‘Otherwise Deductible’ Rule

1. **Statement**
The purpose of this standard is to explain the ‘otherwise deductible’ rule and how it operates.

2. **Scope**
Compliance with this standard is mandatory.

This standard shall apply to all employees, contractors and consultants within the Department of Health divisions and commercialised business units as well as Hospital and Health Services.

3. **Requirements**
If the employer provides something as a fringe benefit to an employee that the employee would normally be able to claim as an income tax deduction, the employer can reduce the taxable value of the fringe benefit by the amount the employee would have been able to claim. This is called the ‘otherwise deductible’ rule.

**Relevance to Fringe Benefits Tax**
With the exception of car fringe benefits, the valuation rules for each type of fringe benefit do not recognise that an employee may use a fringe benefit partly or fully in the course of performing their employment duties. For this reason the FBTAA contains a rule recognising this possibility and allowing the taxable value to be reduced by the amount the employee could have claimed as a tax deduction. This rule applies regardless of whether the fringe benefit arises due to a salary sacrificing agreement or part of a remuneration package. Where an otherwise deductible expense is expected please contact your local FBT coordinator for advice.

**Relevance to education expenses**
An expense can occur at a point ‘too soon’ for the expense to qualify as a deduction. This is particularly relevant to education where the study is undertaken to gain employment, or enter a different field of work (e.g. currently work in finance and studying to become a nurse).

However where the study is undertaken to maintain or improve skills in a field you are already receiving income from, then the deduction may be allowable (e.g. currently work in finance and studying for an accounting degree).

It is important to note that expenses for course fees in a Commonwealth supported place (i.e. HECS fees) are specifically excluded from being a deduction and the ‘otherwise deductible’ rule does not apply.

**Factors to be present to claim ‘otherwise deductible’ expenses**
- **Assessable income** – There must be a related/matching income source to which the expense relates.
- **Allowable Deduction** – The deduction must be allowable to that employee, and not already claimed in the employee’s individual tax return. Additionally once a deduction has been
reimbursed or paid by Queensland Health it cannot be claimed by the employee in their
individual tax return.

- Substantiation – The expense must be able to be substantiated with the appropriate
documentary evidence as required by current income tax legislation (e.g. receipts).
- Benefit to the employee – The expense must be solely for the benefit of that employee.
Where an expense was for an employee and their associate, the expense must be
apportioned so that only the portion relevant to the employee is reimbursed or paid by
Queensland Health

4. Related legislation and documents

- PAYG Standard - Scholarships
- CCH Australia Master Tax Guide.
- Fringe Benefits Tax - Expense Payment Fringe Benefits: 9.4 Reduction in Taxable value where
expenditure would have been deductible to the employee.
- Taxation Determination TD 93/90 Income Tax: does the ‘otherwise deductible rule’ apply to
reduce the taxable value of fringe benefits provided to associates of employees?
- ATO ID 2004/294 Fringe Benefits Tax: ‘Otherwise deductible’ rule application to HECS fees
reimbursed by the employer.

5. Definitions

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Version Control

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