TD 94/D8 - Fringe Benefits Tax: will the liability for employers to pay fringe benefits tax (FBT) on meals provided to employees in an 'in-house dining facility' change as a result of the repeal of section 64 of the Fringe Benefits Tax Assessment Act 1936 (FBTAA)?

This cover sheet is provided for information only. It does not form part of *TD 94/D8 - Fringe Benefits Tax: will the liability for employers to pay fringe benefits tax (FBT) on meals provided to employees in an 'in-house dining facility' change as a result of the repeal of section 64 of the Fringe Benefits Tax Assessment Act 1936 (FBTAA)?*

This document has been finalised by TD 94/24.

Australian Taxation Office

Taxation Determination TD 94/D8

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: will the liability for employers to pay fringe benefits tax (FBT) on meals provided to employees in an 'in-house dining facility' change as a result of the repeal of section 64 of the *Fringe Benefits Tax Assessment Act 1936* (FBTAA)?

1. No. Section 41 of the FBTAA applies to exempt an employer from FBT on meals provided to employees on a working day on the employer's business premises. Section 41 also exempts meals provided to employees in an in-house dining facility. This exemption is not affected by the repeal of section 64 from 1 April 1994.

2. An 'in-house dining facility' (as defined in subsection 51AE(1) of the *Income Tax Assessment Act 1936*) is a canteen, dining room or similar facility that is -

(a) located on premises of the taxpayer or, if the taxpayer is a company, of the taxpayer or of a company that is related to the taxpayer;

(b) operated wholly or principally for providing food and drink on working days -

(i) in any case - to employees of the taxpayer; or

(ii) if the taxpayer is a company - to employees of the taxpayer or of a company that is related to the taxpayer; and

(c) not open to the public at any time.

3. Section 41 does not, however, operate to exempt from FBT a tax exempt body entertainment benefit within the meaning of Division 10 of the FBTAA.

Example:

Austco supplies meals to its employees at a staff canteen which falls within the definition of 'in-house dining facility'. Austco is not liable to FBT on the provision of the meals as any benefit is exempt under section 41 of the FBTAA.

Commissioner of Taxation
27/1/94

FOI INDEX DETAIL: Reference No.
Related Determinations:
Related Rulings:
Subject Ref: in-house dining facility, provision of meals
Legislative Ref: FBTAA 41, 64; ITAA 51AE
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