



Taxation Laws Amendment (Fringe Benefits Tax Measures) Act 1992

No. 223 of 1992

An Act to amend the law relating to taxation

[Assented to 24 December 1992]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Taxation Laws Amendment (Fringe Benefits Tax Measures) Act 1992*.

5 Commencement

2. This Act commences on 1 April 1994.

Amendments relating to fringe benefits tax

3. The Acts specified in the Schedule are amended as set out in the Schedule.

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Application

[Meaning of “year of tax”]

4.(1) In this section:

“year of tax” has the same meaning as in the *Fringe Benefits Tax Assessment Act 1986*.

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[Amendments apply for the 1994-95 year of tax and later years of tax]

(2) The amendments made by this Act apply in relation to fringe benefits tax (including instalments) for the year of tax commencing on 1 April 1994 and for all subsequent years of tax.

SCHEDULE

Section 3

AMENDMENTS RELATING TO FRINGE BENEFITS TAX

Income Tax Assessment Act 1936

Section 23M:

Repeal the section.

Subsection 51(4A):

Omit the subsection.

Fringe Benefits Tax (Application to the Commonwealth) Act 1986

After section 6:

Insert the following section:

No entitlement to rebate of tax

“6A. For the purposes of the application of the Assessment Act in accordance with this Act, it is to be assumed that section 65J of that Act (which deals with rebates) had not been enacted.”.

Fringe Benefits Tax Assessment Act 1986

After section 65H:

Insert the following Part:

“PART IIIA—REBATES OF TAX

Rebate for certain non-profit employers etc.

[Rebatable employer]

“65J.(1) For the purposes of this section, an employer is a rebatable employer for a year of tax if the employer is covered by any of the following paragraphs at any time during the year of tax:

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SCHEDULE—continued

- (a) a religious institution;
- (b) a scientific, charitable or public educational institution (other than an institution of the Commonwealth, a State or a Territory);
- (c) a public hospital (other than a hospital of the Commonwealth, a State or a Territory);
- (d) a hospital which is carried on by a non-profit society or a non-profit association;
- (e) a trade union;
- (f) an association of employers or employees registered under a law of the Commonwealth, a State or a Territory relating to the settlement of industrial disputes;
- (g) a non-profit society, non-profit association, or non-profit club, established for musical purposes, or for the encouragement of music, art, science or literature;
- (h) a non-profit society, non-profit association, or non-profit club, established for the encouragement or promotion of a game or sport;
- (i) a non-profit society, non-profit association, or non-profit club, established for the encouragement or promotion of animal races;
- (j) a non-profit society, non-profit association, or non-profit club, established for community service purposes (not being political purposes or lobbying purposes);
- (k) a non-profit society, or non-profit association, established for the purpose of promoting the development of aviation;
- (l) a non-profit society, or non-profit association, established for the purpose of promoting the development of the agricultural, pastoral, horticultural, viticultural, manufacturing or industrial resources of Australia.

[Entitlement to rebate]

“(2) If an employer is a rebatable employer for a year of tax, the employer is entitled to a rebate of tax in the employer’s assessment for the year of tax equal to the amount worked out using the formula:

$$0.48 \times \frac{\text{Gross tax}}{\text{tax}} \times \frac{\text{Rebatable days in year}}{\text{Total days in year}}$$

where:

‘**Gross tax**’ means the amount of tax payable on the fringe benefits taxable amount of the employer of the year of tax (assuming that this section had not been enacted);

‘**Rebatable days in year**’ means the number of whole days in the year of tax when the employer was covered by any of paragraphs (1)(a) to (1) (inclusive);

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‘Total days in year’ means the number of days in the year of tax.

[Extended meaning of ‘institution of the Commonwealth, a State or a Territory’]

“(3) For the purposes of this section, an institution established by a law of the Commonwealth, a State or a Territory is taken to be an institution of the Commonwealth, the State or the Territory, as the case requires.

[Extended meaning of ‘hospital of the Commonwealth, a State or a Territory’]

“(4) For the purposes of this section, a hospital established by a law of the Commonwealth, a State or a Territory is taken to be a hospital of the Commonwealth, the State or the Territory, as the case requires.

[Meanings of ‘non-profit society’, ‘non-profit association’ and ‘non-profit club’]

“(5) For the purposes of this section, a society, association or club is a non-profit society, non-profit association or non-profit club, as the case may be, if, and only if:

- (a) the society, association or club is carried on otherwise than for the purposes of profit or gain to its individual members; and
- (b) the society, association or club is neither:
 - (i) an incorporated company where all the stock or shares in the capital of the company is or are beneficially owned by:
 - (A) the Commonwealth, a State or a Territory; or
 - (B) an authority or institution of the Commonwealth, a State or a Territory; nor
 - (ii) an incorporated company where the company is limited by guarantee and the interests and rights of the members in or in relation to the company are beneficially owned by:
 - (A) the Commonwealth, a State or a Territory; or
 - (B) an authority or institution of the Commonwealth, a State or a Territory.”.

Subsections 67(1), (2) and (3):

Omit “fringe benefits taxable amount” (wherever occurring), substitute “aggregate fringe benefits amount”.

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SCHEDULE—continued

Paragraph 110(1)(b):

Omit the paragraph, substitute:

- “(b) in the case of a subsequent year of tax (other than the year of tax commencing on 1 April 1994)—the amount of the tax that was assessed in respect of the employer in respect of the immediately preceding year of tax; and
- (c) in the case of the year of tax commencing on 1 April 1994:
 - (i) if the employer is a rebatable employer for the year of tax (within the meaning of section 65J)—the amount worked out using the formula:

$$[1.93 \times \text{Previous year's tax}] - \text{Notional rebate}$$

where:

‘**Previous year's tax**’ means the tax that was assessed in respect of the employer in respect of the immediately preceding year of tax;

‘**Notional rebate**’ means the rebate (if any) that would have been allowable to the employer under section 65J for the immediately preceding year of tax if the amendments of this Act made by the *Taxation Laws Amendment (Fringe Benefits Tax Measures) Act 1992* had applied in relation to tax for the immediately preceding year of tax; or

- (ii) in any other case—the amount worked out using the formula:

$$1.93 \times \text{Previous year's tax}$$

where:

‘**Previous year's tax**’ means the tax that was assessed in respect of the employer in respect of the immediately preceding year of tax.”.

Subsection 136(1) (definition of “fringe benefits taxable amount”):

Omit the definition, substitute:

“‘**fringe benefits taxable amount**’ has the meaning given by section 136AA;”.

Subsection 136(1):

Insert:

“‘**aggregate fringe benefits amount**’, in relation to an employer in relation to a year of tax (the ‘**current year of tax**’), means the sum of the following amounts:

- (a) the sum of the taxable values, in relation to the current year of tax, of all the fringe benefits (other than amortised fringe

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benefits) in relation to the employer in relation to the current year of tax;

- (b) the sum of the amortised amounts, in relation to the current year of tax, of all the amortised fringe benefits in relation to the employer in relation to the current year of tax and any other year of tax;

reduced by the sum of the reduction amounts, in relation to the current year of tax, of all the reducible fringe benefits in relation to the employer in relation to the current year of tax;”.

After section 136:

Insert:

Fringe benefits taxable amount

“136AA. A reference in this Act to the fringe benefits taxable amount in relation to an employer in relation to a year of tax is a reference to the amount worked out using the formula:

$$\text{Aggregate fringe benefits amount} \times \left[\frac{1}{1 - \text{FBT rate}} \right]$$

where:

‘**Aggregate fringe benefits amount**’ means the aggregate fringe benefits amount in relation to the employer in relation to the year of tax;

‘**FBT rate**’ means the rate of tax applicable for the year of tax.”.

[*Minister's second reading speech made in—*
House of Representatives on 16 September 1992
Senate on 9 November 1992]