


***TD 93/D170 - Fringe Benefits Tax: where a housing fringe benefit is provided in a 'remote area' location, to : (a) an employee who is related to the employer, or (b) an employee who is also a shareholder and/ or director of the employer company, does the 50% reduction available under subsection 29(1) of the Fringe Benefits Tax Assessment Act, automatically apply ?***

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This document has been finalised by TD 93/200.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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**Fringe Benefits Tax: where a housing fringe benefit is provided in a 'remote area' location, to :**

**(a) an employee who is related to the employer, or**

**(b) an employee who is also a shareholder and/ or director of the employer company,**

**does the 50% reduction available under subsection 29(1) of the *Fringe Benefits Tax Assessment Act*, automatically apply ?**

1. No. Apart from the question of location, to qualify as a remote area housing fringe benefit (and therefore a 50% reduction in taxable value) certain conditions set out in the Act, must apply.

2. In brief, those conditions include that it be 'customary' and 'necessary' in an industry for an employer to provide free or cheap housing to an employee. In addition, paragraph 29(4)(e) acts as a safeguard to ensure that where non-arm's length or other arrangements are involved, the benefit of the remote area valuation concession is not available.

*Example 1 :*

*A farmer employs a member of the family to assist in running the family business.*

*Remuneration for work done is partly provided in the form of free occupancy of a dwelling located on the family property. Similar benefits are not provided to other employees.*

*The housing benefit is provided in respect of the employment arrangement.*

*As similar benefits are not provided to other employees and because of the family relationship it is apparent that the benefit was provided as a result of a non-arm's length arrangement.*

*Consequently, the taxable value of the housing fringe benefit would not be eligible for a 50% reduction.*

*Example 2 :*

*A farmer is employed by the family company to run the family business.*

*The farmer and spouse are the sole shareholders of the family company.*

*Remuneration for work done is partly provided in the form of free occupancy of a house located on the family property. Similar benefits are not provided to other employees.*

*The housing benefit is provided in respect of the employment arrangement.*

*As similar benefits are not provided to other employees and because the owners (shareholders) and the employees receiving the benefits are the same people, it is apparent that the benefit was provided as a result of a non-arm's length arrangement.*

*Consequently, the taxable value of the housing fringe benefit would not be eligible for a 50% reduction.*

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

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Legislative Ref: FBTA 29(1) & 29(4)

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