TD 93/229W - Income tax and fringe benefits tax : can a reimbursement within the meaning of the Fringe Benefits Tax Assessment Act 1986 (FBTAA) fall within the definition of 'salary or wages' in subsection 221A(1) of the Income Tax Assessment Act 1936 (ITAA)?

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This document has changed over time. This is a consolidated version of the ruling which was published on *1 June 2005*

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Notice of Withdrawal

Taxation Determination

Income tax and fringe benefits tax: can a re-imbursement within the meaning of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) fall within the definition of 'salary or wages' in subsection 221A(1) of the *Income Tax Assessment Act 1936* (ITAA)?

Taxation Determination TD 93/229 is withdrawn with effect from today.

1. Taxation Determination TD 93/229, which issued on 25 November 1993, sets out, for the purposes of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA), the Commissioner's policy at that time as to whether a re-imbursement within the meaning of the FBTAA could fall within the definition of 'salary or wages' in subsection 221A(1) of the *Income Tax Assessment Act 1936* (ITAA 1936)?

2. From 1 July 2000, the definition of 'salary or wages' at subsection 136(1) of the FBTAA no longer relies upon the term 'salary or wages' as contained in subsection 221A(1) of the ITAA 1936.

3. 'Salary or wages', for the purposes of the FBTAA, is now defined by reference to Schedule 1 of the *Taxation Administration Act 1953* (TAA). Schedule 1 of the TAA, at section 12-1(3), states that expense payment benefits, as defined in the FBTAA, are specifically excluded from those payments which are subject to withholding.

4. The possible anomaly raised in TD 93/229, given the changes noted above, can no longer arise.

5. As the Determination is no longer current, it is accordingly withdrawn.

Commissioner of Taxation
1 June 2005

ATO references
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