



TD 93/200 - Fringe benefits tax: where a housing fringe benefit is provided in a "remote area" location, to: (a) an employee who is related to the employer, or (b) an employee who is also a shareholder and/or director of the employer company, does the 50% reduction available under subsection 29(1) of the Fringe Benefits Tax Assessment Act 1986 , always apply ?

 This cover sheet is provided for information only. It does not form part of *TD 93/200 - Fringe benefits tax: where a housing fringe benefit is provided in a "remote area" location, to: (a) an employee who is related to the employer, or (b) an employee who is also a shareholder and/or director of the employer company, does the 50% reduction available under subsection 29(1) of the Fringe Benefits Tax Assessment Act 1986 , always apply ?*

 This document has changed over time. This is a consolidated version of the ruling which was published on 21 October 1993

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Fringe benefits tax: where a housing fringe benefit is provided in a "remote area" location, to:

- (a) an employee who is related to the employer, or**
- (b) an employee who is also a shareholder and/or director of the employer company,**

does the 50% reduction available under subsection 29(1) of the *Fringe Benefits Tax Assessment Act 1986*, always apply ?

1. No, the 50% reduction does not always apply.
2. Apart from the question of location, to qualify as a remote area housing fringe benefit (and therefore a 50% reduction in taxable value) certain conditions set out in subsection 29(4) must be satisfied. In brief, those conditions include that it be "customary" and "necessary" in an industry for an employer to provide free or cheap housing to an employee. Even if these conditions are satisfied, if the housing benefit is provided pursuant to a non-arm's length arrangement, the benefit of the remote area valuation concession is not available.
3. This determination assumes that any benefits provided are in respect of the employment relationship. The question of whether a benefit is provided in respect of employment or not is covered in MT2016 and MT2019.

Example 1 :

A farmer employs a member of the family to assist in running the family business. Remuneration for work done is partly provided in the form of free occupancy of a dwelling located on the family property. Accordingly, it is clear that the benefit is provided in respect of the employment arrangement.

Similar benefits are not provided to other employees and, because of the family relationship it is apparent that the benefit was provided as a result of a non arm's length arrangement. Consequently, the taxable value of the housing fringe benefit would not be eligible for a 50% reduction.

Example 2 :

The proprietor of a mid-north cattle station decides to retire from the business, and move to the city. Rather than sell the property, he decides to employ a full time manager. To efficiently manage his asset he decides he must have the best person available and advertises for applicants advising that the position will include occupancy of the station homestead. After interviewing a number of applicants, including his son and daughter, he decides that his daughter is the best person for the job.

Even though employer (the proprietor) and employee (his daughter) are not at arm's length, it is clear that the housing benefit was provided as part of an arm's length arrangement. Consequently, providing it is also "customary" and "necessary" in the industry to provide housing benefits, the taxable value of the housing fringe benefit would be eligible for a 50% reduction.

Example 3 :

A farmer is employed by the family company to run the family business. The farmer and spouse are the sole shareholders of the family company. Remuneration for work done is partly provided in the form of free occupancy of a 4 bedroom house located on the family property. As the housing is provided as a part of remuneration, it is clear that the benefit is provided in respect of the employment arrangement.

Similar benefits are not provided to other employees and, because the owners (shareholders) and the employees receiving the benefits are the same people, it is apparent that the benefit was provided as a result of a non-arm's length arrangement. Consequently, the taxable value of the housing fringe benefit would not be eligible for a 50% reduction.

Commissioner of Taxation

21/10/93

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Related Determinations:

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