



Notice of Withdrawal

Taxation Determination

Income tax: can a foreign national who enters Australia on a working holiday maker visa qualify for living-away-from-home allowance fringe benefits?

Taxation Determination TD 2000/D5 is withdrawn with effect from today.

1. This determination, in relation to the question 'can a foreign national who enters Australia on a working holiday maker visa qualify for living-away-from-home allowance fringe benefits?', stated that allowances described as living-away-from-home allowances which are paid to a foreign national working in Australia on a working holiday maker visa do not qualify as living-away-from-home allowance benefits under section 30 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986).
2. Whether a payment to an employee who is a foreign national who has entered Australia on a working holiday maker visa can qualify as a living-away-from-home allowance benefit for the purposes of section 30 of the FBTAA 1986 can only be determined upon a consideration of the facts and circumstances in relation to that employee.
3. Following a review of the issues raised in the draft determination, it is considered that it is not possible that an answer can be provided to the question that would be applicable in all cases.
4. Sufficient guidance for case by case application of the living-away-from-home allowance provisions in the FBTAA 1986 is contained in the long standing comprehensive ruling on living-away-from-home allowances, MT 2030.
5. In view of the above, this determination is withdrawn.

Commissioner of Taxation

19 October 2005

ATO references

NO: 2003/11684

ISSN: 1038-8982

ATOlaw topic: Fringe Benefits Tax ~ Living-away-from-home allowance fringe benefits