



MT 2031 - Fringe benefits tax : anticipation by employers of proposed amendments

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TAXATION RULING NO. MT 2031

FRINGE BENEFITS TAX : ANTICIPATION BY EMPLOYERS OF
PROPOSED AMENDMENTS

F.O.I. EMBARGO: May be released

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FRINGE BENEFITS TAX

FRINGE BENEFITS TAX
ASSESSMENT ACT 1986

PREAMBLE

The Government has announced its intention to introduce certain amendments to the Fringe Benefits Tax (FBT) law. Details of the changes are contained in press release No. 90 issued by the Treasurer on 26 August 1986. In summary the proposed amendments as announced are :

Work-related compensation and medical treatment

2. The FBT legislation is to be amended to ensure that all employer payments in respect of workers' compensation are exempt from FBT. This exemption will include both workers' compensation premiums and direct payments by employers as occur under the Victorian Work Care scheme or in the case of self-insurers. Benefits paid for by workers' compensation insurance will also be exempted from FBT. For public sector employers (including the Commonwealth), who do not pay workers' compensation insurance premiums but provide compensation directly to the employee, exemption will be allowed for any benefits provided in relation to work-related injury or illness.

3. The provision of work site medical services through first aid posts and medical clinics is to be exempted where the facilities are principally for the treatment of work-related injuries and illnesses. Medical services provided to members of the Defence Forces are also to be exempted.

4. The test of whether an injury or illness is work-related will be based on existing workers' compensation laws applying in each State or, in the case of public sector employers not paying workers' compensation insurance premiums, any relevant legislation dealing with employees compensation for work-related injury or illness. Employer-provided hospital or medical treatment, whether provided by insurance or directly, in respect of injuries or illnesses which do not satisfy the above criteria will continue to be subject to FBT. The treatment of payments under workers' compensation for income tax purposes will not be affected by these changes.

Relocation and recruitment expenses

5. It is a common practice for employers to bear the cost of certain relocation and recruitment expenses in respect of both new employees and current employees required to change their job location. The proposed amending legislation will ensure that such expenses are exempt from FBT. The exemption will extend to the travel costs of the employee and his or her family resulting from relocation, temporary accommodation costs involved in relocation, and the cost of removal of furniture and personal effects. Travel costs of the employee (but not his or her family) for the purpose of job interviews are to be exempt. Exemption is not to extend to compensation for costs in buying or selling property or educational costs for children who continue their schooling at the original location.

6. Included amongst the benefits proposed to be exempt are the following:

- (i) Travel costs of employee and family to a new work location. This would cover:
 - . travel costs in making the journey;
 - . accommodation and meals if it is necessary to break the journey; and
 - . accident insurance while travelling.
- (ii) Removal of household goods and effects to a new work location and related storage, including packing, insuring, transporting and storing household goods and effects.
- (iii) Temporary accommodation (where required) before and after the move to enable the employee to find more permanent accommodation. This is only to be exempt for a period sufficient for the employee to find more permanent accommodation.

Travel costs incurred in prescribed developing countries to obtain medical treatment

7. The announced changes also propose to exempt from fringe benefits tax travel costs incurred by employees and their families in prescribed developing countries to obtain medical treatment for an injury or an illness. The exemption is to be limited to travel costs to the nearest location where appropriate medical facilities are available.

Fringe benefits paid to employees located overseas

8. In certain circumstances employees located overseas for periods of between 3 and 12 months are subject to Australian tax on their foreign source income only on a

pro-rata basis. It is proposed that the related fringe benefits be taxable only to the same extent. That is, as an employee

overseas for six months would bear Australian tax on only one-half of his or her income from that overseas employment, the proposed amendment will ensure comparable fringe benefits tax treatment of benefits provided to the employee.

9. The FBT applies only where employees' wages and salaries are subject to Australian income tax. At present employees located overseas and subject to tax in the foreign country are exempt from Australian tax on that income and fringe benefits they receive are thus exempt from FBT. Under the foreign tax credit system to apply from 1 July 1987, employees located overseas for more than 12 months will be exempt from Australian income tax on their wages or salary if they are subject to tax in the foreign country; thus fringe benefits provided to such employees will be exempt from FBT under the present legislation. This position is not proposed to be changed.

10. Pending the enactment of legislation to give effect to the above proposals, the question arises as to whether the proposed changes may be taken into account by employers in the calculation and payment of any FBT instalments of tax that fall due in the meantime.

RULING

11. When calculating instalments of FBT for any period in respect of which the time for payment of the instalment falls due prior to the enactment of amending legislation to give effect to the proposals described in this Ruling, employers who reduce the amount of their instalment payments to take account of the proposed amendments will not be subjected to additional tax where the amount of the reduction is reasonably calculated to reflect those amendments. This will be the case even if the reduction on this account proves to be greater than authorised by the amending legislation.

COMMISSIONER OF TAXATION
1 October 1986