

# Fringe Benefit Tax

[ Suggestions for Internal Circulation for FSIA members only ]

Govt has given the following clarifications, in its CIRCULAR NO.8/2005 dt the 29<sup>th</sup> August, 2005. We at FSIA have analysed these for our members. This is the jist of 107 Clarifications Govt has made.

1. If you have no employees → you can have no FBT, this is relevant for your small old firms/companies, in which you have NIL employees.
2. 20% or 50% will be taken even if the actual personal / employee component is more or less than this.
  - a. Travelling has a FBT deeming provision of 5% only
3. Re-imburement of Octroi / Sales tax to the employee → This is a re-imbursment ., Yet no FBT, since this expense is not covered per se.
4. Advertisement is FBT free, so is travel done for advertisement also free ??? → No
5. Can you shift the FBT on your activities to your advertising agency ?? → Yes, this can be done.
6. When you are paying your lawyer , CA, etc the food, conveyance, tour and travel etc. → you can avoid FBT, if you put that expense in the Professional Fee head, instead of your own conveyance etc. (( however, please note → you have to deduct TDS, as per rules )).
7. You cannot cover merely the expense on Employees/ their families → Means that , if your Foreign Customers (3 in no.) come from USA and your manager take him to a trip to AGRA. Amount spent is Rs. 20000. Now you cannot say, that my 5000 is FBT-able and rest is tax free. In this case full Rs. 20000 is FBT-able.
8. You cannot segregate the expenses – official and non-official → Whether the employee component is 5% or 15% or 50% or 100%, it is a FBT-able expense and will be valued at 20% ( or 50% as applicable.)
9. Pre-operative Expenses → Means that , if you have managers etc. who are implementing the project , and you are doing on travel, telephone, staff welfare, business promotion etc even before the commencement of business of the factory etc,,,, → It will be FBT-able.
10. FBT will not be applicable on the “Advances”. → FBT, only when you debit the expense account.
11. If you are sharing an expense with a group company :- Example expense on MD's foreign Trip , Joint Celebrations expense → The Group companies will pay FBT on their own share of expenses.
12. Can the PERSONAL expenses be DISALLOWED by the ITO ?? → Yes, He can still do that. And saving grace is that, FBT will not be imposed on the “disallowed / bogus” portion. → For example, if an employer has incurred Rs. 1000/- towards travel, of which Rs. 200/- is disallowed under section 37 of the Income-tax Act on the plea that it is bogus, FBT will be payable on 20 per cent. of Rs. 800/- (Rs. 1000 minus Rs. 200/-).
13. Accrual of Depreciation Quarter to Quarter etc → not required, since the Quarterly system has not been changed by the govt . Now advance tax of FBT is same 15% - 45% - 75% -100% slabs like the normal income tax.
14. LTA – Leave Travel Allowance
  - a. In the year, it is taxable for employee , it FBT free and
  - b. In the year, employee claims tax free → There will be FBT.
15. Transport allowance , Children's education allowance etc → These are FBT free.
16. HRA , Rent free house → remains FBT Free. But remember, the Perks value had been doubled in 2005. So, better re-plan.
17. Cash payment for Food for working after Office hours → Yes, FBT is to be levied if you pay Rs. X / person as dinner allowance.
18. Food Vouchers at Hotels → 100% FBT- free. → This planning can be done.
19. FSIA training Seminars's fee → FBT yes.

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# Fringe Benefit Tax – page 2

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## Controversies

1. Expenditure incurred for the purposes of conferences of the agents or dealers ? There is FBT. (Para 56)
2. Expenditure on Free offers → tattoos, cricket cards, ...calendars, cassettes, soaps, watches, including the cost of artwork, ( advertising agencies's fee ) → FBT ( para 66)
3. Hotel Stay, air tickets of customer / clients → There is FBT. ( Para 67 )
4. Group Personal Accident/Workman Compensation Insurance / Life insurance ?
  - a. If compulsory → then Free &
  - b. If voluntary → Then FBT is imposed
5. Medical re-imbursments upto Rs. 15000 ? ( para 69 )
  - a. If more than 15000 → worker pays the income tax
  - b. If less than 15000 → You pay the FBT
6. Medical Expenses on Hospital / Dispensary, if you do not own it.
  - a. If statutory → then Free &
  - b. If voluntary → Then FBT is imposed
7. Safety shoes or uniforms or equipments to the employees or for the purposes of reimbursement of washing charges
  - a. If statutory → then Free &
  - b. If voluntary → Then FBT is imposed
8. Re-imbusement of books, periodicals → FBT will be imposed. But, if you are billing for own account → then nil.
9. Capital Expenses like coffee machine, fridge, TV, → There is no FBT at all.
10. Telephones → All telephone expenses, wherever, except leased lines
11. Festivals
  - a. → Diwali etc → FBT 50%
  - b. → Annual Day etc → FBT 20%
  - c. → Independence Day etc → FBT Free
12. Membership of Clubs → FBT
13. Brokerage in cash to DSA / Marketing agents → FBT Free
14. Gifts to Dealers / distributors, retailers → FBT ( para 97 )
15. Gifts to customers, ( toothbrush with toothpaste ), microwave with fridge, CD player with Car, → FBT
16. Marriage gifts to staff → 50% FBT
17. Value of gift → Cost to employer
18. Rewards, to employees → then FBT Yes
19. Transport to employees or anybody → FBT = Yes
20. Car Drivers, whether direct on rolls, or indirect via managers → both FBT. = yes
21. Depreciation of Cars will be as per Income Tax Chart or as per books ??? → it will be as per Income Tax chart
22. Interest on Car Loans → Even this is with FBT. ( ??? unfair -- para 84 )
23. Daily allowance to staff on Tour → FBT. = yes
24. Income Tax on Perks on Motor Car to staff → No, ( deleted from this year)
25. Rent of Cars → FBT = yes

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