

What are the Tax and Centrelink Implications for a Minister Having a Housing Allowance?

The ATO draws an important distinction between an ALLOWANCE and a REIMBURSEMENT. Taxation Ruling TR92-15 explains:

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.

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.

This is an important distinction because ALLOWANCES are to be counted as TAXABLE INCOME under the Income Tax Assessment Act 1997.

15-2 Allowances and other things provided in respect of employment or services

- (1) Your assessable income includes the value to you of all allowances, gratuities, compensation, benefits, bonuses and premiums *provided to you in respect of, or for or in relation directly or indirectly to, any employment of or services rendered by you (including any service as a member of the Defence Force).
- (2) This is so whether the things were *provided in money or in any other form.
- (3) However, the value of the following are not included in your assessable income under this section:
 - (a) a *superannuation lump sum or an *employment termination payment;
 - (b) an *unused annual leave payment or an *unused long service leave payment;
 - (c) a *dividend or *non-share dividend;
 - (d) an amount that is assessable as *ordinary income under section 6-5;
 - (e) *ESS interests to which Subdivision 83A-B or 83A-C (about employee share schemes) applies.

Note: Section 23L of the *Income Tax Assessment Act 1936* provides that fringe benefits are non-assessable non-exempt income.

The situation with housing allowances is further clarified by Taxation Determination TD93/55.

Income tax: is a 'housing allowance subsidy' paid to an employee in respect of the employee's principal residence assessable under the *Income Tax Assessment Act 1936* (ITAA)?

1. Yes. An amount paid to an employee as a housing allowance subsidy (as described below) is considered to be an allowance given in respect of employment or services rendered and is assessable to the employee under subsection 26(e) of the ITAA.
2. Some remuneration packages provide for the payment of a housing allowance subsidy where the employee owns a home. The subsidy is not intended to be a payment or reimbursement of any particular expense of home purchase or ownership incurred by the employee. The subsidy is merely intended to maintain equitable remuneration between employees who own their homes and those whose rental of private accommodation is paid or reimbursed by the employer.
3. Because the payment is not intended to reimburse a particular expense of home purchase or ownership, a housing allowance subsidy paid in these circumstances is not a fringe benefit as defined in the *Fringe Benefits Tax Assessment Act 1986* but is assessable income of the employee.

Note: Where rental of private accommodation is paid or reimbursed by the employer or where a payment by the employer is intended to reimburse a particular expense of home purchase or ownership, the payment would be considered to be a fringe in the Fringe Benefits Tax Assessment Act 1986.

So, the bottom line for payments in lieu of providing housing is:

1. If it is an amount paid without a requirement to prove that the entire amount was spent on expenses relating to home ownership or rental, then it is an allowance and it is taxable income.
2. If the payment comes with an ongoing requirement to prove that the entire amount was spent on expenses relating to home ownership or rental, then it is a reimbursement, and so it is not taxable income.

However, as the NOTE above indicates, there are Fringe Benefits Tax implications for the payment of such reimbursements. This is because reimbursements of this kind constitute a benefit to the recipient rather than being just a business expense that they incurred on behalf of the business.

However, Draft Taxation Ruling TR2018/D2 says that when a religious practitioner from a registered religious institution is paid such reimbursements as part of the remuneration for pastoral or religious duties, then such reimbursements are exempt from Fringe Benefits Tax.

This means that our churches may pay their ministers a reimbursement for housing, and this will not count as taxable income, and neither will it attract Fringe Benefits Tax. Under our current arrangements, the easiest way to ensure that such payments are seen as reimbursements and not as allowances is to have them paid into the minister's Ministry Expense Account, from which mortgage or rent payments can be made upon the production of the appropriate documentation to verify those expenses.

The other way of handling this would be for the parish to bypass the minister altogether and make payments on behalf of the minister directly to the appropriate landlord or lending authority. In this case it would be neither an allowance nor a reimbursement, but a fringe benefit which would be exempt from Fringe Benefit Tax.

The CENTRELINK treatment of such reimbursements or fringe benefits is another matter again. The Sydney Diocese has developed an excellent document, the Centrelink Benefits Assessment Guide, that takes one through this some detail. It can be found [here](#).

In general terms the situation is that if the housing benefit is provided as a reimbursement or as another form of fringe benefit, then it is not assessed for the purpose of Family Assistance, but the non-ministry portion of this benefit is assessable by Centrelink for the purpose of Income Support. It is strongly recommended that all clergy go through the Sydney Centrelink Benefits Assessment guide in detail to determine what is appropriate in their own circumstances.

The Registrar

13 September 2018