

# ***TR 1999/6A2 - Addendum - Income tax and fringe benefits tax: flight rewards received under frequent flyer and other similar consumer loyalty programs***

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## Addendum

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### Taxation Ruling

#### Income tax and fringe benefits tax: flight rewards received under frequent flyer and other similar consumer loyalty programs

This Addendum amends Taxation Ruling TR 1999/6 to reflect the changes to the law caused by the repeal of inoperative provisions.

**TR 1999/6 is amended as follows:**

**1. Subparagraph 4(b)**

Omit '(the Act)'; substitute '(ITAA 1997)<sup>1A</sup>'.

**2. Paragraph 17**

(a) Omit 'of the Act'.

(b) Omit 'the 1936 Act'; substitute 'ITAA 1936'.

(c) Omit 'paragraph 26(e) of the 1936 Act'; substitute 'section 15-2 of the ITAA 1997 (formerly paragraph 26(e) of the ITAA 1936)'.

**3. Paragraph 19**

Omit '1936 Act'; substitute 'ITAA 1936'.

**4. Paragraph 20**

Omit first sentence; substitute:

In the High Court decisions of *Hayes v. FC of T* (1956) 96 CLR 47; (1956) 11 ATD 68 and *Scott v. FC of T* (1966) 117 CLR 514, the learned justices commented that before an amount can be brought within paragraph 26(e) of the ITAA 1936 (now section 15-2 of the ITAA 1997), it must first fall within subsection 25(1) (now section 6-5 of the ITAA 1997) as ordinary income.

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<sup>1A</sup> All legislative references in this Ruling are to the ITAA 1997 unless otherwise indicated.

## 5. Paragraph 21

Omit 'paragraph 26(e) of the 1936 Act. Paragraph 26(e)'; substitute 'section 10-5 and in turn section 15-2. Section 15-2'.

## 6. Paragraph 22

Omit the paragraph; substitute:

22. In determining the tax implications of rewards received from consumer loyalty programs, a consideration common to both the income tax and FBT provisions is to identify whether, in the provision of the reward, there exists the necessary employment or business relationship. The relevant provisions of the ITAA 1936, the ITAA 1997 and the FBTAA are:

### *Business taxpayers*

**21A(5)** [of the ITAA 1936] In this section: ...

'**non-cash business benefit**' means property or services provided ...

- (a) wholly or partly ***in respect of a business relationship***; or
- (b) wholly or partly for or in relation directly or indirectly to a business relationship (emphasis added).

### *Employees (where FBT does not apply)*

**26** [of the ITAA 1936] ... the assessable income of a taxpayer shall include - ...

- (e) the value to the taxpayer of all ... benefits ... allowed, given or granted to him ***in respect of***, or for or in relation directly or indirectly to, ***any employment*** of or services rendered by him ...' (emphasis added).

### *Employees (where FBT does not apply)*

**15-2(1)** [of the ITAA 1997] Your assessable income includes the value to you of all ... benefits, ... \*provided to you ***in respect of***, or for or in relation directly or indirectly to, ***any employment*** of or services rendered by you ...

**15-2(2)** This is so whether the things were \*provided in money or in any other form (emphasis added).

## 7. Paragraph 24

Omit '1936 Act'; substitute 'ITAA 1936 (now section 15-2 of the ITAA 1997)'.

**8. Paragraph 25**

After 'paragraph 26(e)', insert 'of the ITAA 1936 (now section 15-2 of the ITAA 1997)'.

**9. Paragraph 27**

Omit 'whereas paragraph 26(e) of the 1936 Act (the equivalent Australian provision)'; substitute 'whereas former paragraph 26(e) of the ITAA 1936 (the equivalent Australian provision now section 15-2 of the ITAA 1997)'.

**10. Paragraph 28**

After 'given or granted' insert '(and its equivalent in section 15-2 – 'provided')'.

**11. Paragraph 29**

- (a) Omit 'of the Act'; substitute 'of the ITAA 1997'.
- (b) Omit 'subsection 25(1) of the 1936 Act'; substitute 'former subsection 25(1) of the ITAA 1936'.

**12. Legislative references**

Insert 'ITAA 1997 15-2'.

This Addendum applies on and from 14 September 2006.

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**Commissioner of Taxation**  
17 August 2011

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## ATO references

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