EXPOSURE DRAFT

Inserts for

Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015: Limiting FBT concessions on salary packaged entertainment benefits

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. Schedule #—Limiting FBT concessions on salary packaged entertainment benefits	The day this Act receives the Royal Assent.	

Schedule #—Limiting FBT concessions on salary packaged entertainment benefits

Fringe Benefits Tax Assessment Act 1986

1 Subsection 5B(1)

Repeal the subsection.

2 Subsection 5B(1E) (method statement, steps 3 and 4)

Repeal the steps, substitute:

> Step 3. If step 2 does not apply in respect of one or more employees of the employer, reduce the individual grossed-up non-exempt amount for each such employee by $30,000, but not below nil.
>
> Step 4. If the amount calculated under step 2 or 3 in respect of an employee is positive, reduce that amount (but not below nil) by the lesser of:
>
> (a) $5,000; and
>
> (b) so much of the employee’s individual grossed-up non-exempt amount as relates to benefits covered by subsection (1M) (about salary packaged meal entertainment and entertainment facility leasing benefits).
>
> Step 5. Add together the amounts calculated under step 4 in relation to the employees of the employer. The total amount is the employer’s ***aggregate non-exempt amount*** for the year of tax.

3 After subsection 5B(1L)

Insert:

Salary packaged meal entertainment and entertainment facility leasing benefits

(1M) This subsection covers a benefit that is provided under a salary packaging arrangement if:

(a) the benefit is constituted by the provision of meal entertainment (as defined in section 37AD, whether or not the employer has elected that Division 9A of Part III apply to the employer); or

(b) the benefit is wholly or partly attributable to entertainment facility leasing expenses.

4 Paragraph 5E(3)(a)

Repeal the paragraph, substitute:

(a) that is:

(i) constituted by the provision of meal entertainment (as defined in section 37AD, whether or not the employer has elected that Division 9A of Part III apply to the employer); and

(ii) *not* provided under a salary packaging arrangement; or

5 Paragraph 5E(3)(c)

Repeal the paragraph, substitute:

(c) that is:

(i) a benefit whose taxable value is wholly or partly attributable to entertainment facility leasing expenses; and

(ii) *not* provided under a salary packaging arrangement; or

6 Section 37AC

Repeal the section, substitute:

37AC Meal entertainment benefits

If, at a particular time:

(a) an employer (the ***provider***) to whom this Division applies provides meal entertainment to another person (the ***recipient***); and

(b) the meal entertainment is not provided under a salary packaging arrangement;

the provision of the meal entertainment is a meal entertainment benefit provided by the provider to the recipient at that time.

7 Subsection 65J(2B) (method statement, steps 2 and 3)

Repeal the steps (including the note), substitute:

Step 2.	Reduce the individual grossed-up non-rebatable amount for each employee of the employer by $30,000, but not below zero.
Step 2A.	If the amount calculated under step 2 in relation to an employee is positive, reduce that amount (but not below zero) by the lesser of: (a) $5,000; and (b) so much of the employee's individual grossed-up non-rebatable amount as relates to benefits covered by subsection (2J) (about salary packaged meal entertainment and entertainment facility leasing benefits).
Step 3.	Add up the results of step 2A for all the employer's employees.

8 After subsection 65J(2H)

Insert:

Salary packaged meal entertainment and entertainment facility leasing benefits

(2J) This subsection covers a benefit that is provided under a salary packaging arrangement if:

(a) the benefit is constituted by the provision of meal entertainment (as defined in section 37AD, whether or not the employer has elected that Division 9A of Part III apply to the employer); or

(b) the benefit is wholly or partly attributable to entertainment facility leasing expenses.

9 Subsection 136(1) (definition of *salary packaging arrangement*)

After "an employee", insert ", or an associate of an employee, ".

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10 Section 152B

Omit “If:”, substitute “(1) If:”.

11 At the end of section 152B

Add:

(2) This section does not apply to a fringe benefit provided under a salary packaging arrangement.

12 Application

The amendments made by this Schedule apply to assessments for the year of tax starting on 1 April 2016 and later years of tax.