

CR 2007/81 - Fringe benefits tax: health services provided by Peak Health Management

⚠ This cover sheet is provided for information only. It does not form part of *CR 2007/81 - Fringe benefits tax: health services provided by Peak Health Management*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *29 August 2007*



Class Ruling

Fringe benefits tax: health services provided by Peak Health Management

Contents	Para
LEGALLY BINDING SECTION:	
What this Ruling is about	1
Date of effect	8
Scheme	13
Ruling	29
NOT LEGALLY BINDING SECTION:	
Appendix 1:	
<i>Explanation</i>	36
Appendix 2:	
<i>Detailed contents list</i>	75

ⓘ This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (unless we are satisfied that the ruling is incorrect and disadvantages you, in which case we may apply the law in a way that is more favourable for you – provided we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:

- section 45 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA);
- subsection 47(2) of the FBTAA;
- section 58M of the FBTAA;
- section 58P of the FBTAA; and
- subsection 136(1) of the FBTAA.

All subsequent legislative references in the Ruling are to the FBTAA unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies are employers who make available to their employees corporate health services provided by Peak Health Management.

Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 13 to 28 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

7. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to:

Commonwealth Copyright Administration
Attorney General's Department
Robert Garran Offices
National Circuit
Barton ACT 2600

or posted at: <http://www.ag.gov.au/cca>

Date of effect

8. This Ruling applies to schemes that commence from 29 August 2007.

9. The Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling. Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the *Gazette*; or
- the relevant provisions are not amended.

10. If this Ruling is inconsistent with a later public or private ruling, the relevant class of entities may rely on either ruling which applies to them (item 1 of subsection 357-75(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA)).

11. If this Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

12. If the above two conditions do not apply, the relevant class of entities may rely on either ruling which applies to them (item 3 of subsection 357-75(1) of Schedule 1 to the TAA).

Scheme

13. The scheme that is the subject of the Ruling is described below. This description is based on the following documents which are attached to the file record maintained by the Australian Taxation Office for this Ruling. These documents, or relevant parts of them, as the case may be, form part of and are to be read with this description. The relevant documents or parts of documents incorporated into this description of the scheme are:

- the application for a Class Ruling (dated 25 October 2006);
- a Facility Management Agreement between Peak Fitness Management (Aust) P/L and an employer client;
- an agreement between an employer client and Peak Health Management to provide Lifestyle Health Services (Gymnasium & Work Well Live Well);
- the Corporate Health Promotion Program Agreement between Peak Fitness Management (Aust) P/L and an employer client;
- quote from Peak Health Management to an employer regarding the provision of PEAK Executive Medicals;
- request for proposal document outlining scope of work for an employer clients Wellbeing National Program and Management and Operation of On-Site Gymnasium;
- invitation by an employer for medical contractors to provide skin cancer and wellness assessments for staff of the employer;

- brochure entitled 'Corporate Health Management Solutions'; and
- information provided at www.peakhealth.com.au.

14. Peak Fitness Management (Australia) Pty Ltd trading as Peak Health Management is in the business of providing a range of health services to corporate Australia. The health services provided by Peak Health Management are described as medical examinations, medical screening, preventative health care, and counselling. Peak Health Management may also provide corporate gymnasium layout and design, advice regarding appropriate equipment, and management services for on-site corporate gymnasium facilities.

15. The programs and services assist employers in achieving their aim of improving the quality of their employees' work performance.

16. The key features of the proposed arrangement are as follows:

General features

- (a) the employer will enter into a contract with Peak Health Management for the provision of health related services;
- (b) under the terms of the contract the employer will be liable to pay Peak Health Management for the services provided during the course of the program;
- (c) the opportunity to participate in any of the services will not be provided to employees as:
 - a reward for services rendered;
 - a reward for specific achievements; or
 - as part of a salary sacrifice arrangement.

Work-related medical examinations

17. Medical examinations will be carried out by, or on behalf of, legally qualified medical practitioners employed by Peak Health Management and herein referred to as 'Peak Health Doctors' at the commencement of employment of the employee or where the employee is changing duties of employment.

Work-related medical screening

18. The following services are described as work-related medical screening:

- (a) medico-legal assessments are medical corporate reports commissioned by the employer and prepared by a Peak Health Doctor to confirm the existence of a work-related injury or illness;

- (b) general medical examinations which are conducted by a Peak Health Doctor to assist the employer in ensuring that an employee's health is appropriate to perform the duties of employment; and
- (c) Workcover Assessments which are conducted by a Peak Health Doctor and are used by the employer to monitor work-related injury or illness and determine appropriate rehabilitation strategies.

Work-related preventative health care

19. Fitness activities conducted in the work-place or at the in-house gymnasium of the employer under the direction of a Peak Health Management health professional and as part of an employer's health program include:

- aerobics;
- tae bo;
- circuit classes;
- tai chi;
- yoga;
- pilates;
- stretch;
- relaxation classes; and
- self-defence.

20. Employees have been referred to these activities by their own legally qualified medical practitioner/nurse or following a health assessment and consultation provided by a Peak Health Doctor.

21. Flu vaccinations are administered by a Peak Health Doctor and are made available to all employees as part of an employee health program.

22. Vaccinations for employees who are required to undertake international travel as part of their employment duties are administered by a Peak Health Doctor or a nurse. The vaccines are designed to prevent food and water-borne infections and other diseases. In addition to preventing flu employees who are travelling may be vaccinated to prevent the onset of hepatitis A, poliomyelitis, typhoid, cholera, Japanese encephalitis, meningococcal infections, tuberculosis, and yellow fever.

23. General medical examinations are conducted during an employee's period of employment with the employer to prevent the onset of any illness that would affect the physical ability of the employee to perform the duties of their employment.

Work-related counselling

24. The following corporate health services and programs give effect to an objective, purpose, plan or policy devised, adopted or required to be followed by the employer to:

- (i) improve or maintain the quality of the performance of employees duties; or
- (ii) prepare employees for retirement.

Wellness surveys and tests which evaluate employees in respect of the following indicators:

- triglycerides, blood pressure, cholesterol and blood glucose levels;
- vision;
- audiometric;
- back and posture;
- lung function;
- skin checks;
- bone density screening;
- podiatry issues;
- psychological stress;
- body mass index;
- body composition analysis; and
- skin cancer.

Seminars and workshop topics include:

- back care;
- diet and incorporating:
 - healthy cooking workshops;
 - sports nutrition seminars;
 - supermarket shopping tours;
 - sushi making workshops; and
 - weight loss seminars.

Work/life balance issues including seminars and/or workshops on the following topics:

- meditation;
- time management;
- QUIT smoking;
- financial health;
- men's and women's health;

- organisational stress management;
- stress auditing;
- corrective and preventative stress management; and
- intranet based health promotion health page.

Health related consultations are provided at the employer's workplace. The subject matter includes:

- diet;
- life coaching;
- ergonomics;
- osteopathy;
- physiotherapy;
- fitness programming; and
- psychology.

Gymnasium layout, design and equipment advice

25. Peak Health Management also provides a holistic management service and advice regarding the layout, design and equipment for corporate in-house gymnasiums on business premises of the employer. The gymnasium and equipment are made available by employers for the exclusive use of employees.

Gymnasium management services

26. Other on-site gymnasium management services are provided by qualified Peak Health Management health professionals. The services may include:

- liaising and coordinating a health promotion program;
- creation of rosters and timetables;
- attendance at meetings;
- health and fitness assessment upon joining the gymnasium;
- personalised fitness programs;
- health and fitness assessments during period of gymnasium use;
- preparation of reports and surveys;
- professional and qualified staff;
- internal marketing;
- group exercise programming; and
- incentive and loyalty programs.

Program responsibilities

27. It will be the responsibility of Peak Health Management to:
- (a) provide a range of services to employees;
 - (b) to employ legally qualified doctors, nurses, dieticians, physiotherapists, optometrists and audiometrists to carry out or provide direction in respect of services related to medical examinations, health screening and preventative health care;
 - (c) to provide design support, a facility manager, marketing services, health appraisals and exercise prescription, and equipment maintenance in respect of corporate gymnasiums;
 - (d) report to the employer on program outcomes;
 - (e) provide health screening reports detailing various results including before and after, health surveys and other comparisons such as male verses female, regional verses metropolitan; and
 - (f) provide answers to any questions relating to the services and give information as required by the client.
28. It will be the responsibility of the client to:
- provide Peak Health Management staff with information on the details of employees enrolling in the program;
 - to meet with Peak Health Management regularly to review reports and the level of service;
 - to provide full, free and unhindered access to all premises and persons considered necessary or desirable to provide those services; and
 - to provide suitable and adequate physical facilities.

Ruling

29. The provision of work-related medical examinations as described in this Ruling will be an exempt benefit under subparagraph 58M(1)(c)(i).

30. The provision of work-related medical screening as described in this Ruling will be an exempt benefit under subparagraph 58M(1)(c)(ii) where the benefit is made available to all employees who perform similar duties or who are considered to be subject to similar risk.

31. The provision of work-related preventative health as described in this Ruling will be an exempt benefit under subparagraph 58M(1)(c)(iii) where the benefit is made available to all employees who perform similar duties or who are considered to be subject to similar risk.

32. The provision of fitness activities as described in this Ruling on the employer's premises, but not in an in-house gymnasium, may be an exempt benefit under section 58P where it qualifies as a minor benefit.

33. The provision of work-related counselling services as described in this Ruling will be an exempt benefit under subparagraph 58M(1)(c)(iv).

34. The provision of advice about the layout, design and equipment for a gymnasium is not considered to be a 'fringe benefit' as described in subsection 136(1).

35. The provision of in-house gymnasium management services as described in this Ruling may be an exempt benefit under subsection 47(2).

Commissioner of Taxation

29 August 2007

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner’s view has been reached. It does not form part of the binding public ruling.*

36. Depending on what type of benefit has been provided, section 58M provides for five different exempt categories of benefits that may be exempt. These categories are work-related medical examinations, work-related medical screening, work-related preventative health care, work-related counselling or migrant language training.

Is a benefit being provided to the employees?

37. The term ‘benefit’ is defined in subsection 136(1) to include:
any right (including a right in relation to, and an interest in, real or personal property), privilege, service or facility and, without limiting the generality of the foregoing, includes a right, benefit, privilege, service or facility that is, or is to be, provided under:
(a) an arrangement for or in relation to:
(i) the performance of work (including work of a professional nature), whether with or without the provision of property...

38. It is considered that the provision of the various services which includes medical examinations and tests, medical screening, preventative health care, counselling and gymnasium management services to employees or associates of employees by the employer are a ‘benefit’ to the employee.

Is the benefit provided to employees a residual benefit?

39. As the benefits are not a benefit by virtue of a provision of Subdivision A of Divisions 2 to 11 of Part III they are considered to be residual benefits in accordance with section 45 and consequently need to be considered in terms of paragraph 58M(1)(c).

Does the benefit consist of the provision of ‘work-related medical examinations’?

40. The definition of ‘work-related medical examination’ in subsection 136(1) includes an examination or test carried out by, or on behalf of, a legally qualified medical practitioner, nurse, dentist, an audiometrist or an optometrist wholly or principally in order to ascertain the physiological or psychological condition of the employee in order to commence new employment, to transfer to a different job with the same employer or to gain entry to a superannuation fund.

41. The employee pre-employment examinations are considered to be 'work-related medical examinations because they are conducted by, or on-behalf of, a Peak Health Doctor, wholly or principally to ascertain the physiological or psychological condition of an employee prior to starting employment.

Does the benefit consist of the provision of 'work-related medical screening'?

42. The Explanatory Memorandum to the Taxation Laws Amendment (Fringe Benefits and Substantiation) Bill 1987 states in Part B:

... 'work-related medical screening' is being defined under amendments proposed by clause 48 to mean, broadly, an examination or test carried out by a medical practitioner, nurse, dentist, optometrist or audiometrist for the purpose of determining whether the employee is suffering from an injury or illness related to the employee's employment. It is also a requirement for exemption that the examination or test is carried out as part of a screening program which applies generally to employees with similar work-related risks.

43. The term 'work-related medical screening' as defined in subsection 136(1) includes certain examinations or tests undertaken wholly or principally in order to ascertain whether the employee has suffered, is suffering or is at risk of suffering, from work-related trauma. In addition the examination or test must be made available to all employees of the employer:

- who are likely to have suffered, be suffering or be at risk of suffering, from similar work-related trauma;
- who perform the duties of their employment at or near the place where the employee performs the duties of employment; and
- whose duties of employment are similar to those of the employee.

44. The term 'work-related trauma' as defined in subsection 136(1) means:

- the employee's injury (including the aggravation, acceleration or recurrence of the employee's injury);
- the contraction, aggravation, acceleration or recurrence of a disease;
- the loss, destruction of, or damage to an artificial limb or other artificial substitute, a medical, surgical or similar aid or appliance used by the employee, or clothing worn by the employee; or

- the coming into existence, the aggravation, acceleration or recurrence of any other physiological or psychological condition in relation to the employee that is, or may be, harmful or disadvantageous to the employee;
- that is related to any employment of the employee.

45. Medico-legal reports, Workcover assessments and general medicals are considered to be 'work-related medical screening' because they are conducted by or on behalf of, a Peak Health Doctor wholly or principally in order to ascertain whether an employee is at risk of suffering from a physiological or psychological condition in performing the duties of employment.

Does the benefit consist of the provision of 'work-related preventative health care'?

46. The Explanatory Memorandum to the Taxation Laws Amendment (Fringe Benefits and Substantiation) Bill 1987 states in Part B:

...the term 'work-related preventative health care' is being defined under amendments proposed by clause 48 to mean, broadly, any form of care provided by a medical practitioner, nurse, dentist or optometrist for the purpose of preventing the employee from suffering from an injury or illness related to the employee's employment. It is also a requirement for exemption that the care is provided as part of a screening program which applies generally to employees with similar work-related risks. The provision of drugs, vaccines or other medical preparations in connection with the preventative health care will also be exempt.

'Health care' is defined in subsection 136(1) and means:

any examination, test or form of care (whether therapeutic, preventative or rehabilitative) that is related to the physiological or psychological health of a person and, without limiting the generality of the foregoing, includes:

- (a) the supply, maintenance or repair of:
 - (i) an artificial limb or other artificial substitute; or
 - (ii) a medical, surgical or similar aid or appliance used by a person, and
- (b) the supply of drugs or other property in connection with such an examination, test or form of care.

Flu vaccinations

47. Flu vaccinations are made available by the employer to all employees as part of extended health programs. Due to the nature of flu it is considered that any member of the workforce is equally susceptible to contracting this disease. Therefore flu vaccinations are considered to be in respect of 'work-related trauma', that is, work-related injury or work-related illness, regardless of whether all employees take up the offer to be vaccinated.

Travel vaccinations

48. Vaccinations are provided to employees who travel overseas to perform the duties of employment as part of extended health programs. The vaccinations are intended to prevent various infections and diseases including malaria, tuberculosis, diphtheria, poliomyelitis, Japanese encephalitis, yellow fever and meningococcal infections. Due to the nature of the diseases that may be contracted overseas it is considered that any member of the workforce is equally susceptible to contracting an infection or disease from work-related overseas travel and therefore the vaccinations prevent the incidence of 'work-related trauma'.

Fitness activities

49. Fitness activities conducted in the work-place or at the in-house gymnasium include tae-bo, walking/running groups, pilates, boxercise, tai chi, stretch, relaxation and self-defence.

50. Where after a health assessment, the employee has been referred by a Peak Health Doctor to partake in the fitness activities which are administered by a Peak Health Management health professional, it is necessary to consider whether the activities are exempt as 'work-related preventative health care'. For this to occur it is necessary for such activities to constitute a form of care that has been provided 'by, or behalf of,' a legally qualified medical practitioner.

51. In the case of *Cuthbertson & Richards Sawmills v. Thomas* (1999) 93 FCR 141 the meaning of the phrase 'on behalf of' was discussed. It was stated that the phrase does not have a strict legal meaning. The court referred to *R v. Toohey; Ex parte Attorney General (NT)* (1980) 145 CLR 374 at 386 where Stephen, Mason, Murphy and Aickin JJ referred to the phrase in these terms:

...it bears no single and constant significance. Instead it may be used in conjunction with a wide range of relationship, all however, in some way concerned with the standing of one person as auxiliary to representative of another person or thing.

...Context will always determine to which of the many possible relationships the phrase 'on behalf of' is in a particular case being applied: the context and subject matter (per Dixon J in *R v Portus; Ex parte Federated Clerks Union* (1949) 79 CLR 428) will be determinative.

52. 'Auxiliary' is defined in the Macquarie Dictionary:

1. giving support, helping, aiding or assisting.

53. In this case, in terms of the holistic services provided by Peak Health Management involving the health of the individual from diagnosis to treatment, it is accepted that the Fitness Activities supervised by the Peak Health Management health professional would therefore equate to work-place preventative health care which are being provided for, or on behalf of, a legally qualified medical practitioner.

Has a benefit been provided which is exempt on the basis that it is a minor benefit?

54. Where the employee is not referred by a legally qualified medical practitioner or nurse and participates in the various fitness activities at the place of work as distinct from an in-house gymnasium, the benefit may be an exempt benefit under section 58P as a minor benefit where the cost is less than \$300 and regard is had to the following:

- infrequency and irregularity;
- the amount that is, or might reasonably expected to be the sum of taxable values of the minor benefit and any other associated benefits;
- the amount that is, or might reasonably expected to be the sum of taxable values of any other associated benefits;
- the practical difficulty in determining the taxable value; and
- the circumstances surrounding the provision of the minor benefit and any associated benefits.

Does the benefit consist of the provision of counselling?

55. The term 'counselling' as defined in subsection 136(1) includes:

The giving of advice or information in a seminar.

56. The Explanatory Memorandum to the Taxation Laws Amendment (Fringe Benefits and Substantiation) Bill 1987 states in Part B:

... the term 'work-related counselling' is being defined under amendments proposed by clause 48 to mean, broadly, individual or group counselling (e.g., a seminar) related to matters such as safe work practices, stress management, fitness, drug or alcohol abuse or retirement problems.

57. The seminars and workshops provided to employees on back care, diet and nutrition, osteopathy, physiotherapy, fitness programming, psychology and work/life balance as well as associated health educational material come within the definition of counselling as they involve the giving of advice or information at a meeting.

58. Wellness surveys and tests are related to the fitness and health assessment of an employee and are therefore considered to be counselling.

Is the counselling 'work-related counselling'?

59. The definition of 'work-related counselling' in subsection 136(1) provides that counselling attended by an employee will be work-related counselling where all the following conditions are satisfied:

- (a) the attendance of the employee at the counselling gives effect to an objective, purpose, plan or policy devised, adopted or required to be followed, by the employer to:
 - (i) improve or maintain the quality of the performance of employees' duties; or
 - (ii) prepare employees for retirement, and
- (b) the counselling relates to any of the following matters:
 - safety;
 - health;
 - fitness;
 - stress management;
 - personal relationships;
 - retirement problems;
 - drug or alcohol abuse;
 - rehabilitation or prevention of work-related trauma or of other disease or injury;
 - first aid; or
 - any similar matter, and

- (c) the benefit is not provided wholly or principally as a reward for services rendered or to be rendered by the employee.

Does the 'counselling' give effect to an objective, purpose, plan or policy devised, adopted or required to be followed, by the employer to either improve or maintain the quality of the performance of the employee's duties; or prepare employees for retirement?

60. The employers will have an objective, purpose, plan or policy to improve or maintain the quality of performance of the employee's duties.

Does the 'counselling' relate to the specified matters?

61. Wellness surveys and tests which form the basis for an individual counselling session regarding an employee's health and wellbeing relate to an employee's fitness and wellbeing and therefore relate to the specified matters.

62. The seminars and workshops are conducted as part of corporate health programs that focus on matters relating to health and fitness (including weight loss, healthy eating, life/work balance, QUIT smoking, healthy cooking and exercise programs).

63. Topics discussed and activities undertaken include healthy supermarket shopping tours, sushi making, meditation workshops, time management and preventative stress management. Other health consultations customised to suit a particular employer are in respect of osteopathy, psychology, ergonomics, diet and fitness.

64. As these topics relate to health and fitness the counselling will relate to the specified matters.

Has the benefit been provided wholly, or principally, as a reward for services rendered or to be rendered by the employee?

65. As the employer will not be providing the program to employees as a reward for specific achievements, or through a salary sacrifice arrangement the benefit will not be provided wholly or principally as a reward for services rendered, or to be rendered, by the employee.

66. As each of these three requirements are satisfied the participation of the employee in the various seminars and workshops identified in this Ruling will be an exempt benefit under subparagraph 58M(1)(c)(iv).

Gymnasium design, layout and equipment advice

67. Peak Health Management provides advice regarding gymnasium design, layout and equipment in respect of corporate in-house gymnasiums. The gymnasiums are provided by the employer for the exclusive use of employees and are on the employer's business premises.

68. Subsection 136(1) defines a 'fringe benefit' and states that the 'benefit' must be provided to the employee or an associate of the employee. It is considered that services provided in respect of gymnasium design and advice regarding appropriate gymnasium equipment is provided to the employer and not to the employee.

Gymnasium management services

69. Peak Health Management provides advice regarding gymnasium design, layout and equipment in respect of corporate in-house gymnasiums. The gymnasiums are provided by the employer for the exclusive use of employees and are on the employer's business premises.

70. The provision of the use of a 'recreational facility' will be an exempt benefit under subsection 47(2) if all the following conditions are satisfied:

- (a) the benefit provided is a residual benefit;
- (b) the benefit is provided to a current employee;
- (c) the benefit consists of the provision or use of a recreational facility;
- (d) the premises satisfy the definition of recreational facility in subsection 136(1); and
- (e) the recreational facility is located on the business premises of the employer.

71. A recreational facility is defined within subsection 136(1) as:
a facility for recreation, but does not include a facility for accommodation or a facility for drinking or dining.

72. The term 'recreation' is defined within subsection 136(1) to include 'sport or similar leisure-time pursuits'.

73. As the gymnasiums are on the business premises of the employer those services which are in respect of the use of a 'recreational facility' will be an exempt benefit. That is, the exemption under subsection 47(2) will apply if the benefit is limited to staff who are employed to operate the in-house gymnasium by, for example in providing instruction on the correct and safe use of the equipment or in overseeing the use of the facility.

74. The exemption is limited to residual benefits arising from the provision or use of a recreational facility and does not extend to gym instructors and/or personal trainers.

Appendix 2 – Detailed contents list

75. The following is a detailed contents list for this Ruling:

	Paragraph
What this Ruling is about	1
Relevant provision(s)	2
Class of entities	3
Qualifications	4
Date of effect	8
Scheme	13
Work-related medical examinations	17
Work-related medical screening	18
Work-related preventative health care	19
Work-related counselling	24
Gymnasium layout, design and equipment advice	25
Gymnasium management services	26
Program responsibilities	27
Ruling	29
Appendix 1 – Explanation	36
Is a benefit being provided to the employees?	37
Is the benefit provided to employees a residual benefit?	39
Does the benefit consist of the provision of 'work-related medical examinations'?	40
Does the benefit consist of the provision of 'work-related medical screening'?	42
Does the benefit consist of the provision of 'work-related preventative health care'?	46
<i>Flu vaccinations</i>	47
<i>Travel vaccinations</i>	48
<i>Fitness activities</i>	49
Has a benefit been provided which is exempt on the basis that it is a minor benefit?	54
Does the benefit consist of the provision of counselling?	55
Is the counselling 'work-related counselling'?	59

<i>Does the 'counselling' give effect to an objective, purpose, plan or policy devised, adopted or required to be followed, by the employer to either improve or maintain the quality of the performance of the employee's duties; or prepare employees for retirement?</i>	60
<i>Does the 'counselling' relate to the specified matters?</i>	61
Has the benefit been provided wholly or principally as a reward for services rendered or to be rendered by the employee?	65
Gymnasium design, layout and equipment advice	67
Gymnasium management services	69
Appendix 2 – Detailed contents list	75

References

Previous draft:

Not previously issued as a draft

Subject references:

- exempt benefits
- fringe benefits
- fringe benefits tax
- recreational facility
- residual fringe benefit
- work-related counselling
- work-related medical examinations
- work-related medical screening
- work-related preventative health care

- FBTA 1986 Pt III Div 10A Subdiv A
- FBTA 1986 Pt III Div 11 Subdiv A
- FBTA 1986 45
- FBTA 1986 47(2)
- FBTA 1986 58M(1)(c)
- FBTA 1986 58M(1)(c)(i)
- FBTA 1986 58M(1)(c)(ii)
- FBTA 1986 58M(1)(c)(iii)
- FBTA 1986 58M(1)(c)(iv)
- FBTA 1986 58P
- FBTA 1986 136(1)
- TAA 1953
- TAA 1953 Sch1 357-75(1)
- Copyright Act 1968

Legislative references:

- FBTA 1986 Pt III Div 2 Subdiv A
- FBTA 1986 Pt III Div 3 Subdiv A
- FBTA 1986 Pt III Div 4 Subdiv A
- FBTA 1986 Pt III Div 5 Subdiv A
- FBTA 1986 Pt III Div 6 Subdiv A
- FBTA 1986 Pt III Div 7 Subdiv A

FBTA 1986 Pt III Div 8 Subdiv A

- FBTA 1986 Pt III Div 9 Subdiv A
- FBTA 1986 Pt III Div 9A Subdiv A
- FBTA 1986 Pt III Div 10 Subdiv A

Case references:

- Cuthbertson & Richards Sawmills v. Thomas (1999) 93 FCR 141
- R v. Toohey; ex parte Attorney General (NT) (1980) 145 CLR 374

Other references:

- Explanatory Memorandum to the Taxation Laws Amendment (Fringe Benefits and Substantiation) Bill 1987
- Macquarie Dictionary [Multimedia] version 5.0.0. 1/10/01
- Peak Health Management's website www.peakhealth.com.au

ATO references

NO: 2007/14010

ISSN: 1445-2014

ATOlaw topic: Fringe Benefits Tax ~~ Residual fringe benefits

Fringe Benefits Tax ~~ Miscellaneous exempt benefits