

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA 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: if an employer decides not to claim an income tax deduction for expenditure incurred in providing a fringe benefit to an employee, does this alter the employer's liability, if any, for fringe benefits tax?

1. No. An employer's liability for fringe benefits tax arises independently of any decision of an employer to forego the right to claim an income tax deduction for the expenditure.

Example:

Tasso Pty Ltd incurs expenditure of \$1000 in reimbursing an employee for a private expense of the employee. The \$1000 is fully deductible under the Income Tax Assessment Act 1936. Regardless of whether Tasso Pty Ltd decides to claim the deduction to which it is entitled, the reimbursement is an expense payment fringe benefit with a taxable value of \$1000.

Commissioner of Taxation

12/5/94

FOI INDEX DETAIL: Reference No. I 1217397

Previously issued as Draft TD 93/D119

Related Determinations:

Related Rulings:

Subject Ref: deductible expenditure; fringe benefits tax; expense payment fringe benefit

Legislative Ref:

Case Ref:

ATO Ref: MPS 2006/1

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