TR 93/D32 - Fringe benefits tax: meals, or meals and temporary accommodation, provided to stockworkers working away from their usual quarters

This document has been finalised by TR 94/1.

Australian Taxation Office

Draft Taxation Ruling
Fringe benefits tax: meals, or meals and temporary accommodation, provided to stockworkers working away from their usual quarters

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What this Ruling is about

1. This Ruling considers whether an employer has a fringe benefits tax (FBT) liability when the employer provides meals, or meals and temporary accommodation, to a stockworker working away from his or her usual quarters. The relevant sections of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) are section 35 ('board fringe benefits') and section 40 ('property fringe benefits').

2. It explains whether sections 37 and 44 of the FBTAA (the 'otherwise deductible' rule) apply in these circumstances.

3. It also explains if the employer needs to obtain a declaration or other evidence from the stockworker.

4. This Ruling does not apply to the provision of meals or accommodation to a stockworker in his or her usual quarters.

Ruling

5. A potential FBT liability arises to the employer. This is because the provision of meals, or meals and temporary accommodation, to a stockworker working away from his or her usual quarters is a fringe benefit under sections 35 or 40 of the FBTAA. However the 'otherwise deductible' rule in sections 37 and 44 of the FBTAA applies to reduce the taxable value of these fringe benefits to nil.

6. The employer does not need to obtain a declaration or other evidence from the stockworker to establish the application of the 'otherwise deductible' rule.

Date of effect

7. This Ruling (that is, the final Taxation Ruling based on this Exposure Draft Taxation Ruling) sets out the current practice of the Australian Taxation Office and is not concerned with a change in interpretation. Consequently, it applies (subject to any limitations imposed by statute) for years of income commencing both before and after the date on which it is issued.

Explanations

8. Meals provided to a stockworker are either board fringe benefits in terms of section 35 of the FBTAA (board meals) or property fringe benefits under section 40 of the FBTAA. Meals qualify as board fringe benefits if the stockworker is entitled to be provided with accommodation and at least two meals per day. Any meals provided by an employer to a stockworker that are not board meals are property fringe benefits.

9. Under section 37 of the FBTAA, the taxable value of a board fringe benefit is reduced by the extent to which any expenditure incurred by a stockworker in obtaining the board meals would have been deductible for income tax purposes to the stockworker if he or she had incurred the expenditure. Section 44 of the FBTAA applies in a similar way to reduce taxable values in respect of property fringe benefits.

10. Meals and accommodation expenses inextricably linked with the necessity for travel are deductible under subsection 51(1) of the *Income Tax Assessment Act 1936* (Case N69 81 ATC 358, Case 23 25 CTBR (NS)). Accordingly, a stockworker travelling away from his or her usual quarters to outlying areas to work e.g. mustering and fencing, would have been entitled to a deduction for the cost of accommodation and meals associated with that travel if he or she had incurred those costs.

11. Therefore the 'otherwise deductible' rule in sections 37 and 44 of the FBTAA applies to reduce to nil the taxable value of any board or property fringe benefits in the form of meals, or meals and accommodation, provided to a stockworker while travelling in the course of gaining his or her assessable income.

Examples

12. Clancey, a stockworker on a large cattle property, is mustering cattle with other stockworkers a long way from their usual quarters. His employer supplies him and the other stockworkers with provisions while they are mustering. Clancey and his mates sleep in swags under the stars. Since the expenses for provisions would have been deductible to Clancey if he had incurred them himself, the taxable value to the employer of the property fringe benefit is reduced to nil.

13. Matilda is fencing the long back paddock. Her employer supplies her with provisions. Matilda camps for several nights in a rough wooden hut in the back paddock. Since the expenses for board and provisions would have been deductible to Matilda if she had incurred them herself, the taxable value to the employer of the board fringe benefit is reduced to nil.

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- FBTAA 35; FBTAA 37; FBTAA 40
- FBTAA 44
- ITAA 51(1)

case references
- N69 81 ATC 358
- Case 23 25 CTBR (NS) 170