TD 1999/D28 - Income tax and fringe benefits tax: is a reward (other than a 'flight reward') received under a 'consumer loyalty program' that results from business expenditure assessable as income or subject to fringe benefits tax?

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This document has been Withdrawn.
There is a Withdrawal notice for this document.

Draft Taxation Determination

Income tax and fringe benefits tax: is a reward (other than a 'flight reward') received under a 'consumer loyalty program' that results from business expenditure assessable as income or subject to fringe benefits tax?

Preamble

Draft Taxation Determinations (DTDs) present the preliminary, though considered, views of the Australian Taxation Office (ATO). DTDs should not be relied on; only final TDs are authoritative statements of the ATO.

1. The terms 'flight reward' and 'consumer loyalty program' are defined in Taxation Ruling TR 1999/6.

Fringe benefits tax (FBT)

2. The rewards are not subject to FBT where the membership of the loyalty program results from a personal (that is, non-employment) contractual relationship (see **Examples 2** and **3** below).

3. Where the person with the personal contract is also an employer and provides the reward received to an employee in respect of the employment, FBT will apply.

Income tax

4. The question is whether it can be concluded from the facts that the rewards obtained from business expenditure are in the nature of income, or a benefit for services rendered. This will be a question of fact and degree in each case.

5. In determining whether a reward received under a 'consumer loyalty program' that results from business expenditure is assessable as income, it is necessary to have regard to the underlying facts, including:

(i) how the points were obtained (i.e., what was purchased, how was it purchased, and why was it purchased that way);

(ii) the circumstances under which the individual became a member of the loyalty program;

(iii) the reward received and its value; and

(iv) whether the reward was disposed of and, if so, what was received upon the disposal.

Example 1

6. Pamela, a painter, systematically canvasses friends and neighbours advising that she is able to purchase paint at wholesale prices. The paint supplier has a consumer loyalty program. Further, Pamela purchases all paint using her credit card, which is attached to a different consumer loyalty program. Due to the systematic approach used by Pamela, any rewards received under the two consumer loyalty programs that are attributable to the paint she purchases for friends and neighbours are assessable as business income.

Example 2

7. Harry is the purchasing officer at ACME Pty Ltd. Harry approaches his boss, Harriett, with the suggestion that it would be more administratively efficient for ACME Pty Ltd if he paid for purchases with his credit card and then the accounts department would only have to draw one cheque per month to pay his credit card bill. It is agreed that Harry can benefit from his personal membership of the loyalty program as a reward. Based on the facts, the rewards are a benefit received in respect of services rendered and are assessable under paragraph 26(e) of the ***Income Tax Assessment Act 1936****.*

Example 3

8. Paula frequently travels interstate for her employer. Her employer signs up to a corporate card so that Paula can pay for her accommodation, meals, taxis, hire cars, etc. There is a fee for operating the corporate card but the savings in administration costs far outweigh the fee charged. The credit card company has a loyalty program and Paula joins. Based on the facts, the rewards are not a benefit received in respect of services rendered.

Your comments

9. If you wish to comment on this draft Determination, please send your comments by Friday 16 July 1999 to:

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Commissioner of Taxation
16 June 1999

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TR 1999/6; TD 1999/34; TD 1999/35

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