

QUESTIONS WE'VE BEEN ASKED | PĀTAI KUA UIA MAI

When does the fringe benefit tax exclusion for benefits relating to health or safety apply?

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QB 26/02

This question we've been asked (QWBA) explains how the FBT exclusion for benefits relating to health or safety applies. This QWBA is relevant to employers who provide their employees with benefits as part of their duty to manage risks to health or safety in the workplace.

Key provisions | Whakaratonga tāpua

Income Tax Act 2007 – ss CX 23 and CX 24

Question | Pātai

When does the fringe benefit tax (FBT) exclusion for benefits relating to health or safety apply?

Answer | Whakautu

A benefit that an employer provides to an employee will be excluded from FBT if the benefit:

- is related to the employee's health or safety;
 - is aimed at managing risks to health or safety in the workplace as provided under the Health and Safety at Work Act 2015 (HSWA); and
-

- **either:**
 - **would meet the requirements for the “on-premises” exclusion if the employer provided the benefit on its premises; or**
 - **is personal protective equipment, including clothing, that is used or worn by a person to minimise risks to the person’s health and safety.**

The exclusion is relevant only to the extent that the employer has provided a benefit to an employee in connection with their employment. If a benefit has not been provided, the employer generally does not need to consider whether a FBT exclusion applies.

For the exclusion to apply, there needs to be a connection between the benefit and the employer’s duty to manage risks to health and safety under the HSWA.

An employer has a duty to identify actual and potential risks to health and safety and, where it is reasonably practicable, to eliminate or minimise the risks. Whether a benefit is excluded depends on an employer’s specific circumstances and the risks to health or safety identified in its workplace.

The benefit needs to be sufficiently targeted at a particular health or safety risk. Benefits that relate to an employee’s general health and wellbeing may not be sufficiently targeted at a specific health or safety risk in the employer’s workplace.

While a taxpayer may wish to look after their employee by providing health and wellbeing benefits, the specific requirements must be satisfied for the FBT exclusion to apply.

In some cases, if the exclusion for health or safety does not apply to a benefit, the benefit may still be excluded from FBT under a different exclusion such as the business tools exclusion (s CX 21), on-premises exclusion (s CX 23) or distinctive work clothing exclusion (s CX 30).

The Commissioner published a General Article on the health and safety FBT exclusion in 2018. This QWBA complements the General Article by providing more detailed guidance.

As this QWBA clarifies the Commissioner’s position on the FBT treatment of benefits provided under an Employee Assistance Programme (EAP) (including related online platforms or apps), the Commissioner will not apply his resources to any periods before 1 April 2026 to determine whether an employer has applied the position outlined in the QWBA to benefits provided as part of an EAP.

Explanation | Whakamāramatanga

Introduction

1. Fringe benefit tax (FBT) is payable on benefits that are fringe benefits that employers provide to employees. A fringe benefit is a non-cash benefit and is classified under the Act as including:
 - motor vehicles available for private use;
 - low interest/interest-free loans;
 - free, subsidised or discounted goods and services;
 - employer contributions to sick, accident or death benefit funds, superannuation schemes and specified insurance policies; and
 - unclassified benefits.
2. A non-cash benefit is not a fringe benefit if a specific exclusion from the FBT rules applies.
3. This question we've been asked (QWBA) explains when the FBT exclusion for benefits relating to health or safety (s CX 24) applies. If this FBT exclusion does not apply to a given non-cash benefit, an employer should consider whether one of the other specific exclusions from FBT applies.
4. If an employer makes a payment to an employee that is related to the employee's health or safety (eg reimbursing the cost of a flu vaccination), that payment may be exempt income of the employee (s CW 17D). The exemption applies provided the payment relates to a benefit that would have been excluded by the FBT exclusion for benefits relating to health or safety if it was a non-cash benefit. This QWBA is focused on the FBT exclusion, however, the analysis will be relevant in applying the exemption for reimbursements.
5. While a taxpayer may wish to look after their employee by providing health and wellbeing benefits, the FBT exclusion will not apply unless the specific requirements are satisfied.
6. All legislative references are to the Income Tax Act 2007 unless otherwise stated.

Exclusion for benefits related to health or safety

7. Employers may provide benefits to employees as part of meeting their obligations under the Health and Safety at Work Act 2015 (HSWA). Benefits relating to health or safety will not be subject to FBT if the health and safety exclusion applies (s CX 24):

CX 24 Benefits related to health or safety

A benefit that an employer provides to an employee is not a fringe benefit to the extent to which it-

- (a) is related to the employee's health or safety; and
- (b) is aimed at managing risks to health and safety in the workplace as provided under the Health and Safety at Work Act 2015; and
- (c) either-
 - (i) would be excluded by section CX 23 from being a fringe benefit if provided on the employer's premises; or
 - (ii) is personal protective equipment, including clothing, that is used or worn by a person to minimise risks to the person's health and safety.

8. For the FBT exclusion to apply, a benefit must satisfy four key requirements:
- the employer provides a benefit to an employee;
 - the benefit is related to an employee's health or safety;
 - the benefit is aimed at managing risks to health and safety in the workplace as provided under the HSWA; and
 - either:
 - the benefit would be excluded under the "on-premises" exclusion (s CX 23) if the employer had provided that benefit on its premises; or
 - the benefit is personal protective equipment, including clothing, that is used or worn by a person to minimise risks to the person's health and safety.
9. Other FBT exclusions or limitations may apply to the benefit if the health and safety exclusion does not apply (see from [43]). The benefit will be a fringe benefit if none of these other specific exclusions apply.
10. The purpose of introducing the health and safety exclusion was to ensure that minor benefits arising from employers' health and safety obligations are excluded from FBT

no matter where employers provide those benefits.¹ The exclusion was not intended to apply to benefits that provide employees with a substantial private benefit.

11. Whether the exclusion applies to a benefit an employer provides will depend on the employer's circumstances (ie, type of work employees do, nature of workplace, identified risks to health or safety). To the extent that items such as sunscreen and insect repellent for employees who work outside, first aid training or prescription safety glasses are "benefits", they will be excluded from FBT under the health and safety exclusion. See Table | Tūtohi 1 for comments on how the exclusion may apply to these and other types of common benefits related to health or safety.
12. Apportionment may be required as the FBT exclusion will apply "to the extent to which" the four key requirements are satisfied. In these cases, the employer will need to determine a reasonable basis of apportionment to recognise the private benefit element. The key issue is that an identifiable component must be aimed at managing risks to health and safety.
13. When determining how to attribute a taxable benefit to employees, the issue is whether the benefit has been provided to the employee (ie is the benefit available to the employee) and not whether the employee has necessarily taken up the benefit (see [QB 12/06: Fringe benefit tax – "availability" benefits](#)).

Employer provides a benefit to an employee

14. The health and safety exclusion is relevant if the employer provides a "benefit" to the employee. If the employer has not provided a "benefit", the exclusion is not relevant as FBT will arise only if a benefit has been provided.
15. A benefit related to health or safety will also provide an advantage to the employer by mitigating risks to health and safety in the workplace. However, the fact that the employer, as well as the employee, receives an advantage does not prevent the advantage from being a "benefit" provided to the employee.
16. The Act does not define the term "benefit". Generally, a "benefit" means an advantage or profit gained from something. In the context of FBT, case law provides that a "benefit" includes anything that can be "reasonably, practically and sensibly understood as a benefit to the employee".²

¹ Taxation (Depreciation, Payment Dates Alignment, FBT and Miscellaneous Provisions) Bill – commentary on the Bill (Policy Advice Division, Inland Revenue, May 2005).

² *Case M9* (1990) 12 NZTC 2,069 at 2,074.

17. The Commissioner has previously considered the meaning of “benefit”. See the following publications for further guidance on its meaning:
- [QB: The meaning of “benefit” for FBT purposes](#)
 - [QB 12/06: Fringe benefit tax – “availability” benefits](#)
 - [BR Pub 14/10: Fringe benefit tax – provision of benefits by third parties – section CX 2\(2\)](#)
 - [BR Pub 23/06: Income tax – employer issued cryptoassets provided to an employee.](#)
18. Parliament has identified that a “benefit” may arise from an employer carrying out their obligations under the HSWA:³

Currently, benefits that might arise as a result of an employer carrying out health and safety obligations can fall within the scope of FBT, depending on where they are provided. If they occur on the premises of the employer the benefits are exempt; if not, they may be taxed. There seems to be no good policy reason for basing the exemption on location. Accordingly, new section CX 20B provides a specific exemption for the minor benefits arising from employer health and safety-related obligations, irrespective of where they are provided.

To qualify for the exemption, the health and safety-related benefits must arise from responses aimed at eliminating workplace hazards under the Health and Safety in Employment Act.

19. Employers will need to consider whether they have provided a “benefit” to their employee in connection with their employment. To the extent that they have provided a “benefit”, the next step for employers is to consider whether an exclusion to FBT applies.

Benefit is related to the employee’s health or safety

20. The benefit the employer provided must be related to the employee’s health or safety for the exclusion to apply.
21. The Act does not define either “health” or “safety” and the ordinary meanings of both of these words are wide. Usually, “health” refers to the general condition of a person’s body and whether it can function efficiently. An employee’s health includes both their

³ Taxation (Depreciation, Payment Dates Alignment, FBT and Miscellaneous Provisions) Bill – commentary on the Bill (Policy Advice Division, Inland Revenue, May 2005) at 33.

physical and mental health. "Safety" means the state of being protected from or guarded against hurt or injury.

22. The key issue is there must be a connection or nexus between the benefit provided and the employee's health or safety. A benefit will not meet the requirement for the exclusion if it cannot be said that the benefit relates to an employee's health or their safety. If a benefit is extended to an immediate family member, a connection may still exist with the employee's health or safety if the circumstances of the family member are negatively affecting the employee's health or safety in the workplace.

Benefit is aimed at managing risks to health or safety in the workplace as provided under the HSWA

23. In addition, for the exclusion to apply, the benefit must be aimed at managing risks to health or safety in the workplace under the HSWA.

Employer's duty of care to eliminate or minimise risk

24. Under the HSWA, an employer has a duty to:
 - eliminate risks to health and safety, so far as is reasonably practicable; and
 - if it is not reasonably practicable to eliminate risks to health and safety, minimise those risks so far as is reasonably practicable.⁴
25. An employer will identify and assess risks to health and safety in its workplace. It will then need to evaluate whether it is reasonably practicable to eliminate or minimise the risk. If it is reasonably practicable to eliminate or minimise the risk, the employer will need to implement control measures to manage the risk in the workplace.
26. The "reasonably practicable"⁵ test covers several factors. The employer will need to weigh up the likelihood of a hazard or risk occurring and the degree of harm that may result from the risk or hazard.
27. Because the "reasonably practicable" test is centred around an employer's assessment of whether the risk should be eliminated or minimised, an employer's obligation to manage risks to health and safety in the workplace will be specific to its workplace and its employees.

⁴ Section 30, HSWA.

⁵ Section 22, HSWA.

28. An employer's "workplace" is the place where work is carried out or customarily carried out for a business or undertaking (s 20 of the HSWA). A "workplace" is more than the employer's premises and can include the employee's home in work from home arrangements and its client's premises. Generally, a definition in one statute should not be applied in another statute unless the second statute expressly adopts that definition. However, given the exclusion for benefits related to health and safety specifically references the HSWA, the definition of "workplace" in the HSWA is applied in this context. This differs from the definition of "premises" in the on-premises exclusion and the meaning of "workplace" in the context of other FBT rules.⁶
29. An employer may have more than one "workplace". The risk or hazard may be common to all of the employer's workplaces or may just arise at one workplace or in part of one workplace. Similarly, the risk or hazard may be common to all of the employer's employees or only a specific group of employees.
30. WorkSafe publishes guidance on the HSWA and an employer's duties – see www.worksafe.govt.nz.
31. WorkSafe recommends that it is good practice for employers to prepare and maintain health and safety documents.⁷ The documents may include a register that identifies hazards and risks and records the planned control measures. Where employers treat a benefit as excluded from FBT under the health and safety exclusion they are encouraged for FBT purposes to prepare and maintain documentation that identifies the risk to health or safety in the workplace and how the benefit they provide is aimed at managing that risk (see Example | Tauria 1).

Aimed at managing risks to health and safety in the workplace

32. For the exclusion to apply, the benefit needs to be aimed at managing an employer's health and safety risks in its workplace. Under this third requirement, the employer's duty under the HSWA to manage risks to health and safety in the workplace must be connected to the benefit provided.
33. The benefit will be aimed at managing risks if:
 - the employer has identified a specific risk to health and safety in its workplace;
 - the benefit is targeted at eliminating or minimising that specific risk; and

⁶ IS 25/02: FBT – travel by motor vehicle between home and work.

⁷ Writing for health and safety: Guidance for workplace health and safety writers (WorkSafe, November 2017).

- the employer has a reasonable expectation that the benefit will eliminate or minimise the risk for that employee (or employees).
34. Benefits that are intended to improve a person's general health (and therefore are not targeted at a specific health or safety risk in the relevant workplace) are unlikely to be aimed at managing a risk to health and safety in the workplace under the HSWA. For example, wellness resources that are designed for a broad audience and provide information on topics associated with health and wellbeing (eg fitness, nutrition, sleep, parenting, lifestyle habits etc) are unlikely to be sufficiently aimed at managing a risk to health and safety in the employer's workplace. This can be compared with benefits in the form of tailored offerings that provide individualised assistance aimed at specific concerns or workplace contexts (eg one on one counselling, or wellness resources for dealing with grief for employees who are first responders or work in aged care facilities).
35. Employers must be able to show that both the risk they identify and their assessment that the benefit will eliminate or mitigate that risk is based on a reasonable evaluation.

The “on-premises” exclusion and personal protective equipment

36. The fourth requirement is that either:
- the benefit would be excluded under the on-premises exclusion (s CX 23) if the benefit was provided on the employer's premises; or
 - the benefit is personal protective equipment including clothing, that is used or worn by a person to minimise risks to the person's health and safety.

“On-premises” exclusion

37. The on-premises exclusion applies to benefits other than free, discounted or subsidised travel, accommodation or clothing. A benefit will not be a fringe benefit under the on-premises exclusion if:
- the employer, or a company that is part of the same group of companies as the employer, provides the benefit to the employee; and
 - the employee uses or consumes the benefit on the premises of the employer, or the premises of a company that is part of the same group of companies as the employer.

38. The health and safety exclusion was introduced to treat all benefits related to health and safety consistently. For example, a workstation assessment that is aimed at managing risks to health or safety is excluded from FBT if provided either on or off premises. Previously, whether benefits related to health and safety were liable to FBT depended on whether they were provided on the employer's premises.
39. The effect of this requirement is to limit the health and safety exclusion to benefits that would be excluded by the on-premises exclusion if provided on the employer's premises.

Personal protective equipment

40. The on-premises exclusion does not apply to benefits that are free, discounted or subsidised travel, accommodation or clothing. As an alternative, s CX 24 may apply if the benefit is personal protective equipment (including clothing), that is used or worn by a person to minimise risks to the person's health and safety. The effect is that the health and safety exclusion may apply if the benefit is "personal protective equipment" as defined in s 16 of the HSWA.
41. Personal protective equipment will not always give rise to a benefit (eg if it is stored at the employer's workplace and the employee does not have access to it outside of their work duties). However, the specific exclusion removes any uncertainty by expressly excluding personal protective equipment from FBT if the requirements in s CX 24 are met.

Other exclusions that may apply to benefits related to health or safety

42. If a benefit does not meet the requirements of the health and safety exclusion, it might still be excluded from FBT under one of the other exclusions.
43. For benefits related to health or safety, the other FBT exclusions that may apply are for:
 - benefits provided instead of exempt allowances (s CX 19);
 - business tools mainly used for work (s CX 21);
 - benefits provided on premises (s CX 23); and
 - distinctive work clothing (s CX 30).
44. If an employer provides a benefit to an employee in connection with their employment and that benefit removes the need for the employer to pay an allowance that would be exempt, the benefit will not be subject to FBT (s CX 19).

45. The private use of a business tool is excluded from being a fringe benefit if the employer provides the tool mainly for business use (s CX 21). A “business tool” means an item that an employee uses in carrying out their work duties and that would be an unclassified benefit if this exclusion did not exist. The exclusion applies to business tools that cost less than \$5,000.
46. For the requirements of the on-premises exclusion, see [38].
47. A benefit will not be subject to FBT if it is distinctive work clothing (s CX 30). “Distinctive work clothing” means clothing that an employee:
 - wears as (or as part of) a uniform that can be identified with the employer through display of a name, logo, colour scheme or pattern;
 - wears during their employment; and
 - would not normally wear for private purposes.
48. Example | Taura 1 to Example | Taura 5 illustrate how the health and safety exclusion applies to benefits. The examples focus on whether the health and safety exclusion applies, not on whether a “benefit” exists. Each example assumes a benefit has been provided. However, prior to considering whether the health and safety exclusion applies, employers need to consider whether a benefit has in fact been provided (see from 14 for guidance).

Example | Taura 1 – Benefit excluded from FBT under the health and safety exclusion

Rosetta ABC Limited is a translation service provider. Rosetta ABC’s employees spend long hours working on computers and reading documents. Rosetta ABC has identified that its employees’ work duties put them at risk of developing eye problems. It wants to introduce a new benefit for its employees aimed at minimising eye health issues. It arranges for its employees to visit a local optometrist to get their eyes tested.

Rosetta ABC documents the following:

Risk and potential harm	Action to minimise risk
Developing eye strain, headaches and vision deterioration due to lengthy, uninterrupted screentime	Provide free eye tests to employees to identify any issues relating to eye health

Rosetta ABC has a duty under the HSWA to, so far as is reasonably practicable, eliminate or minimise risks to health and safety. It has identified a specific risk to the

eye health of its employees in its workplace and has taken a step (providing free eye tests) to manage this risk.

If the eye tests had occurred on Rosetta ABC's premises, they would have been excluded from FBT under the on-premises exclusion.

Receiving an eye test is a benefit for Rosetta ABC's employees that is related to their health. The eye test will be excluded from being a fringe benefit under s CX 24 because:

- the eye test is a benefit;
- the benefit is related to the health of Rosetta ABC's employees;
- the benefit is aimed at managing Rosetta ABC's health and safety risks in the workplace under the HSWA; and
- the benefit would have been excluded from FBT if Rosetta ABC had provided the eye tests on its premises.

Example | Taura 2 – Aim of providing the benefit must be to manage risks to health or safety in the workplace

Building Bridges Limited is a civil and structural professional engineering company. Its engineers plan, design and oversee the construction of infrastructure assets. The engineers have a heavy workload. They routinely work long hours on complex issues and manage conflicts relating to budgets, timelines and team dynamics.

Building Bridges has a duty under the HSWA to, so far as is reasonably practicable, eliminate or minimise risks to health and safety. It identifies that stress can pose risks to the mental and physical health of its employees.

As part of several initiatives to minimise the risk of stress, Building Bridges decides to provide its employees and their family members with access to independent counselling services as part of an EAP. Building Bridges chose to extend the counselling services to family members to minimise health and safety risks to its employees in the workplace stemming from mental health challenges experienced by their families.

Building Bridges arranges for a counselling provider to offer employees and their family members with three confidential, one-on-one counselling sessions per year at no cost to the employees.

The free counselling services are a benefit for Building Bridges' employees that is related to their health. The free counselling services will be excluded from being a fringe benefit under s CX 24 because:

- the access to counselling services is a benefit;
- the benefit is related to the health of Building Bridges' employees;
- the benefit is aimed at managing Building Bridges' health and safety risks in the workplace under the HSWA; and
- the benefit would have been excluded from FBT if Building Bridges had provided the counselling services on its premises.

Variation

Building Bridges changes the arrangement with the EAP provider. In addition to the counselling services, the employees also receive access to general-purpose wellness resources on a variety of topics (including fitness, nutrition, sleep, parenting and mindfulness) via an online platform.

The access to the wellness resources in the online platform will not be excluded from being a fringe benefit under s CX 24. This is because the benefit (ie, free general-purpose wellness resources) relates to the employees' general health and wellbeing and is not aimed at managing risks to health and safety in Building Bridges' workplace. While an employee's health includes their mental health, there is insufficient connection between the general-purpose wellness resources provided and Building Bridges' duty to manage risks to health and safety in its workplace.

As the FBT exclusion will apply "to the extent to which" the four requirements are satisfied, Building Bridges is able to apportion the cost of counselling services and the access to the general-purpose wellness resources. The fee for the counselling services provided as part of an EAP will be excluded from FBT. This is because in this case the component of the benefit that is aimed at managing risks to health or safety in Building Bridges' workplace can be separated from the component that does not satisfy the exclusion. However, the fee for the wellness resources will not be excluded under s CX 24. The value of the benefit relating to the general-purpose wellness resources will need to be attributed across all the employees who have been provided with the benefit, and it is available for their use (ie all employees who have received access to the online platform - the employee does not need to have accessed the general-purpose wellness resources).

Apportionment may not be necessary where access to the general-purpose wellness resources was provided at no extra cost, or the employer can identify a specific health

and safety risk in their workplace that the general-purpose wellness resources are aimed at managing.

Example | Taura 3 – Risks that an employer must manage in its workplace may differ depending on an employee’s duties

Hazardous Material Girl Limited (HMG) undertakes asbestos removal services for customers. HMG’s employees involved in the removal carry out the services on the customer’s site and dispose of the asbestos waste at an authorised disposal site.

HMG also employs people to carry out core administrative services such as accounts, marketing and payroll. These employees carry out their work at HMG’s head office.

All of HMG’s employees have access to a free examination by a medical practitioner. The medical examination involves a physical examination, chest x-ray and lung function test.

Workers involved in asbestos removal

HMG has obligations under the HSWA and the Health and Safety at Work (Asbestos) Regulations 2016. As part of its obligations, HMG provides health monitoring of its employees involved in asbestos removal. The free medical examination is provided as part of the health monitoring.

The free medical examination will be excluded from being a fringe benefit under s CX 24 because:

- the free medical examination is a benefit;
- the benefit is related to the health of HMG’s employees;
- the benefit is aimed at managing HMG’s health and safety risks in the workplace under the HSWA; and
- the benefit would have been excluded from FBT if HMG had provided the medical examination on its premises.

Administrative workers

The administrative workers carry out their duties at HMG’s head office. The asbestos removal equipment and personal protective equipment used in the removal are not stored at HMG’s head office. HMG has not identified that its administrative workers are at any risk of exposure to asbestos. The FBT exclusion for benefits related to health

and safety (s CX 24) will not apply because the benefit is not aimed at managing HMG's health and safety risks in the workplace for the administrative workers.

Example | Taura 4 – Workspace assessment excluded from FBT under the health and safety exclusion

Muriel operates a telemarketing business in which her employees work from home. Muriel's duties under the HSWA extend to her employees' homes to the extent that their homes are where they carry out work.

Muriel's employees spend long hours sitting and working with computers. Muriel identifies that her employees are at risk of developing neck and back pain as well as wrist and hand discomfort. To minimise this risk to her employees' health, she arranges for an occupational therapist to visit each of her employees to carry out a workstation assessment to identify any issues and recommend ergonomic adjustments.

The workstation assessment will be excluded from being a fringe benefit under s CX 24 because:

- the workstation assessment is a benefit;
- the benefit is related to the health of Muriel's employees;
- the benefit is aimed at managing Muriel's health and safety risks in the workplace under the HSWA; and
- the benefit would have been excluded from FBT if Muriel had provided the health assessment on her business premises.

Example | Taura 5 – Providing multiple benefits relating to health or safety

Mikaere carries on a business as a road maintenance contractor. His employees repair and maintain existing roading.

The roadworkers are exposed to risks to health and safety including hazards from traffic, heavy machinery, noise and dust. To minimise these risks, Mikaere provides the roadworkers with personal protective equipment in the form of hard hats, high-visibility clothing, gloves, safety glasses, ear plugs and earmuffs.

Mikaere is concerned about his employees' health and provides his employees with a membership at the local gym.

Mikaere has heard about a new meditation app that is designed to enhance overall wellbeing. He is aware of the benefits of meditation for health and wellbeing. He decides to provide his roadworkers with an annual subscription to the meditation app.

Safety glasses, ear plugs, earmuffs, hard hats, gloves and high-visibility clothing

The eye and ear protection, hard hats, gloves and high-visibility clothing are all items of personal protective equipment. The items will be excluded from being a fringe benefit under s CX 24 because:

- the items are benefits;
- the benefits are related to the health of Mikaere's roadworkers;
- the benefits are aimed at managing Mikaere's health and safety risks in the workplace under the HSWA; and
- the benefits are personal protective equipment (including clothing) used or worn to minimise risks to the person's health and safety.

Gym membership and meditation app

Neither the gym membership nor the subscription to the meditation app will be excluded from being a fringe benefit under s CX 24.

These benefits are not aimed at managing any risks to health and safety in Mikaere's workplace. While both the gym membership and the meditation app are related to the roadworkers' health, there is not the required nexus between the benefits and any identified risks to health and safety. The benefits are not aimed at managing risks to health and safety in Mikaere's workplace.

49. Table | Tūtohi 1 provides guidance on how the health and safety exclusion may apply to several common benefits. The benefits listed are examples and the list is not intended to be exhaustive. The comments are intended as a guide only; whether the health and safety exclusion applies to exclude the benefit from FBT **will depend on an employer's and its employees' individual circumstances**. The treatment for one employer may not be the same as the treatment for another employer.

Table | Tūtohi 1 – Common benefits related to health or safety

Possible benefit	FBT considerations
Workstation evaluation for employees who work from home – to manage risk of injury due to sedentary employment duties	The health and safety exclusion will apply. See Example Taura 4.
Ergonomic desk and equipment for employees who work from home – to manage risk of injury due to sedentary employment duties	The health and safety exclusion will apply.
Gym membership – to manage the risk to health due to sedentary employment duties, or the physical requirements of the employee’s role	The health and safety exclusion will not apply. The connection between providing a gym membership and managing this risk is insufficient. See Example Taura 5.
Corporate running or biking events – to promote general health and wellbeing	The health and safety exclusion will not apply. Any connection between the benefit and the employer managing risks to health and safety in the workplace is insufficient.
Wellness events, seminars or app subscriptions – to promote general health and wellbeing	The health and safety exclusion will not apply to general resources that have been designed for broad audiences. Any connection between the benefit and the employer managing risks to health and safety in the workplace is insufficient. See Example Taura 5.
Counselling services provided as part of an EAP – to manage psychosocial risks impacting the health and safety of employees	The health and safety exclusion will apply to one-on-one counselling services and any support tools included in a personalised treatment plan developed through the counselling sessions. See Example Taura 2.
Health checks – to manage general risks to an employee’s health	In most cases, the health and safety exclusion will not apply to health checks that relate to general concerns (eg, diabetes, blood pressure, cholesterol). However, the health and safety exclusion is likely to apply if the health check is required due to industry regulations, relates to something that the employee is at a greater risk of

	<p>exposure to due to the circumstances of their workplace, or is necessary to assess an employee's medical fitness to safely carry out their work at their workplace. See Example Taura 3.</p>
<p>Influenza (flu) and COVID-19 vaccinations – to manage the risk of employees contracting flu or COVID-19 in the workplace</p>	<p>The health and safety exclusion will apply.</p>
<p>Eye and hearing tests – to manage the risk of injury or deterioration due to workplace factors</p>	<p>The health and safety exclusion will generally apply. See Example Taura 1.</p>
<p>Prescription eyewear and hearing aids - to improve eyesight or hearing</p>	<p>The health and safety exclusion will not generally apply. In most situations any connection between the benefit and the employer managing risks to health and safety in the workplace will be insufficient.</p>
<p>Prescription safety eyewear – to manage the risk of injury due to workplace factors</p>	<p>The health and safety exclusion will apply to the extent that there is a benefit.</p>
<p>Health insurance premium – to manage general risks to an employee's health</p>	<p>The health and safety exclusion will not apply. The connection between the benefit and managing a risk to health or safety in the workplace is insufficient.</p>
<p>Medical treatment and general practitioner (GP) visits – to treat an employee following a workplace injury or illness</p>	<p>The benefit is unlikely to be a fringe benefit because the medical treatment is not provided to an employee in connection with the employee's employment. It is provided in response to a workplace incident and is not connected to the employment relationship in the sense intended for FBT. However, the health and safety exclusion will not apply to medical treatment for injury or illness unrelated to a workplace incident.</p>
<p>Protective clothing – to manage the risk of injury due to workplace factors</p>	<p>Depending on the circumstances, providing protective clothing may not give rise to any benefit. Where there is a benefit, the health and safety exclusion will apply. See Example Taura 5.</p>

<p>First aid training – to manage risk to injury due to workplace accidents</p>	<p>The health and safety exclusion will apply to the extent that there is a benefit. Skills training relevant to an employee performing their work duties (including first aid training) does not generally give rise to any benefit.</p>
<p>Sunscreen or insect repellent provided to employees who work outdoors – to manage risk to health</p>	<p>The health and safety exclusion will apply to the extent that there is a benefit.</p>

References | Tohutoro

Legislative references | Tohutoro whakatureture

Health and Safety at Work Act 2015, ss 20, 22, 30

Health and Safety at Work (Asbestos) Regulations 2016

Income Tax Act 2007, ss CX 19, CX 21, CX 23, CX 24, CX 30

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About this document | Mō tēnei tuhinga

Questions we've been asked (QWBAs) are issued by the Tax Counsel Office. QWBAs answer specific tax questions we have been asked that may be of general interest to taxpayers. While they set out the Commissioner's considered views, QWBAs are not binding on the Commissioner. However, taxpayers can generally rely on them in determining their tax affairs. See further [Status of Commissioner's advice](#) (Commissioner's statement, Inland Revenue, December 2012). It is important to note that a general similarity between a taxpayer's circumstances and an example in a QWBA will not necessarily lead to the same tax result. Each case must be considered on its own facts.