

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Fringe benefits tax: does a prepayment to which section 82KZM of the *Income Tax Assessment Act 1936* applies qualify as a "once-only deduction" under subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986*?

1. No. A prepayment to which section 82KZM of the *Income Tax Assessment Act 1936* ("ITAA") applies does not qualify as a "once-only deduction" under subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986* ("FBTAA").
2. The term "once-only deduction" means a deduction that is wholly or partly allowable in one year for the expenditure, and not in any other year. A deduction spread over more than one year, such as depreciation on equipment with a life of more than one year or borrowing expenses on a loan lasting more than one year, would not be a once-only deduction.
3. Section 82KZM of the ITAA prevents an outright deduction for certain prepayments which would have been fully deductible under subsection 51(1) of the ITAA in the year in which it is incurred. Instead, it provides that a deduction for those payments are to be spread over a certain number of years.
4. It follows then that a prepayment of the kind referred to in paragraph 3 does not qualify as a "once-only deduction" as defined under subsection 136(1) of the FBTAA. This essentially means that where an employer provides a fringe benefit to an employee in the form of such a prepayment, the otherwise deductible rule cannot be applied to reduce the taxable value by the amount that would have been deductible to the employee if the employee had incurred the expenditure (see, for example, subparagraph 24(1)(b)(iii) of the FBTAA which requires a "once-only deduction" for the otherwise deductible rule to apply).

Example:

ABC Pty Ltd, the employer, made a prepayment of \$1500 for a three year subscription to a technical journal for Anne, an employee. Anne, the company engineer, relies on those technical journals to keep abreast with latest engineering techniques and developments.

If Anne had incurred the expenditure herself, section 82KZM of the ITAA would have prevented her from getting an outright deduction for the \$1500 in the year in which the expenditure was incurred. As mentioned in paragraph 4 above, such a prepayment does not qualify as a "once-only deduction" under subsection 136(1) of the FBTAA.

ABC Pty Ltd is liable to pay fringe benefits tax on the benefit provided to Anne. Since Anne would not have been entitled to a "once-only deduction" if she had incurred the expenditure herself, the otherwise deductible rule cannot be applied to reduce the taxable value of the benefit.

Commissioner of Taxation

25/3/93

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Related Determinations:

Related Rulings:

Subject Ref: Otherwise deductible rule

Legislative Ref: ITAA section 82KZM; FBTAA subsection 136(1)

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