

MT 2029 - Fringe benefits tax : accommodation and meals provided to shearers

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TAXATION RULING NO. MT 2029

FRINGE BENEFITS TAX : ACCOMMODATION AND MEALS PROVIDED TO SHEARERS

F.O.I. EMBARGO: May be released

REF H.O. REF: L85/10-3 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:

I 1209040 FRINGE BENEFITS TAX FRINGE BENEFITS TAX ASSESSMENT ACT : Sections 30, 35, 36, 37, 40, 44, 45, 52

OTHER RULINGS ON TOPIC MT 2027
IT 2273

PREAMBLE Taxation Ruling IT 2273 specifies that expenses incurred by shearers in travelling between their homes and places where they exercise their trade, between home and a place of assembly and on return travel to home may be allowed as income tax deductions under sub-section 51(1) of the Income Tax Assessment Act 1936.

2. That ruling reflected two general propositions of the law that apply to travelling expenses incurred by shearers. First, where a taxpayer's base of operations is his home, i.e., contracts are made from home and tools and books of account are kept there, travelling expenses incurred between the home base and the site on which contracts are carried out are an allowable deduction for income tax purposes (Horton v. Young (1971) 3 All ER 412). Secondly, where the activities by which assessable income is produced are of an itinerant nature, travelling expenses to and from home necessary to carry out the activities will also qualify as an allowable income tax deduction (FCT v. Wiener 78 ATC 4006; 8 ATR 335).

3. Under the Fringe Benefits Tax Assessment Act 1986 ("the Act"), benefits other than salary or wages provided to employees in respect of their employment are generally subject to fringe benefits tax except to the extent to which, if the employee had incurred the expense of providing the benefit, that expense would have been deductible for income tax purposes. Two common benefits provided to shearers are accommodation and meals. Meals provided to shearers would either constitute "board fringe benefits" in terms of section 35 of the Act or "property fringe benefits" under section 40. Meals would qualify as board benefits where the shearer is entitled to be provided with accommodation and also, broadly, to be supplied with at least two meals per day. Accommodation provided to shearers is a residual fringe benefit under section 45 of the Act.

4. By section 37, the taxable value of a board fringe benefit is reduced to the extent to which any expenditure incurred by the employee in obtaining the board meals would have been deductible for income tax purposes. Sections 44 and 52 apply in a similar way to reduce taxable values in respect of property fringe benefits, e.g., shearers' meals that are not board meals, and residual fringe benefits, e.g., shearers' accommodation.

RULING

5. Allied to the principles referred to in paragraph 2 is a further long established principle of income tax law that, where the activities by which assessable income is produced involve travelling and staying away from home so that the travelling expenses are an allowable income tax deduction, the expenses of travelling include the cost of accommodation and meals away from home. This means that shearers travelling between home and places where they exercise their trade or between home and place of assembly for a shearing tour would be entitled to deductions under sub-section 51(1) of the Income Tax Assessment Act 1936 for the cost of accommodation and meals associated with that travel and while engaged in shearing work.

6. On that basis, sections 37, 44 and 52 of the Fringe Benefits Tax Assessment Act 1986 will generally apply so as to reduce to nil the taxable value of any board, property or residual fringe benefits in the form of meals and accommodation provided to shearers while travelling in the course of their employment or while so engaged. There is no obligation on employers to obtain declarations or other evidence from shearers to establish the deductibility of such accommodation and meals.

COMMISSIONER OF TAXATION
23 September 1986