TD 94/25 - Fringe benefits tax: where an employer provides entertainment to both employees and non-employees, what is an acceptable method of determining the portion applicable to the employees for the purposes of the Fringe Benefits Tax Assessment Act 1986?

This cover sheet is provided for information only. It does not form part of *TD 94/25 - Fringe benefits tax: where an employer provides entertainment to both employees and non-employees, what is an acceptable method of determining the portion applicable to the employees for the purposes of the Fringe Benefits Tax Assessment Act 1986?*

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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Australian Taxation Office

Taxation Determination TD 94/25

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).

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

Taxation Determination

Fringe benefits tax: where an employer provides entertainment to both employees and non-employees, what is an acceptable method of determining the portion applicable to the employees for the purposes of the *Fringe Benefits Tax Assessment Act 1986*?

1. Entertainment provided by an employer may give rise to a fringe benefits tax liability. However, only that part of the benefit which relates to entertainment provided to an employee (or an associate of an employee) will be subject to fringe benefits tax. Accordingly, where the entertainment is provided to employees and non-employees jointly, it is necessary to determine that part of the benefit which relates only to the employees.

2. Where that part of the benefit which relates to employees only is not easily extracted from the available information, this Office will accept the use of a 'per head' basis of apportionment. This does not, of course, preclude employers from using an exact expense basis if they wish.

Note: Apportionment of entertainment expenditure in the manner set out in this Determination would not be available where an employer has elected under section 37AA of the *Fringe Benefits Tax Assessment Act 1986* that Division 9A – Meal Entertainment applies for a fringe benefits tax (FBT) year.

Example

Mary entertains 3 of her employer's clients at a local restaurant on 15 April 1994. In addition to paying for her own meal, Mary pays for the meals of the clients. Mary's employer reimburses Mary for the cost of the meals. The benefit provided to Mary is an expense payment fringe benefit. The taxable value of that benefit will be accepted as 25% of the amount reimbursed to Mary.

Commissioner of Taxation
31/3/94

FOI INDEX DETAIL: Reference No. I 1217171 Previously issued as Draft TD 94/D15

Related Determinations:

Related Rulings:

Subject Ref: entertainment, apportionment, expense payment fringe benefit, residual fringe benefit, property fringe benefit

Legislative Ref: FBTAA 1986 Div 9A; FBTAA 1986 37AA

Case Ref:

ATO Ref: FBT Cell 30/81

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