



Fringe Benefits Tax (Application to the Commonwealth) Act 1986

No. 42 of 1986

An Act to provide for the notional application of fringe benefits tax in relation to benefits provided in respect of the employment of Commonwealth employees

[Assented to 24 June 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*.

Commencement

2. This Act shall come into operation on the day on which the *Fringe Benefits Tax Assessment Act 1986* comes into operation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“Assessment Act” means the *Fringe Benefits Tax Assessment Act 1986*;
“Commonwealth employee” means an employee of the Commonwealth;
“Department” means—
(a) a Department of State;
(b) a Department of the Parliament; or

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- (c) a branch or part of the Australian Public Service in relation to which a person has, under an Act, the powers of, or exercisable by, the Secretary to a Department of the Australian Public Service;
- “responsible Department”, in relation to the employment of a Commonwealth employee, means—
- (a) where the remuneration in respect of that employment is or was paid wholly or principally out of money appropriated under an annual Appropriation Act—the Department in respect of which the money was appropriated;
- (b) where the remuneration in respect of that employment is or was paid wholly or principally out of money appropriated under an Act other than an annual Appropriation Act—
- (i) if the employee performs or performed the duties of that employment in, or in respect of, a Department—that Department; or
- (ii) in any other case—the Department of State administered by the Minister who administers the Act under which that money was appropriated, insofar as the Act appropriated that money; and
- (c) where the remuneration in respect of that employment is or was paid wholly or principally out of money appropriated by the Constitution—the Department of the Special Minister of State.

(2) Unless the contrary intention appears, an expression that is used in this Act and in the Assessment Act has the same meaning in this Act as it has in the Assessment Act.

Application of Assessment Act in relation to Commonwealth employment

4. (1) Subject to this Act and to such modifications as are prescribed, the Assessment Act applies, in respect of any matter or thing in respect of the employment of a Commonwealth employee, as if—

- (a) the employee were employed by the responsible Department and not by the Commonwealth;
- (b) the responsible Department were a company and each other Department, and each authority of the Commonwealth, were a company related to the responsible Department;
- (c) the responsible Department were a government body; and
- (d) Part VI (other than section 80) were omitted from the Assessment Act.

(2) In sub-section (1), “modifications” includes additions, omissions and substitutions.

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Application of Act to certain Commonwealth authorities

5. (1) Subject to such modifications as are prescribed, this Act applies in relation to an authority of the Commonwealth referred to in paragraph (e) of the definition of “employer” in sub-section 136 (1) of the Assessment Act in like manner as it applies in relation to a Department.

(2) In sub-section (1), “modifications” includes additions, omissions and substitutions.

Exemption of certain benefits provided under the Defence Service Homes Act

6. For the purposes of the application of the Assessment Act in accordance with this Act, where a benefit is provided under the *Defence Service Homes Act 1918* in respect of the employment of a Commonwealth employee by reason of the employee being an eligible person within the meaning of that Act otherwise than by virtue of paragraph (h) or (i) of the definition of “Australian Soldier” in sub-section 4 (1) of that Act, the benefit is an exempt benefit.

Directions by Minister for Finance

7. (1) The Minister for Finance may give such directions in writing as are necessary or convenient to be given for carrying out or giving effect to this Act and, in particular, may give directions in relation to the transfer of money within the Public Account.

(2) Directions under sub-section (1) have effect, and shall be complied with, notwithstanding any other law of the Commonwealth.

Annual report

8. The report by the Commissioner under section 4 of the Assessment Act shall include a report on the working of this Act, including any breaches or evasions of this Act of which the Commissioner has notice.

Regulations

9. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[*Minister's second reading speech made in—
House of Representatives on 2 May 1986
Senate on 27 May 1986*]