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Ruling Compendium – TR 2013/6

This is a compendium of responses to the issues raised by external parties to draft TR 2013/D1 – *Fringe benefits tax: otherwise deductible rules and non-commercial losses*

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft ruling.

Summary of issues raised and responses

Issue No.	Issue raised	ATO Response/Action taken
1	That the contents of the draft Ruling are technically correct and address all required issues. However, some consideration should be given to redrafting the draft Ruling so that the technical analysis of the provisions is expressed in clearer language where practicable.	<p>The nature of the legislative enquiry is complex and as a result the analysis was also complex, including the analysis of the alternative views</p> <p>However, the language of the Ruling has been simplified where possible in the final Ruling.</p> <p>To aid in taxpayer's understanding of the Commissioner's position as set out in the Ruling section, and how it can apply in a practical context, we have added examples at paragraphs 10 to 18 of the final Ruling.</p>
2	<p>Disagree with TR 2013/D1 on the following basis:</p> <ol style="list-style-type: none">1) the non commercial loss (NCL) rule does not make part of the deduction allowable in one income year and part allowable in another income year;2) the FBT law requires a characterisation of the employee's expenditure at 31 March where as the employee's NCL is not able to be determined until 30 June;3) that the 'allowable' deduction	<p>We disagree.</p> <p>Our preferred view, discussed at paragraphs 41 to 59 of the final Ruling is that as a feature of the fringe benefits tax law, the employee's expenditure in the otherwise deductible rule will be affected by Division 35 so that in cases where there is a NCL, there will be no reduction in the taxable value of a fringe benefit.</p> <p>As discussed at paragraphs 17. and 18 and at paragraph 32. of the final Ruling, the enquiry as to whether there is a NCL is determined at 30 June, which may in some cases require</p>

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	contemplated by once-only deduction is the deduction which is broadly 'allowable' under section 4-15, as a matter of statutory interpretation and policy intent; 4) the concept of 'blending' appears artificial and complicated and contrary to policy.	amendment of the fringe benefits tax return.