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**TAXATION LAW  
INDIVIDUAL ASSIGNMENT**

**Instructions:**

1. This assignment is to be submitted in accordance with assessment policy stated in the Subject Outline and Student Handbook.
2. It is the responsibility of the student who is submitting the work, to ensure that the work is in fact her/his own work. Incorporating another's work or ideas into one's own work without appropriate Acknowledgement is an academic offence. Students should submit all assignments for plagiarism checking on Blackboard before final submission in the subject. For further details, please refer to the Subject Outline and Student Handbook.
3. Answer all questions.
4. Maximum word length: 2,000 words.
5. Maximum marks available: 20 marks.
6. Due date of submission: Week 9.

**Question 1 (10 marks)**

Paul is a Sales Manager of Chatswood Pty Ltd with a weekly salary of \$1,000. He is mainly responsible for selling camera equipment in NSW. On 1 April 2011, Paul was provided with a fully maintained company car which was newly bought for \$22,500 on the day. From 1 April 2011 to 31 March 2012, Paul travelled 20,000 km for private purposes and paid nothing at all during the year. He was also provided with an entertainment allowance of \$2,000 per year. In addition, part of his executive package provided him with a loan of \$8,000 for a year at a concessional rate of 3% per annum commencing 1 April 2011.

**REQUIRED:**

Advise Chatswood Pty Ltd as to its fringe benefits tax liability for the year ended 31 March 2012.  
(Maximum 1,000 words)

**Question 2**

On 1 January 2012, Peter borrowed \$520,000 from a bank at a commercial interest rate of 8% per annum to purchase a "negatively geared" residential investment property in Australia. He is required to pay a weekly interest of \$800. Immediately after acquiring the property, Peter engaged a real estate agent to advertise the property asking for a weekly rent of \$400. Unfortunately, the real estate agent is unable to secure a tenant and the property is still vacant.

**REQUIRED:**

Discuss whether Peter would be entitled to any deductions in respect of the interest expenditure incurred from 1 January 2012 to 30 June 2012 for the 2011/2012 income year.  
(Maximum 1,000 words.)

**Part A:**

In Australia Fringe Benefit Tax (FBT) refers to the tax which is to be paid by the employer or the owner of company to the tax department for the fringe benefits provided by them to their respective employee. This particular method of providing benefits to their employees helps the employer to build up the loyalty of the employee towards the business itself. These benefits may include entertainment,

cars, residential facility, travelling, etc. These benefits are enjoyed by the respective employee to whom it is being given.

“Fringe benefits tax is paid by the employer, whether they are sole traders, partnerships, trustees, corporations, unincorporated associations or government bodies and whether or not the employer is liable to pay other taxes, such as income tax”. (<http://www.ato.gov.au>)

This particular tax is payable by the employer of the company or any business, in the mentioned case, Chatswood Pty Ltd is liable to pay the tax for the fringe benefits provided by them to their respective employees. This particular fringe benefit tax has been introduced in Australia since the year 1986. It is not necessary for the employer to provide the benefit to the employee in the direct terms. It can also be provided by an associate of the employer or under any circumstances by which the employee of the company is getting the benefits because of the arrangements made by the employer. In the mentioned case as well, Paul the sales manager of the Chatswood Pty Ltd gets a lot of fringe benefits from its employer. He gets the entertainment expenses and also the company in the business has given him a car which was worth \$22500. For this purpose, Paul had not even given any single penny to the Company he had been using the car for the whole year for his own private work. The car was never been used for the purpose or any work of the business. Paul had also got a loan of \$8000 at a concessional rate of 3%. These are the fringe benefits that have been provided the employer of the Chatswood Pty Ltd to Paul for which the company had to pay a certain amount of tax.

Though there are certain rules which are to be followed for this taxation purpose, yet the employers have to pay the tax at the rate 46.5% of the taxable value of the good or the service that is being given to the employee. The whole value of the good is not to be taken under this system of tax. According to the part IIA, division 1 of the fringe benefit assessment act 1986, it is the employer of the company who is liable to pay the tax of the taxable value of the fringe benefits given by him to the employees. The whole of the value is not to be taken into consideration while computing the tax liability of the employer in order to pay the tax. There is a certain amount of percentage which is deducted from the fair value in order to determine the taxable value from the benefits given to the employees by the employers of the company. The rate of percentage varies from the kind of benefits

given to the employees. Sometimes, it may be 50% or 60%. The taxable value can be determined by the company after deducting the given percentage from the actual value of the benefit provided.

After having a deduction from the market value or the fair value of the benefit, it is necessary for the employer to include the same in accounts of the company so that they can use the same in determining the total amount of tax which is payable by them. This particular value of the benefit received by the employee of the company or the business has to be included in the financial statements of the employee as an individual as well. The employee of the company is also liable to pay the amount of tax to the government for receiving such benefit from the company where he works. The total value of the benefit received by the employee will be included in the particular financial statement of the employee as per the market value of the actual benefit received by the company. Hence, as per the division 3A of the act, the employee and the employer both are liable to pay a certain amount of tax on the fringe benefits received and given. It is recommendable for both the parties to pay the actual amount of tax with any kind of an evasion from the same.

In the case as mentioned, Paul receiving so much of benefits from its employers, he should make sure that he is not evading from the amount which is to be paid by him to the tax department. And also the Chatswood Pty Ltd should give emphasis on the same and they can even, in some cases, can reduce the amount of tax which is payable to the tax department.

Therefore, it can be said by us that, Fringe Tax Benefit is one of the most advantageous things from the point of view of the employer or the owner of the business. It really helps them in keeping a good relation with their employees and also their loyalty. The company can make sure that the loyalty of the employee towards the business can be increases with the help of the fringe benefits provided to them by the employers. Here also, by providing Paul with the certain fringe benefits, chatswood Pty Ltd can make sure that he, Paul, the sales manager of the business remains loyal to the company. This is because of the benefits provided to him by the employers of the company. And hence, it is recommendable for the company to determine the actual amount of tax payable in the right and proper manner and should be paid to the taxing authorities.

#### **FINGE BENEFIT TAX LIABILITY:**

Taxable value of the car - 11250

Taxable value of entertainment	-	1000
Taxable value of the loan given	-	240
(8000*3%, concessional rate)		
Total taxable value	-	12490
Tax @46.5%	-	5807.85 (tax which is to be paid as FBT)

REFERENCES –

Government. (). *Fringe benefit tax assessment act 1986*. Available: [http://www.austlii.edu.au/au/legis/cth/consol\\_act/fbtaa1986312/](http://www.austlii.edu.au/au/legis/cth/consol_act/fbtaa1986312/). Last accessed 21/5/2012.

Lee. (). *Providing services in australia*. Available: <http://www.ato.gov.au/businesses/content.aspx?doc=/content/50675.htm&page=14&H14>. Last accessed 21/5/2012.

The Australian Government. (). *Fringe Benefit tax*. Available: <http://www.business.gov.au/BusinessTopics/Taxation/Taxesexplained/pages/FringeBenefitsTax.aspx>. Last accessed 21/5/2012

Australia Ministry. (). *FBT*. Available: [http://www.fleetplus.com.au/novated\\_leases\\_fbt](http://www.fleetplus.com.au/novated_leases_fbt). Last accessed 21/5/2012



**Part B:**

As per the provisions of the Australian act, regarding the house property of the people, it has been mentioned in section 67, that any kind of interest which is to be paid by the owner of the property to the banks, relating to the property, is deductible from the taxable value of the owner, if no activity or no tenant has acquired the respective place. In the given case too, Peter the owner of the land has to pay the interest of \$800, weekly, to the bank on a regular interval for the hefty amount borrowed as loan, i.e. \$520,000.

Peter had though after acquiring the property, he would have a tenant for the same with the rented value of \$400, weekly. After receiving the loan from the bank, Peter had immediately purchased the land for this purpose. He had even appointed a real estate agent in order to get himself a tenant who is ready to pay the \$400 on a weekly basis as the rent for the property. But this idea did not work out for him. The real estate was unable to get any tenant for the required land. In spite of this fact, it was necessary for Peter to pay the required amount of interest to the bank and that too on a weekly basis.

But this interest is actually deductible from the taxable value of the property. The total amount of taxable value will only be determined only after the deduction of the interest which is payable to the bank on a weekly basis. As mentioned above, as per the section 67 of the property act in Australia, the taxable value of the property can only be determined after the deductions and also all other necessary adjustments which are to be made. These other adjustments can be exemptions, gifts, etc. But the interest which is to be given by Peter to the bank has to be deducted from the actual taxable value of the property which is to be taxed. "Council rates or property taxes typically fund the local governments in all States. Taxes are charged on residential, industrial and commercial properties. In addition, some states levy tax on land values." (<http://www.propertyshowrooms.com/australia/property/australia-property-tax.asp>).

According to this law, the Australian people have to give the tax on the property that is being owned by them, no matter the land has been used for any purpose. Even if it is not being used, the owner of the land has to give a certain amount of tax on the same, though there are exemptions and also deductions in these cases. According to the property act, Section 69 states that the owner of the property has to give the exact amount of tax to the taxing authorities and that too without any delay. In

this case also, Peter has to assess the actual amount of tax which is to be paid to the taxing authorities. If the officials of the authorities come to know that a certain amount of tax evasion is being made by him, legal action can be taken place against the Peter which might give rise unfavourable conditions in the future of him. Therefore, it is advisable for him to assess the actual amount and deduct all the necessary items from the total value in order to arrive at the taxable value of the property.

Though Peter had taken a loan on the 1<sup>st</sup> of January, still it was necessary for him to pay the tax for the same in the financial year ending 30<sup>th</sup> June. The interest which is to be charged is to be calculated accordingly, keeping in mind the date of the purchase of the property. The property was actually been bought for the purpose of renting it to the tenant for \$400. But that actually did not happen. In spite of asking a real estate agent to get a tenant, he was unable to find the same. And therefore, the amount which was to be recovered from the tenants, i.e. \$400, was not recovered. And hence, the weekly payment of the loan interest to the bank was to be given by him to the bank on time. And this amount has to be given by him to the taxing authority without any kind of delays.

Therefore, we come to the conclusion that it is necessary for Peter to pay the actual amount of interest on weekly basis in order to make sure that the property is not being transferred in the name of the bank. According to the laws of the Australian state, deduction is possible if the land is left unused and the owner of the land has to make the payment of interest to the bank on a weekly basis.

#### References –

Property tax. (). *Property taxes in australia*. Available: <http://www.propertyshowrooms.com/australia/property/australia-property-tax.asp>. Last accessed 21/5/2012

Australian Government. (). *Law*. Available: <http://www.ato.gov.au/individuals/content.aspx?doc=/content/62426.htm>. Last accessed 21/5/2012.

Australian Government. (). *tax in Australia*. Available: <http://www.aussiemove.com/tax/>. Last accessed 21/5/2012.

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