TD 92/D207 - Fringe benefits tax: does the 'otherwise deductible rule' apply to benefits provided to associates of employees?

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This document has been finalised by TD 93/90.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Fringe benefits tax : does the 'otherwise deductible rule' apply to benefits provided to associates of employees?

1. No. The 'otherwise deductible rule' does not apply to benefits provided to associates of employees. The operation of the 'otherwise deductible rule' is limited to benefits provided directly to employees.

2. The term 'associate' is defined in section 136(1) of the *Fringe Benefits Tax Assessment Act 1986.* It carries the same meaning as section 26AAB(14) of the *Income Tax Assessment Act 1936.* The definition is very broad and includes relatives, partners, trustees, beneficiaries and related companies.

Example:

An employer provides two loans, one to an employee and one to the employee's spouse. Both the employee and the spouse invest the monies in shares. A declaration is provided by the employee to his employer to establish that the loan was used wholly for income producing purposes. The 'otherwise deductible rule' enables the taxable value of the employee's loan to be reduced to nil. There is no reduction in the taxable value of the loan provided to the employee's spouse, even though the loan is also used by her for income producing purposes.

Commissioner of Taxation
12/11/92

FOI INDEX DETAIL: Reference No.
Related Determinations: TD 92/D173
Related Rulings:
Subject Ref: fringe benefits tax; 'otherwise deductible rule'; reduction in taxable value.
Legislative Ref: FBTAA : 19(1)(a), 24(1)(a), 34(1)(a), 37(1)(a), 44(1)(a), 52(1)(a), 136(1)
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