TD 95/17 - Fringe benefits tax: is the taxable value of a loan fringe benefit calculated only for those periods in the year of tax during which the interest rate on the loan was below the statutory interest rate?

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Australian Taxation Office

Taxation Determination **TD 95/17**

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: is the taxable value of a loan fringe benefit calculated only for those periods in the year of tax during which the interest rate on the loan was below the statutory interest rate?

1. No. The taxable value is determined by reference to the whole of the period in the year of tax during which the loan existed.

2. Section 18 of the *Fringe Benefits Tax Assessment Act 1986* states that the taxable value of a loan fringe benefit will be the amount (if any) by which the 'notional amount of interest' exceeds the amount of interest that accrued on the loan during the year. The 'notional amount of interest' is defined in subsection 136(1) to be, broadly, the amount of interest which would have accrued on the loan if the interest had been calculated on the daily balance of the loan at the statutory interest rate for that year.

3. In the first year of a loan, the taxable value is calculated from the day on which the loan was made until the end of the year of tax. In subsequent years the whole year would be the appropriate period. In the final year of the loan, the taxable value would be calculated for the period from 1 April to the day on which the loan is extinguished.

4. It should be noted that section 17 exempts loans by an employer whose business consists of or includes lending to the public, primarily where the interest rate on the loan is not less than the rate available to members of the public who took out similar loans at or around the same time as the employee. Such a loan may be exempt even though the interest rate charged is below the statutory interest rate, provided it is not less than the rate available to members of the public who took out similar loans at or around the same time.

Example

An employee of Upstate Building Society is given a 2 year loan on 1 June 1991 at an interest rate which is above the statutory interest rate. On 1 December 1991 the employee avails himself of a reduced interest rate due to having completed 5 years of service with the bank. The interest rate is below that available to members of the public who took out similar loans at the same time. The taxable value of the loan fringe benefit for the year ending on 31 March 1992 is calculated by reference to the whole period from 1 June 1991, not just from 1 December 1991. It should be

noted that the taxable value may be reduced by the 'otherwise deductible' rule in section 19 if the employee applies the loan to an income-producing purpose.

Commissioner of Taxation
4/5/95

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