TD 93/D195 - Fringe benefits tax: is the value of a benefit relevant in determining whether the benefit is an exempt minor benefit for the purposes of section 58P of the Fringe Benefits Tax Assessment Act 1986?

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This document has been finalised by TD 93/197.

Australian Taxation Office

Taxation Determination TD 93/D195

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.

Draft Taxation Determination

Fringe benefits tax: is the value of a benefit relevant in determining whether the benefit is an exempt minor benefit for the purposes of section 58P of the *Fringe Benefits Tax Assessment Act 1986*?

1. Yes. However, the value of a benefit is only one of a number of factors to be considered in determining whether the benefit may be considered to be an exempt minor benefit under section 58P. These other factors, which are discussed in Taxation Determination TD 93/76 include:

- the infrequency and irregularity 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 values of such benefits; and
- the circumstances in which such benefits are provided, including whether the benefits concerned were provided otherwise than wholly or principally by way of a reward for services rendered, or to be rendered by the employee.

2. However, even taking all of these factors into account, this Office considers that it is unlikely in most cases that a benefit with a value in excess of $50 would be an exempt minor benefit for the purposes of section 58P.

Examples:

Flowers sent to an employee on the birth of a child with a value of $40 would be considered to be an exempt minor benefit.

Flowers sent to a member or members of staff on a regular basis would not be considered to be an exempt minor benefit due to the regularity of the provision of benefits - notwithstanding that the value of each individual benefit may be less than $50 .

A pram valued at $300 provided to an employee on the birth of a child would not be considered to be an exempt minor benefit, even if it is unlikely that any other benefit will be provided to that particular member of staff.

Commissioner of Taxation
12/8/93

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