



TR 94/1 - Fringe benefits tax: meals, or meals and accommodation provided to stockworkers working away from their usual quarters

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Taxation Ruling

Fringe benefits tax: meals, or meals and accommodation provided to stockworkers working away from their usual quarters

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*This Ruling, 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 Ruling is a public ruling and how it is binding on the Commissioner.*

What this Ruling is about

1. This Ruling considers whether an employer has a fringe benefits tax (FBT) liability when the employer provides meals, or meals and temporary accommodation, to a stockworker working away from his or her usual quarters. The relevant sections of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) are section 35 ('board fringe benefits') and section 40 ('property fringe benefits').
2. It explains whether sections 37 and 44 of the FBTAA (the 'otherwise deductible' rule) apply in these circumstances.
3. It also explains whether the employer needs to obtain a declaration or other evidence from the stockworker.
4. This Ruling does not apply to the provision of meals or accommodation to a stockworker in his or her usual quarters.

Ruling

5. A potential FBT liability arises to the employer. This is because the provision of meals, or meals and temporary accommodation, to a stockworker working away from his or her usual quarters is a fringe benefit under sections 35 or 40 of the FBTAA. However the 'otherwise deductible' rule in sections 37 and 44 of the FBTAA applies to reduce the taxable value of these fringe benefits to nil.
6. The employer does not need to obtain a declaration or other evidence from the stockworker to establish the application of the 'otherwise deductible' rule.

Date of effect

7. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling 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 Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Explanations

8. Meals provided to a stockworker are either board fringe benefits in terms of section 35 of the FBTAA (board meals) or property fringe benefits under section 40 of the FBTAA. Meals qualify as board fringe benefits if the stockworker is entitled to be provided with accommodation and at least two meals per day. Any meals provided by an employer to a stockworker that are not board meals are property fringe benefits.

9. Under section 37 of the FBTAA, the taxable value of a board fringe benefit is reduced by the extent to which any expenditure incurred by a stockworker in obtaining the board meals would have been deductible for income tax purposes to the stockworker if he or she had incurred the expenditure. Section 44 of the FBTAA applies in a similar way to reduce taxable values in respect of property fringe benefits.

10. Meals and accommodation expenses, where inextricably linked with the necessity for travel, are deductible under subsection 51(1) of the *Income Tax Assessment Act 1936* (Case N69 81 ATC 358, Case 23 25 CTBR (NS)). Accordingly, a stockworker travelling away from his or her usual quarters to outlying areas to work e.g. mustering and fencing, would have been entitled to a deduction for the cost of accommodation and meals associated with that travel if he or she had incurred those costs.

11. Therefore the 'otherwise deductible' rule in sections 37 and 44 of the FBTAA applies to reduce to nil the taxable value of any board or property fringe benefits in the form of meals, or meals and accommodation, provided to a stockworker while travelling in the course of gaining his or her assessable income.

12. If the meals provided are 'board fringe benefits' under section 35 of the FBTAA, there is no requirement under section 37 of the FBTAA for the employer to obtain a declaration or other evidence from the recipient for the 'otherwise deductible' rule to apply.

13. If the meals provided are 'property fringe benefits', they would be 'exclusive employee property benefits' as defined in subsection

136(1) of the FBTAA. Hence no declaration is required by virtue of subparagraph 44(1)(c)(i) of the FBTAA for the 'otherwise deductible' rule to apply.

Examples

14. Clancey, a stockworker on a large cattle property, is mustering cattle with other stockworkers a long way from their usual quarters. His employer supplies him and the other stockworkers with provisions while they are mustering. Clancey and his mates sleep in swags under the stars. Since the expenses for provisions would have been deductible to Clancey if he had incurred them himself, the taxable value to the employer of the property fringe benefit is reduced to nil.

15. Matilda is fencing the long back paddock. Her employer supplies her with provisions. Matilda camps for several nights in a rough wooden hut in the back paddock. Since the expenses for board and provisions would have been deductible to Matilda if she had incurred them herself, the taxable value to the employer of the board fringe benefit is reduced to nil.

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subject references

- accommodation
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legislative references

- FBTAA 35; FBTAA 37; FBTAA 40
- FBTAA 44; FBTAA 44(1)(c)(i);
FBTAA 136(1)
- ITAA 51(1)

case references

- Case N69 81 ATC 358
- Case 23 25 CTBR (NS) 170