

# Association of School Business Administrators

## Income Tax, FBT & GST Seminar

7 September 2021



National  
Specialist Tax



Education



# Agenda

## GST

- GST classification of extra-curricular activities and child care services
- Grants and subsidies involving third parties (GST)
- Student and non-student accommodation (GST)
- Common errors for GST reporting
- Religious practitioners (GST & FBT);

## FBT

- The interaction between FBT and GST
- FBT implications on meal entertainment
- Employer obligations for contractors vs. employees
- FBT concessions available to schools
- FBT consequences on professional enrichment leave;

## School Fees – Tax Deductibility

- School fee tax deduction structure



# Presenters



**Andrew Barrah**  
Partner – Indirect Tax

Andrew has 20 years of indirect tax experience advising on GST and other indirect taxes, including over 12 years industry experience leading ANZ Bank's indirect tax team across Australia and the Asia Pacific.

He is experienced in GST reviews in the Not-for-Profit and education sector and advise on strategies to highlight risks and opportunities during ATO audits and reviews.

Andrew also uses his extensive Indirect Tax experience to ensure effective support across key focus areas across emerging markets with experience with over 60 multinational clients.



**Shivani Krishnamoorthy**  
Director - Employment Solutions

Shivani is experienced in FBT health checks and ensuring accuracy in compliance and identifying tax effectiveness within the reporting process. Shivani also has vast experience in policy reviews and creating FBT procedure manuals for state owned enterprises, schools and other organisations.

She has worked on a variety of FBT compliance and advisory process projects and successfully assisted with clients with identifying risk exposures and providing pragmatic solutions to mitigate and manage these risks.



**Natalie Lu**  
Manager – Indirect Tax

Natalie specialises in providing GST consultancy services to private and public sector entities, and has experience across various sectors including government entities, education, Not-for-Profit, multinational companies and large private businesses.

Natalie is experienced in advising on GST classification, optimal structuring, risk mitigation and compliance requirements.

She has also successfully assisted numerous Not-for-Profit organisations and schools with improving and documenting their policies and procedures, preparing voluntary disclosures, and private ruling requests.

# GST



# GST classification of extra-curricular activities and child care services

- The supply of an 'education course' is GST-free, which includes among other things, a pre-school, a primary or a secondary course. To the extent activities are offered in connection with a relevant curriculum, and are delivered by CEBA, they can be treated as GST-free.
- In addition, if the students represent an institution operated by CEBA at related competitions, their participation will also be considered to be related to the relevant curriculum and will be GST-free.
- However, the sale of any uniforms to students in respect of extra-curricular activities will be taxable for GST purposes.
- If there is no clear nexus between the activity and the school curriculum, the activity is likely to be subject to GST.

# Grants and subsidies involving third parties

- Government grants from the Commonwealth and the Victorian government are typically subject to GST, to the extent the recipient is obliged to use the grants to provide a particular service, such as education to students.

# Student and non-student accommodation

- Student accommodation is GST-free for students undertaking certain education courses, such as primary and secondary education.
- Student accommodation includes the provision of the premises, cleaning and maintenance and certain utilities but does not include the supply of meals.
- Accommodation for non-students is typically subject to GST.

# Common errors for GST reporting

- Incorrect treatment of grants – e.g. treating as GST-free instead of taxable.
- Incorrect apportionment of boarding fee costs between taxable supplies of meals and GST-free supplies of accommodation.
- Inconsistent GST treatment of services provided to students.



# Religious practitioners

- If a religious practitioner conducts an activity in pursuit of their vocation as a religious practitioner and as a member of a religious institution, the GST law treats the religious practitioner's activity as though it has been conducted by the religious institution and not by the religious practitioner.
- Benefits provided to religious practitioners are FBT exempt if they are mainly for the practitioner's pastoral duties or other related duties to practice, study, teaching or propagation of religious beliefs.

# FBT



# Interaction between FBT and GST

## *Novated Leases*

- GST is not required to be charged on the “sacrificed” salary.
- Post tax contributions will be viewed as a taxable supply – 1/11<sup>th</sup> of the amount received will need to be remitted to the ATO as GST.
- Salary packaging provider will include GST on the lease payments etc. (regardless of this being under a salary sacrificed arrangement). This will be a creditable acquisition for the employer.

## *Meal Entertainment*

- GST follows FBT treatment – BAS adjustment if necessary

# FBT Implications on meal entertainment

- 50/50 valuation easy, detailed records not required, but may be expensive
- Process to assess entertainment:
  - Exclude “sustenance”
  - Assess "actual" method – (NB. Exclusion for events on business premises and minor benefits not applicable)
  - Assess "50/50" or "12 week register" method

# Employer obligations for contractors vs employees

- Is the individual engaging via a trust company or partnership – No PAYG withholding, FBT and Superannuation obligations
- If engaged directly, are they in true nature a contractor or deemed an ‘employee’ under common law.
- Superannuation – Does the individual work under a contract that is ‘wholly or principally for the labour of the person’
- Superannuation – Directors are considered employees for the purposes of Superannuation

# FBT concessions available to schools

- Discounted school fees provided
- Mobile phones versus expense reimbursement (valid declaration??)
- Portable electronic devices primarily for work
- Permanent relocation benefits (i.e. sale/purchase of property, storage etc.)
- School vehicles that can be brought home – minimise FBT implications

# FBT consequences on professional enrichment leave

- Enrichment leave and holidays 'tacked on' to business trips – need to determine purpose(s)
- No private use declaration can replace travel diary

# Income Tax





# Fee Transformation Project

**Objective** – *address implications of increasing unaffordability of private school fees*

Step 1 – Parents asked to provide a deposit of X% of school fees

Step 2 – School identifies external “donor/s” or source of funds to “underwrite” school costs

Step 3 - Parents provided option to either;

a) have deposit wholly or partially refunded; OR

b) for the deposit to be transferred into a tax-deductible charitable donation

**Benefit** – substantial savings on school fees

# Presenters



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# Questions?



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