



Baptist Churches
of South Australia

EXEMPT BENEFITS 101

ATO TR 2019/3

Under Section 57 of the Fringe Benefits Tax Assessment Act 1986 (FBTAA) pastors can be paid a Fringe Benefit Tax (FBT) Exempt benefit – known simply as an Exempt Benefit.

The ATO has created a Tax Ruling, TR 2019/3, to explain in what circumstances this exemption from FBT can be applied.

The requirements for exemption under section 57 are summarised as follows:

1. A benefit is provided by a registered religious institution
2. To an employee religious practitioner, or their spouse or child
3. In respect of the practitioner's pastoral duties or directly related religious activities

Each of the above statements are explained more fully below.



**A benefit is provided
by a registered
religious institution**

In considering whether a benefit is provided by a registered religious institution, administration by the ATO is limited to determining that the entity is an institution that maintains current ACNC registration with a subtype 'advancing religion'. It does not matter if the entity is also registered under another subtype, provided one of the subtypes is 'advancing religion'.

An institution may take various forms, including a company limited by guarantee, an incorporated association, an unincorporated association, a trust, or a body established under statute or letters patent.

A church, whether incorporated or unincorporated, that is registered with the ACNC, is eligible to provide this benefit.



**To an employee
religious practitioner,
or their spouse or
child**

To be exempt, the benefit must be provided by a registered religious institution to an employee who is a religious practitioner.

'Religious practitioner' is defined to mean:

- a minister of religion
- a student at an institution who is undertaking a course of instruction in the duties of a minister of religion
- a full-time member of a religious order, or
- a student at a college conducted solely for training persons to become members of religious orders

A minister of religion would have all of these characteristics:

- is a member of a religious institution

- is recognised by ordination or other admission or commissioning, or has authority from the religious institution, to carry out the duties of a minister based on theological training or other relevant experience
- is officially recognised as having authority on doctrine or religious practice
- is distinct from ordinary adherents of the religion
- is an acknowledged leader in spiritual affairs of the institution, and
- is authorised to act as a minister or spiritual leader, including the conduct of religious worship and other religious ceremonies

Any person:

- Accredited or Recognised by Baptist Churches SA, or
- Who has been specifically appointed by a local church, or
- Is undertaking theological training at a recognised theological institution

may be considered a religious practitioner.



In respect of the religious practitioner's pastoral duties or directly related religious activities

To be exempt, the benefit must be provided principally in respect of the following employee duties:

- pastoral duties, or
- other duties or activities that are directly related to the practice, study, teaching or propagation of religious beliefs

The word 'principally' is not defined and takes its ordinary meaning of 'mainly' or 'chiefly'.

Pastoral duties are duties associated with the spiritual care of people. Examples of pastoral duties undertaken by religious practitioners are:

- communication of religious beliefs
- teaching and counselling adherents and members of the community
- providing adherents and members of the community with spiritual guidance and support
- conducting an in-service seminar of a spiritual nature
- meeting with or visiting adherents, the sick, the poor, and others who need emotional and spiritual support, and
- providing pastoral supervision to those engaged in pastoral duties

The words 'directly related' point to a close connection between the duties or activities of the religious practitioner and the practice, study, teaching and propagation of religious beliefs. In



Eligibility and further information

this context, duties and activities will be directly related where, in their essential nature, they promote the practice, study, teaching and propagation of religious beliefs.

While it is acknowledged that there will be some administrative tasks done by pastors, this needs to be kept to a minimum for a pastor to be eligible.

For a pastor to be eligible to receive an Exempt Benefit, all 3 requirements need to be met.

TR 2019/3 has several examples of where the exemption does and does not apply. For further information and to read through the examples, search for "ATO TR 2019/3" in your web browser.