



# ***TD 92/199 - Fringe benefits tax: when should an employer obtain declarations and make elections if a fringe benefits tax return is not required to be lodged?***

 This cover sheet is provided for information only. It does not form part of *TD 92/199 - Fringe benefits tax: when should an employer obtain declarations and make elections if a fringe benefits tax return is not required to be lodged?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *10 December 1992*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

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## Taxation Determination

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### **Fringe benefits tax: when should an employer obtain declarations and make elections if a fringe benefits tax return is not required to be lodged?**

1. Declarations should be obtained and elections should be made by 28 April each year.
2. The *Fringe Benefits Tax Assessment Act 1986* (FBTAA) requires employers to obtain declarations from employees by the 'declaration date' and lodge elections on or before the 'declaration date'. Subsection 136(1) of the FBTAA describes the 'declaration date' as the date on which the fringe benefits tax return is lodged or a later date allowed by the Commissioner.
3. If the taxable amount of fringe benefits provided is nil, there is no requirement to lodge a return (section 68 of the FBTAA). Consequently, there is no specified 'declaration date'.
4. To reduce the taxable value of benefits to nil, the employer may rely on employee declarations or make elections, as appropriate. To determine whether a fringe benefits tax return should be lodged, the employer must first calculate the taxable amount of any fringe benefits provided and then apply any available reductions. In order to do this, the employer must obtain the appropriate declarations from employees and make the relevant elections.
5. As the FBTAA requires fringe benefits returns to be lodged by 28 April each year, declarations should be obtained and elections should be made by this date, even though a return is not required to be lodged.

#### *Example*

*A company provides a low interest loan to one of its employees. The employee uses the loan to produce assessable income. The interest on the loan is tax deductible to the employee. Therefore, the taxable amount of the fringe benefit to the company is nil. This is the only fringe benefit provided by the company.*

*As the fringe benefits taxable amount is nil, the company is not required to lodge a fringe benefits tax return. However, before 28 April, the company should obtain from the employee a declaration stating that the interest on the loan is deductible to the employee.*

**Commissioner of Taxation**

10/12/92

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