

QUESTION WE'VE BEEN ASKED QB 15/15

INCOME TAX – FIRST AID ALLOWANCES

During a review of *Public Information Bulletins* a number of items relating to the tax treatment of employee allowances were identified as needing to be reviewed. This QWBA replaces "First Aid Allowance" (*Public Information Bulletin* No 149, July 1986).

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

This Question We've Been Asked is about ss CE 1 and CW 17.

Question

1. Is an allowance paid by an employer to an employee because they hold a first aid qualification taxable?

Answer

2. Yes. An allowance paid by an employer to an employee because they hold a first aid qualification is taxable as employment income under s CE 1(1)(a), and subject to PAYE. Such an allowance is not paid to reimburse the employee for expenditure incurred in connection with their employment duties. Rather it is a regular amount paid to the employee because they are first aid qualified and take on obligations to provide first aid services in the workplace if required. Such a payment is therefore income to the employee.
3. If a regular allowance or one-off payment is made to the employee to reimburse them for first aid related costs incurred in performing their first aid obligations or duties in the workplace (eg, the cost of getting a first aid qualification, if this is required, or the cost of an employee keeping their own work-related first aid kit up-to-date), this would be exempt income under s CW 17(2). This is because the payment is reimbursing the employee for expenditure the employee would be able to deduct if the employment limitation did not exist. A payment to **reimburse an employee for the employer's expenses (eg, buying supplies for the employer's first aid kit) is not income to the employee (ss CE 1 and CE 5(3)).**

Explanation

Background

What is an allowance?

4. An allowance is a payment of an agreed amount by an employer to an employee. It is paid either on a regular basis (such as daily or weekly), or when certain events happen. It is taxable to the employee as employment income under s CE 1(1)(a) unless an exemption applies.
5. There are two main types of allowances, commonly referred to as benefit allowances and reimbursing allowances. Benefit allowances are taxable to the employee as employment income under s CE 1(1)(a) and are subject to PAYE. However, reimbursing allowances may be exempt from income tax under the general exemption in s CW 17.

What is a reimbursing allowance?

6. A reimbursing allowance is an allowance paid by an employer to an employee for expenses that an employee incurs or is likely to incur in connection with their employment.
7. A reimbursing allowance is not an exact reimbursement of expenditure. Operating expenses are expenses that the employee would be allowed a deduction for if the employment limitation did not exist (s CW 17(2)). Under s CW 17(2B) the expenditure will be treated as incurred in connection with an **employee's employment if it is a necessary expense incurred in** performing an employment obligation from which they earn income.

What is a benefit allowance?

8. A benefit allowance is an allowance paid by an employer to compensate an employee for the conditions of their service, such as using a dangerous piece of equipment, working in a dangerous or dirty environment, or working in a remote location. Unlike a reimbursing allowance, a benefit allowance is taxable to the employee as employment income under s CE 1(1)(a) and is subject to PAYE.

First aid allowances

9. There are legal requirements in New Zealand under health and safety legislation for employers to take all practicable steps to provide first aid facilities, and to have procedures for dealing with emergencies. This may include the need for an appropriate number of suitably trained first aiders. Employers often pay allowances to employees who are designated workplace first aiders.
10. A first aid allowance is a regular amount paid to an employee because they are first aid qualified and take on obligations to provide first aid services in the workplace if required. It is a benefit allowance, paid to compensate the employee for taking on additional responsibilities. It is not paid to reimburse the employee for expenditure incurred in connection with their employment duties. Such an allowance is therefore taxable as employment income under s CE 1(1)(a). Employers need to account for PAYE on the amount of the allowance.

Reimbursement for first aid related expenses

11. If a regular allowance or one-off payment is made to an employee to reimburse them for first aid related costs incurred in performing their first aid obligations or duties in the workplace (eg, the cost of getting a first aid qualification if this is required, or the cost of an employee keeping their own work-related first aid kit up-to-date), this would be exempt income under s CW 17(2). This is because the payment is reimbursing the employee for expenditure the employee would be able to deduct if the employment limitation did not exist. There is the requisite nexus between the expenditure being reimbursed and the employee deriving their income. **A payment to reimburse an employee for the employer's expenses (eg, buying supplies for the employer's first aid kit) is not income to the employee** (ss CE 1 and CE 5(3)).
12. As is the case with other reimbursing allowances, in setting the amount of a regular reimbursing allowance, an employer can estimate the total amount of expenditure an employee is likely to incur in performing their first aid obligations or duties in the workplace. Section CW 17(3) allows employers to make a **"reasonable estimate" of the amount of expenditure likely to be incurred by an** employee or a group of employees.
13. A reasonable estimate is one that has some basis. For example, the estimate might be based on actual historical data, or from an employer asking a sample of their employees about the first aid related costs they have incurred in performing

their obligations. Employers must retain sufficient information about how the estimate was calculated to substantiate the allowance amount. Employers should review their estimates periodically to ensure they remain reasonable.

References

Related rulings/statements

"First Aid Allowance" (*Public Information Bulletin*
No 149, July 1986)

Subject references

Allowance, first aid

Legislative references

Income Tax Act 2007 – ss CE 1 and CW 17