

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: when may a benefit be considered to have a small notional taxable value for the purposes of determining whether it is an exempt minor benefit under section 58P of the *Fringe Benefits Tax Assessment Act 1986*?

1. Subsection 58P(1) states that a benefit is an exempt minor benefit if a number of conditions are satisfied. One of these conditions is the requirement under paragraph 58P(1)(e) that the notional taxable value of the benefit is small. It is considered by this Office that a benefit with a notional taxable value in excess of \$50 is unlikely to be small for the purposes of paragraph 58P(1)(e).

2. It is also considered that, in determining whether the notional taxable value is small for the purposes of paragraph 58P(1)(e), the amount of the remuneration paid to the recipient of the benefit is not relevant.

3. Even if the notional taxable value of the benefit is small, it is also necessary to satisfy the other conditions of subsection 58P(1), which include making a decision on whether it would be unreasonable to treat the benefit as a fringe benefit, after having regard to the various factors mentioned in paragraph 58P(1)(f), such as:

- the frequency and regularity with which similar or identical benefits are provided;
- the sum of the values of such benefits provided in the year;
- the practical difficulty for the employer in determining the value of such benefits; and
- the circumstances in which such benefits are provided, including whether the benefits are provided otherwise than wholly or principally by way of a reward for services rendered, or to be rendered by the employee.

These factors are discussed in Taxation Determination TD 93/76.

Examples:

Flowers to the value of \$40 sent to an employee on the birth of his or her child is, in consideration of the factors mentioned in paragraph 58P(1)(f), an exempt minor benefit.

Flowers sent to a member or members of staff on a frequent or regular basis is not, in consideration of the factors mentioned in paragraph 58P(1)(f) (particularly the regularity of the provision of benefits), an exempt minor benefit even if the notional taxable value of each individual benefit is small.

A pram valued at \$300 provided to an employee on the birth of his or her child is not an exempt minor benefit as the notional taxable value is not small, ie. the requirement of paragraph 58P(1)(e) has not been met.

Commissioner of Taxation

21/10/93

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