


TD 93/153 - Fringe Benefits Tax: are outplacement services provided to current and former employees in the nature of work-related counselling and thus exempt from fringe benefits tax under section 58M of the Fringe Benefits Tax Assessment Act 1986 ("the Act")?

 This cover sheet is provided for information only. It does not form part of *TD 93/153 - Fringe Benefits Tax: are outplacement services provided to current and former employees in the nature of work-related counselling and thus exempt from fringe benefits tax under section 58M of the Fringe Benefits Tax Assessment Act 1986 ("the Act")?*

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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Fringe Benefits Tax: are outplacement services provided to current and former employees in the nature of work-related counselling and thus exempt from fringe benefits tax under section 58M of the *Fringe Benefits Tax Assessment Act 1986* ("the Act")?

1. Section 58M exempts from fringe benefits tax various benefits including work-related counselling. The benefit provided must consist of work-related counselling of the employee or associate of the employee, or the benefit must be associated with such work-related counselling.
2. Subsection 136(1) of the Act defines "work-related counselling" and means amongst other things counselling provided to an employee by an employer *which improves or maintains the quality of the performance of employees' duties*. The counselling does not have to maintain or improve the quality of the performance of a particular employee, as long as it improves or maintains the quality of the performance of any of the organisation's employees.
3. Outplacement services are quite commonly provided by employers to employees before and after they are made redundant to assist them to organise their skills and experience in order to obtain satisfactory new employment. Such services, as they are normally provided, are considered to fall within the meaning of counselling as defined in paragraph (d) of the definition of "work-related counselling" in subsection 136(1).
4. It is considered that as the provision of outplacement services to employees made redundant improve or maintain the quality of the performance of the remaining employees, these services fall within the definition of "work-related counselling" and as such are exempt benefits under section 58M.
5. Typical examples of outplacement services which fall within the meaning of "work-related counselling" would include:
 - assistance in writing a resume and job application;
 - guidance on seeking new employment;
 - training for employment interviews and selection tests;
 - the provision of any ancillary services in support of the primary services provided eg. the use of the employer's telephone or office space.

Example:

XJEK Limited is a large producer of woollen garments. Recently it has not been doing well financially and has decided to close one of its factories. This closure will result in displacement and loss of a large number of its employees. XJEK hires the services of a consultant to provide outplacement services to the employees to prepare them for the separation. XJEK considers the provision of these services essential to maintain the quality of performance of the remaining employees and facilitate the speedy transition of employees into new careers in order to minimise industrial and legal cost. The cost of these outplacement services will be exempt from fringe benefits tax to XJEK.

Commissioner of Taxation

12/8/93

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Related Determinations:

Related Rulings:

Subject Ref: work-related counselling

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