


***TD 94/D32 - Fringe benefits tax: when an employer pays the membership subscription to an airline business lounge on behalf of an employee, is the benefit provided an exclusive employee expense payment benefit under paragraph 24(1)(e) of the Fringe Benefits Tax Assessment Act 1986?***

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## Draft Taxation Determination

### **Fringe benefits tax: when an employer pays the membership subscription to an airline business lounge on behalf of an employee, is the benefit provided an exclusive employee expense payment benefit under paragraph 24(1)(e) of the *Fringe Benefits Tax Assessment Act 1986*?**

1. No. An expense payment benefit will only be an exclusive employee expense payment benefit under paragraph 24(1)(e) where the employee's expenditure that is paid or reimbursed is incurred **exclusively** in gaining or producing the employee's salary or wages. (See definition of exclusive employee expense payment benefit in subsection 136(1)).
2. A benefit will not be accepted as an exclusive employee expense payment benefit unless the employer can demonstrate that the employee's membership subscription to the airline business lounge was used exclusively in gaining or producing the employee's salary or wages (for example, where the employer has in place an enforced prohibition against private use of the facility).
3. Where a benefit is not an exclusive employee expense payment benefit, and the employer wishes to reduce the taxable value of the benefit under the 'otherwise deductible rule' in section 24, it is necessary for the employee to give to the employer before the declaration date, a declaration in the approved format.
4. The taxable value of the expense payment benefit will depend on the extent to which the subscription would have been deductible to the employee had it been the employee who had incurred the expenditure.

#### *Example*

*Derrick, a marketing agent who is required to undertake frequent business travel, joined the Untitled Airlines Executive Lounge. The subscription for the membership is \$100 for 12 months. Derrick's employer reimbursed this cost. As Derrick occasionally uses the lounge while on private travel, his employer is liable to FBT on the expense payment benefit. As the benefit is not an exclusive employee benefit, Derrick has to give a declaration to his employer so that the employer can claim a reduction in the taxable value of the benefit.*

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Related Determinations:

Related Rulings:

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