

TD 94/D52 - Income tax: can a premium paid by an employer on a trauma insurance policy in respect of employee be an allowable deduction to the employer?

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This document has been finalised by TD 95/42.

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

Income tax: can a premium paid by an employer on a trauma insurance policy in respect of employee be an allowable deduction to the employer?

1. Yes, where the premium is paid:
 - (a) for a revenue purpose (as discussed below); or
 - (b) on a policy owned by the employee and the payment by the employer is made as part of the employee's remuneration.
2. A revenue purpose would exist where any benefit expected to be obtained by the employer under the policy was to cover the loss of profit, either on account of reduced income or increased expenditure, arising as a result of the loss of the employee through the occurrence of the insured event or condition under the trauma policy. There needs to be a nexus between the amount of the insurance benefit and the expected quantum of lost profits. A benefit received in these circumstances would constitute assessable income to the employer under subsection 25(1) of the *Income Tax Assessment Act 1936* (the Act).
3. Although the amount of a premium paid as indicated in subparagraph 1(b) above would be an allowable income tax deduction to the employer under subsection 51(1) of the Act, it would also constitute an 'expense payment fringe benefit' on which fringe benefits tax is payable: *Fringe Benefits Tax Assessment Act 1986*, section 20.

Commissioner of Taxation

19/5/94

FOI INDEX DETAIL: Reference No.

Related Determinations: TD 94/D49, TD 94/D50, TD 94/D51, TD 94/D53

Related Rulings:

Subject Ref: life assurance company, trauma insurance policy, accident & disability insurance policy.

Legislative Ref: ITAA 25(1), ITAA 51(1); FBTAA 20

Case Ref:

ATO Ref: Insurance Industry Cell

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