


***TD 93/D38 - Fringe benefits tax: does a prepayment to which section 82KZM of the Income Tax Assessment Act 1936 applies qualify as a "once-only deduction" under subsection 136(1) of the Fringe Benefits Tax Assessment Act 1986?***

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This document has been finalised by TD 93/46.

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.

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## Draft Taxation Determination

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**Fringe benefits tax: does a prepayment to which section 82KZM of the *Income Tax Assessment Act 1936* applies qualify as a "once-only deduction" under subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986*?**

1. No, a prepayment to which section 82KZM of the *Income Tax Assessment Act 1936* ("ITAA") applies does not qualify as a "once-only deduction" under subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986* ("FBTAA").
2. Subsection 136(1) of the FBTAA defines the term "once-only deduction" in relation to expenditure as a deduction in a year of income in respect of a percentage of the expenditure where no deduction is allowable in respect of a percentage of the expenditure in any other year of income. For example, a deduction for certain borrowing expenses which is spread over a few years would not qualify as a "once-only deduction".
3. Section 82KZM of the ITAA prevents outright deductions for certain prepayments which would have been fully deductible under subsection 51(1) of the ITAA in the year in which it is incurred. Instead, it provides that a deduction for those payments are to be spread over a certain number of years.
4. It follows then that a prepayment of the kind referred to in paragraph 3 does not qualify as a "once-only deduction" as defined under subsection 136(1) of the FBTAA. This essentially means that where an employer provides a fringe benefits to any employee in the form of such a prepayment, the otherwise deductible rule cannot be applied to reduce the taxable value by the amount that would have been deductible to the employee if the employee had incurred the expenditure (see, for example, subparagraph 24(1)(b)(iii) of the FBTAA which requires a "once-only deduction" for the otherwise deductible rule to apply).

*Example:*

*Mr. Jenerus, the employer, made a prepayment of \$1500 for a three year subscription to a technical journal for Knutts, an employee. Knutts, the company engineer, relies on those technical journals to keep abreast with latest engineering techniques and developments.*

*It Knutts had incurred the expenditure herself, section 82KZM of the ITAA would have prevented her from getting an outright deduction for the \$1500 in the year in which the expenditure was incurred. As mentioned in paragraph 4 above, such a prepayment does not qualify as a "once-only deduction" under subsection 136(1) of the FBTAA.*

*Mr Jenerus is liable to pay fringe benefits tax on the benefit provided to Knutts. Since Knutts would not have been entitled to a "once-only deduction" if she had incurred the expenditure herself, the otherwise deductible rule cannot be applied to reduce the taxable value of the benefit.*

**Commissioner of Taxation**

18/2/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Otherwise deductible rule

Legislative Ref: ITAA section 82KZM; FBTAA subsection 136(1)

Case Ref:

ATO Ref: 86/9032-4

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ISSN 1038 - 8982