TR 92/15 - Income tax and fringe benefits tax: the difference between an allowance and a reimbursement

Taxation Ruling
Income tax and fringe benefits tax: the difference between an allowance and a reimbursement

other Rulings on this topic
IT 2614

This Ruling, 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 Ruling is a public ruling and how it is binding on the Commissioner.*

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What this Ruling is about

1. This Ruling explains the difference between an allowance and a reimbursement for the purposes of determining whether a payment is a fringe benefit under the *Fringe Benefits Tax Assessment Act 1986* ("FBTAA"), or whether that payment is assessable income under the *Income Tax Assessment Act 1936* ("ITAA"). Other than living-away-from-home allowances, most allowances will fall for consideration under the ITAA. On the other hand, most reimbursements will fall for consideration under the FBTAA.

Ruling

2. A payment is an allowance when a person is paid a definite predetermined amount to cover an estimated expense. It is paid regardless of whether the recipient incurs the expected expense. The recipient has the discretion whether or not to expend the allowance.

3. A payment is a reimbursement when the recipient is compensated exactly (meaning precisely, as opposed to approximately), whether wholly or partly, for an expense already incurred although not necessarily disbursed. In general, the provider considers the expense to be its own and the recipient incurs the expenditure on behalf of the provider. A requirement that the recipient vouch expenses lends weight to a presumption that a payment is a reimbursement rather than an allowance. A requirement that the recipient refunds unexpended amounts to the employer adds further weight to that presumption.

4. The meaning of the word "reimburse" includes payments made in advance of expenditure as long as those payments possess the characteristics outlined in paragraph 3.

Date of effect

5. This Ruling sets out the current practice of the Australian Taxation Office and is not concerned with a change in interpretation. Consequently, it applies (subject to any limitations imposed by statute) for years of income commencing both before and after the date on which it is issued.

Explanations

What is an allowance?

6. The word "allowance" is defined in the Macquarie dictionary as "a definite sum of money allotted or granted to meet expenses or requirements". An allowance will usually consist of the payment of a definite predetermined amount to cover an estimated expense, and will be paid regardless of whether the recipient incurs the expected expense.

7. In *Case 153* 10 TBRD 480 the Taxation Board of Review said at 484:

> "Our view is that between employer and employee there is a marked difference between a reimbursement and an allowance. A reimbursement transfers from the employee to the employer the burden of expenses actually incurred in the course of employment. An allowance is designed to compensate the employee because the employer does not wish to be under the obligation of meeting such expenses directly or indirectly".

A similar position was adopted in *Case B55* (1951) 2 TBRD (NS) 227.

8. The Canadian case of *R v Davis* (1978) DLR (3d) 233 lends further support to this position. In that case, Anderson J held at 235 and 237 that an allowance includes a payment to be made for a particular purpose which does not carry with it any liability to account. He added that it is an amount determined arbitrarily and set as a top limit. Also, it is clearly to be distinguished from a 'reimbursement' which indicates a payment of a variable sum dependent on a precise accounting for the actual expenditure.

What is a reimbursement?

9. The word "reimburse" is defined under subsection 136(1) of the FBTAA to include any act having the effect or result, direct or indirect, of a reimbursement. Since neither the FBTAA nor the ITAA provides a more descriptive definition beyond that, the ordinary meaning of the word applies. The Macquarie dictionary defines the word "reimburse" as a repayment for expense or loss incurred, or a refund.

10. The ordinary meaning of the word "reimburse" implies that the recipient is to be compensated exactly for an expense already incurred although not necessarily disbursed. The definition of "reimburse" under subsection 136(1) of the FBTAA is wide enough to include payments made before expenses are incurred. However, whether payment is made before or after expenses are incurred by the recipient, it qualifies as a reimbursement when the provider considers the expense to be its own and the recipient incurs the expense on behalf of the provider. As a result, a requirement that the recipient vouch or substantiate expenses lends weight to a presumption that a payment is a reimbursement rather than an allowance. A further indication of a reimbursement is where the recipient is required to refund unexpended amounts to the provider.

Example

11. Danielle and Thomas are both employees of Faraway Investments Pty. Ltd. Apart from her usual salary, Danielle, an investment consultant, is paid $500 per month to cover expenses she is expected to incur while entertaining clients. Under an industrial award, Danielle also receives $50 per fortnight to cover medical insurance premiums for herself and her family. To be entitled to the $50 per fortnight, Danielle is required to produce a letter from the health fund certifying that she is a member. Apart from that, she is not required to vouch any of the expenses incurred in relation to both payments.

12. Thomas, a bookkeeper, is entitled to payment for medical insurance premiums for himself and his family up to a limit of $300 per year. To claim the amount from his employer, he is required to produce his insurance premium statements to his employer verifying the amount incurred by him in relation to those premiums.

13. The payments made to Danielle for entertaining clients and for medical insurance are allowances. Danielle is paid regardless of whether she spends the $500 on clients and whether she spends the whole $50 on medical insurance. On the contrary, the payments made to Thomas are reimbursements. He is compensated exactly for his medical insurance and would not be entitled to payment if he is unable to vouch his claim. The upper limit of $300 per year does not alter the character of the payment. The payment is based on the precise accounting of actual expenditure.

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- Case 153 10 TBRD 480
- Case B55 (1951) 2 TBRD (NS) 227
- R v. Davis (1978) DLR (3d) 233