the period October to March and claim a further full concession in the second half of the FBT year. A simple resolution would be to include a rule that the amount salary sacrificed cannot exceed the pro rata component of the concession. That is, if an employee is paid fortnightly that they can only access 1/26th of the capping in that fortnight. In addition to reducing the capacity for double dipping, it would also simplify the administrative arrangements.

Consultation Question 35

Should the rate for FBT rebates be re-aligned with the FBT tax rate? Is there any reason for not realigning the rates?

The current problem with the system for rebateable employers is that as it is based on the top rate of marginal tax the benefits are not obtained by the lower paid employees in these organisations. It is considered to increase fairness across all levels of pay, the rebate should be an inverse relationship to the top marginal rate of the employee, to make it more worthwhile for lower income earners.

Consultation Question 36

Should the limitation on tax exempt bodies in the minor benefits exemption be removed? Is there any reason the limitation should not be removed?

In order to increase system wide equity VHIA considers the limitation be removed.

Consultation Question 37

Is the Provision of FBT concessions to current eligible entities appropriate? Should the concession be available to more NFP entities.

VHIA considers that the organisations which currently have concessions are appropriate.

Consultation Question 38

Should FBT concessions be phased out?

VHIA considers that since the caps were introduced over a decade ago without indexation that the real value of the concessions are being eroded each year due to inflation. This is the most appropriate way to deal with the sunseting of these exemptions over time.

Consultation Question 39

Should FBT concessions be replaced with direct support for entities that benefit from the application of these concessions?

The current method of supplying the support is appropriate as it is available to all entities in equal measure. Those who choose not to access the concessions have done so willingly.

Consultation Question 40

Should FBT concessions be replaced with tax based support for entities that are eligible for example, by refundable tax offsets to employers, a direct tax offset to the employees or a tax free allowance for employees.

Moving to a direct support system for employees would likely cost more to implement, as at present not all employees take up the option to utilise these benefits.

Consultation Question 41

Should FBT concessions be limited to non-remuneration benefits?

Moving to a system where only FBT concessions that are incidental to employment is not the preferred option.

Consultation Question 42

If FBT concessions are to be phased out or if concessions were to be limited to non remuneration benefits, which entity types should be eligible to receive support to replace these concessions?

If the concessions were limited to non remuneration benefits direct support in the form of tax offsets, employees of all organisations that are involved with treating and preventing illness in humans should be eligible.