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DOCNUM 2013-0514521E5

REFDATE 140416

SUBJECT Employer-paid Personal Trainer and Nutritionist

SECTION 6(1)(a)

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA. Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Whether employer-subsidized personal training and nutritionist services are taxable employment benefits?

POSITION: Likely yes.

REASONS: See response.

XXXXXXXXXX

2013-051452

T. Baltkois

April 16, 2014

Dear XXXXXXXXXXXX:

Re: Taxable benefits - personal trainer and nutritionist

We are writing in response to your email dated December 2, 2013, wherein

you requested our comments concerning whether an employer's payment of part of the cost for a personal trainer or nutritionist for its employees would result in a taxable benefit to the employees.

Our Comments

This technical interpretation provides general comments about the provisions of the Income Tax Act (Act) and related legislation (where referenced). It does not confirm the income tax treatment of a particular situation involving a specific taxpayer but is intended to assist you in making that determination. The income tax treatment of particular transactions proposed by a specific taxpayer will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R5, Advance Income Tax Rulings.

Generally, paragraph 6(1)(a) of the Act provides that all benefits and allowances received or enjoyed by an employee from an office or employment are taxable unless specifically excluded by another provision of the Act.

Where an employer pays, in full or part, for the cost for a personal trainer or nutritionist for its employees, the employees would generally be considered to have received an economic benefit in respect of, in the course of, or by virtue of their office or employment. This economic benefit would be taxable under paragraph 6(1)(a) unless it could be clearly demonstrated that the employer was the primary beneficiary of the services provided by the personal trainer or nutritionist or the benefit was excluded by another provision of the Act.

It is our view that the employees, and not the employer, would usually be regarded as the primary beneficiaries where the employees become physically healthier and generally better able to perform their duties (e.g., sick less often, less downtime, remain fit for duty) by using the services of a personal trainer or nutritionist.

Clause 6(1)(a)(iv)(A) of the Act excludes from income any benefit derived from counselling services in respect of the mental or physical health of the taxpayer or an individual related to the taxpayer, other than benefits attributable to an outlay or expense to which paragraph 18(1)(1) of the Act applies (in particular, recreational facility or club). Where membership in a recreational facility or club provides an employee with access to counselling services, any benefits derived from those services would not be excluded under clause 6(1)(a)(iv)(A) of the Act.

The phrase "counselling services" is not defined in the Act. Where the legislation does not define a phrase, we generally rely on case law and the ordinary meaning (e.g., dictionary definition). The Concise Canadian Oxford Dictionary defines "counselling" as "the act or process of giving counsel; the process of assisting and guiding clients, esp. by a trained person on a professional basis, to resolve esp. personal, social or psychological problems and difficulties." It is a question of fact whether any of the services provided by a personal trainer or nutritionist are counselling services.

Where counselling services are part of a program provided by a personal trainer or nutritionist, it is our view that the value of any benefit derived from such services would be difficult to separate from the value of any other benefits received or enjoyed under the program. Therefore, clause 6(1)(a)(iv)(A) of the Act likely would not apply, and the amount

paid by the employer for a personal trainer or nutritionist would be a taxable benefit to the employees.

We trust these comments will be of assistance to you.

Yours truly,

Nerill Thomas-Wilkinson, CPA, CA

Manager

Business and Employment Income Section

Business and Employment Division

Income Tax Rulings Directorate