


# ***TD 96/D6 - Are contributions made by an employer in cash or in kind to a staff social club subject to fringe benefits tax (FBT)?***

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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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### **Fringe benefits tax: are contributions made by an employer in cash or in kind to a staff social club subject to fringe benefits tax (FBT)?**

1. Yes. It is considered that an FBT liability arises at the time that the contribution is made to the social club by the employer on behalf of its employees.
2. Contributions may be either **specific** or **non-specific**:
  - **specific** contributions are linked to a particular purpose or are made on behalf of nominated employee members within the social club. The character of the expenditure is determined accordingly. (For example, a contribution for a Christmas party will be in respect of the provision of entertainment; providing T-shirts for swimming club members will be the provision of property fringe benefits).
  - **non-specific** contributions are not linked to a particular purpose and are made on behalf of all employee members and it is entirely at the club's discretion as to how the money is spent. The character of the expenditure is determined by reference to the purpose of the social club.
3. Where the purpose of the social club is to provide entertainment to employees and their associates in the form of food, drink and/or recreation, as is the usual case, contributions of a non-specific nature will constitute expenditure on the provision of entertainment.
4. A contribution that is provided on an infrequent and irregular basis and is small in value (as discussed in Taxation Determination TD 93/197) may qualify as an exempt benefit under section 58P of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA). This exemption does not apply to tax-exempt body entertainment benefits.
5. If the contribution is an exempt benefit and it is also in respect of the provision of entertainment, then the expenditure will be non-deductible for income tax purposes (i.e., section 51AE(5AA) of the *Income Tax Assessment Act 1936* (ITAA) does not apply to exempt benefits).
6. It is considered that the provision of the services of an employee of the employer, to organise social club activities and functions, does not constitute a contribution to the social club that is subject to FBT. Nor does the cost incurred by the employer in respect of the services of the employee constitute expenditure on the provision of entertainment.

19 June 1996

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FOI INDEX DETAIL: Reference No.

Not previously released in draft form

Related Determinations: TD 93/197

Related Rulings:

Subject Ref: entertainment; exempt benefits; fringe benefit; fringe benefits tax; property fringe benefits; social clubs;  
tax-exempt body entertainment benefits

Legislative Ref: FBTA 58P; ITAA 51AE(5AA)

Case Ref:

ATO Ref: FBT Cell 130; NAT 96/4345-1

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ISSN 1038 - 8982