

In this issue, we discuss the revised e-tax guide on Fringe Benefits from the Inland Revenue Authority of Singapore (IRAS).



The IRAS released its revised e-tax guide on Fringe Benefits on 16 May 2016. It has formulated the framework on GST claim on fringe benefits by providing guidance of what constitute business purposes.

The GST legislation provides that a taxable person is entitled to claim input tax on fringe benefits if they are incurred for the purpose of business. What constitutes business purpose has been subject to varying interpretation. The revised e-tax guide states that the provision of a fringe benefit will be considered as incurred for the purpose of your business if it has a close nexus to your business activities. The IRAS elaborates that if any of the following indicators is satisfied, you will pass the close nexus test.

**1. Necessary for the proper operation of your business**

Nature of business, industry practice, commercial and regulatory requirements should be taken into account. Example, the provision of workers' dormitory to foreign workers in the construction industry.

**2. Directly maintains or promotes the efficiency of your business operations**

Benefits provided should result in better utilisation

of employees' time and effort in carrying out their duties which increases the efficiency of business operations. Example, the provision of meals at meetings.

**3. Incurred for corporate activities**

Benefits should facilitate interaction or improve the working relationship between employees and encourage future cooperation. Example, corporate dinner and dance, company outings and team-building activities.

**4. Encourages the upgrading of employees' skills and knowledge relevant to your business**

The upgrading of the skills and knowledge should enable the employees to perform better or perform other job functions, notwithstanding that there could be a private element. Example, professional membership fees.

**5. Given in recognition of the contribution of your employees towards your business**

Benefits should reward and recognise the employees' past contribution and not merely motivate them. Example, long service awards and awards for exceeding targets.

**6. Promotes corporate identity**

Benefits should promote the overall image of the business such as uniform, pens and notebooks with business logo.

Where the goods or services are provided to only specific persons who are owners of the business, such as sole-proprietors, partners or directors, the Comptroller would likely treat these benefits as incurred for their personal consumption. This is an anti-avoidance provision to prevent abuse since they are the decision makers of the businesses who may take advantage of the provision of the law to benefit themselves.



For businesses which are partially exempt and apportionment of input GST is necessary, such GST incurred should be regarded as residual in nature and subject to apportionment.

The requirement of deeming of taxable supply on business goods given away or used for non-business purposes remains unchanged. The same close nexus test is similarly used to determine if this is granted for business purposes.

#### **Our view**

While the close nexus test and the indicators with examples provided much welcome clarity and guidance, there remains uncertainty in the interpretation of some of these indicators which could be subjective.

For instance, transport expenses such as hiring of chartered buses to remote area that is not easily accessible by public transport is allowable. This begs the question whether a factory that is a kilometre from the MRT station but is serviced by a public bus meets this condition.

Furthermore, it is arguable that a chartered bus to an office near the MRT station increases the efficiency of business operations as the employees would be able to start work on time, thus meeting indicator 2. However, the IRAS specifically disallows on account of a lack of direct nexus to the business activities.

Besides, GST incurred on assistance to prepare employee's income tax return, which has been allowed prior to this revision, is now been denied. It could be argued that the additional tax payable arising from an expatriate working in Singapore as part of the salary package is for business purposes and meet indicator 1 and thus the tax agent's fee should thus be claimable.

Please contact us if you require any assistance in understanding matters with regard to GST treatment on Employee Benefits.

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