


TD 94/D33 - Fringe benefits tax: where an employer provides a taxi to an employee for travel to or from work, when is the provision of the taxi considered to be infrequent or irregular for the purposes of subparagraph 58P(1)(f)(i) of the Fringe Benefits Tax Assessment Act 1986?

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Draft Taxation Determination

Fringe benefits tax: where an employer provides a taxi to an employee for travel to or from work, when is the provision of the taxi considered to be infrequent or irregular for the purposes of subparagraph 58P(1)(f)(i) of the *Fringe Benefits Tax Assessment Act 1986*?

1. Paragraph 58P(1)(f) sets out various factors that need to be considered when determining whether a minor benefit should be regarded as an exempt benefit. One of the factors is the infrequency and irregularity with which the benefit, or similar benefits, is provided. The more frequently and regularly small benefits of a similar kind are provided to an employee, the less likely they are to qualify as exempt benefits.

2. We consider that a benefit (such as the provision of taxi transport) which is provided less than once per month will be infrequent. Any benefit which is not generally provided at predetermined or set intervals will be irregular. However, being both infrequent and irregular will not solely determine whether a benefit is an exempt minor benefit. All the other factors set out in paragraph 58P(1)(f), including whether the benefit was provided to assist the employee to deal with an unexpected event, must also be taken into account.

3. It should also be noted, as set out in paragraph 58P(1)(e), that a benefit can only be an exempt minor benefit if the benefit provided is 'small'. Taxation Determination TD 93/197 deals with what is 'small' for the purposes of section 58P. In particular, paragraph 1 of TD 93/197 states that a benefit with a notional taxable value in excess of \$50 is unlikely to be small for the purposes of paragraph 58P(1)(e). Accordingly, such a benefit would not be an exempt minor benefit.

Example 1:

An accounting firm requires its head accountant to work back at least one night each month to prepare financial statements to send to head office. The employer reimburses the accountant's taxi fares which range from \$10 to \$15 on each occasion. The benefit provided will not be an exempt minor benefit under section 58P because the benefit is provided on a frequent and regular basis.

Example 2:

Same as above except the accountant is required to work back only occasionally (maximum of 4 times each year). In this case it is considered that the benefit is provided infrequently and irregularly. Assuming no other factors in paragraph 58P(1)(f) apply adversely, the benefit will be an exempt minor benefit.

Example 3:

An employer has a policy to allow sick employees to be taken home by taxi. A particular employee was taken home three times in one year. In each case the taxi fare was around \$15. It is considered that the benefit is provided infrequently and irregularly. The benefit provided will be an exempt minor benefit for the purposes of section 58P.

Commissioner of Taxation

31/3/94

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