


***TD 93/D241 - Income tax and fringe benefits tax: what are the tax consequences for an employer when an employee makes a contribution to the employer in respect of a fringe benefit received?***

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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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### **Income tax and fringe benefits tax: what are the tax consequences for an employer when an employee makes a contribution to the employer in respect of a fringe benefit received?**

1 The fringe benefit tax liability remains with the employer irrespective of contributions made by an employee. However, the amount of the employer's FBT liability may be altered if an employee contribution is made.

2 The contributions received by the employer constitute assessable income under subsection 25(1) of the *Income Tax Assessment Act 1936*.

3 Except in the case of loan fringe benefits under Division 4 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) and living away from home fringe benefits under Division 7 of the FBTAA, the employee contribution reduces the taxable value of the fringe benefit by the amount of the contribution.

#### *Example:*

*XYZ Pty Ltd provides an expense payment fringe benefit with a taxable value of \$1000. The employee contributes an amount of \$300 to the employer towards the cost of the benefit. The employer can reduce the taxable value of that fringe benefit to \$700 (\$1000-\$300). The employer must return the \$300 contributed as assessable income.*

**Commissioner of Taxation**

23/9/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: fringe benefits; employee contributions

Legislative Ref: ITAA 25(1); FBTAA Division 4; FBTAA Division 7.

Case Ref:

ATO Ref: CASAUD007

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