



Department of Consumer
and Employment Protection
Government of Western Australia

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Enquiries: DOCEP AGENCY LR Advisers

CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 7 OF 2007

**GUIDELINES FOR SALARY PACKAGING IN THE WA PUBLIC SECTOR 2005 –
AMENDED**

This Circular replaces Circular to Departments and Authorities No. 11 of 2005 – Guidelines for Salary Packaging in the WA Public Sector.

The attached Guidelines have been updated and amended to clarify the following areas:

- an explanation of the capping threshold and fringe benefit tax implications for public hospitals at page 2, footnote 2;
- agencies which receive concessional Fringe Benefits Tax treatment will require Cabinet approval if employees are not being required to pay the FBT payable on the fringe benefits received in excess of the capping threshold; and
- West Super is now closed to new members and a new scheme called GESB Super has been opened (see: www.gesb.wa.gov.au).

If you require further information regarding this circular please contact your DOCEP labour relations adviser.

The Guidelines are available from DOCEP's public sector directorate's website at www.docep.wa.gov.au.

Susan Barrera

SUSAN BARRERA
EXECUTIVE DIRECTOR
LABOUR RELATIONS

Att

22 October 2007

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GUIDELINES FOR SALARY PACKAGING IN THE WA PUBLIC SECTOR 2007 - AMENDED

1. INTRODUCTION

These Guidelines replace Circular to Departments and Authorities No. 11 of 2005 – Guidelines for Salary Packaging in the WA Public Sector and apply to all agencies and employees in the Western Australian public sector. The terms “agency”, “employee” and “public sector” are as defined in the *Public Sector Management Act 1994* (PSMA).

Agencies are to comply with the Guidelines and the mandatory Remuneration Packaging Services Contract (RFT 20505). Details of the contract are to be found in the Department of Treasury and Finance Buyers’ Guide at www.gem.wa.gov.au/Gem/Suppliers/Contracts/20505.pdf

The Guidelines provide the basis upon which agencies may introduce salary packaging arrangements. Before agencies can legally introduce salary packaging, the applicable award or industrial agreement must provide a “legal basis” for such arrangements.

An example of this legal basis is Clause 15 – Salary Packaging Arrangement of the Public Service Award 1992.

Where terms and conditions are not regulated by an award or industrial agreement, for example, an ‘executive officer’ as defined in the PSMA, a salary packaging provision must be included in employment contracts to permit access to the arrangement.

Salary packaging can only be introduced on a total employment cost (TEC)¹ basis and is not to increase TEC of employing individuals.

~~Agencies offering salary packaging must be aware that the associated taxation and legal issues are complex and continually changing.~~

Salary packaging arrangements introduced by agencies must comply with these Guidelines and Australian Taxation Office (ATO) requirements.

2. TOTAL EMPLOYMENT COST (TEC)

Salary packaging is to be based on the TEC of individual employees.

The TEC for salary packaging purposes is calculated by adding the following entitlements and benefits:

- base salary;
- other cash allowances;
- non cash benefits;

¹ See Section 3 for explanation.

- any Fringe Benefits Tax (FBT) liabilities currently paid; and
- any variable components.

Employees may choose a combination of salary (cash) or other eligible employment benefits, plus any associated taxes and/or charges arising as a result of the choice to access the benefit.

Employees may package up to 100% of TEC. Employees of agencies who receive concessional fringe benefits tax treatment², must comply with the ATO's 'capping thresholds'. Information about these thresholds and the definition of a PBI can be found on the ATO website: <http://www.ato.gov.au>

Employees electing to salary package are required to sacrifice salary to the equivalent value of the benefits packaged.

Only benefits immediately convertible to cash can be converted to other benefits under packaging.

Motor Vehicles

Where vehicles are included as part of remuneration packages for employees covered by the Salaries and Allowances Tribunal, the value of the vehicles is included in the TEC.

Where vehicles are provided to employees through the Government Vehicle Scheme (GVS), the vehicles cannot be included in the TEC.

3. ITEMS THAT MAY BE PACKAGED

The menu of items that may be packaged can be broadly grouped as follows:

- concessionally treated and/or exempt benefits;
- otherwise tax deductible benefits (these items must be work related matters); and
- superannuation³.

Some examples of the items that may be salary packaged are to be found in the Buyers' Guide.

4. SALARY RELATED PAYMENTS

Salary related entitlements are to be calculated on the remaining gross salary after packaging, unless an award, industrial agreement or contract expressly provides otherwise.

² From 1 April 2000, public hospitals are eligible for an FBT exemption, in respect of benefits provided to employees where the grossed up value of certain benefits for each employee is equal to, or less than, the threshold specified by the Australian Taxation Office. With respect to public hospitals, the specified threshold is \$17,000 per employee per annum. Where the grossed up value of fringe benefits provided to an employee is more than the threshold the public hospital is liable for FBT on the excess amount. (Source: Australian Taxation Office).

³ Refer to Section 7.

Compulsory employer Superannuation Guarantee contributions are to be calculated in accordance with applicable federal and State legislation. Compulsory employer contributions made to superannuation schemes established under the *State Superannuation Act 2001* and the *Parliamentary Superannuation Act 1970* are calculated on the gross (pre packaged) salary amount regardless of whether employees participate in a salary packaging arrangement. The Government Employee Superannuation Board provides further information on its website.

5. MOTOR VEHICLES - NOVATED LEASE

Salary packaging arrangements will apply to exclusively privately used vehicles or second vehicles through full privately novated leases. This arrangement is available to all categories of employees, unless special circumstances exist wherein, a chief executive may approve alternative arrangements.

Salary packaging is not to result in the purchase or lease of additional motor vehicles by the Government or an agency. Where employees wish to enter into salary packaging arrangements and require vehicles for full private use, as part of their package, it will be necessary for employees to lease the vehicles and seek novation of those leases.

The novations of leases are a variation to the leases that employees have entered into whereby employers meet the lease payments. The ownership of the vehicles resides with the leasing companies. Should employees leave employment with the Government, the leases revert to the employees.

Novated leases should be used unless special circumstances exist and a chief executive, with the approval of the relevant minister, agrees to some other arrangement.

6. SUPERANNUATION

Most agencies and employees are members of the Government Employees Superannuation Board (GESB) Schemes. The GESB schemes include:

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- Pension Scheme (closed to new members);
 - Gold State Super (defined benefit, lump sum, closed to new members);
 - West State Super (accumulation, lump sum, closed to new members);
and
 - GESB Super (taxed accumulation, lump sum)

Different rules apply for each scheme relevant to salary packaging and these are outlined below. An agency and the bureau service provider must comply with the Government Employees Superannuation Board's (GESB) electronic and magnetic media data collection requirements.

Pension Scheme

- Employee contributions can be salary packaged.
- Existing employer contributions or costs cannot be converted to cash or other benefits.
- Employees may package additional voluntary contributions to West State Super, GESB Super or to a private superannuation fund.
- Employees may also make after tax voluntary contributions to West State Super, GESB Super or to a private superannuation fund.

Gold State Super

- Employee contributions (generally five percent of an employee's salary) can be paid under salary packaging.
- Employer contributions cannot be converted to cash or other benefits.
- Additional contributions can be paid by employees on a salary sacrifice basis or from after tax income, to either West State Super, GESB Super or to a private superannuation fund.

West State Super

- Employees may package voluntary contributions to West State Super or to a private superannuation fund.
 - Employees may also make after tax voluntary contributions to West State Super or to a private superannuation fund.
 - Compulsory employer contributions cannot be converted to cash or other benefits.
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GESB Super

- Employees may package voluntary contributions to GESB Super or to a private superannuation fund.
- Employees may also make after tax voluntary contributions to GESB Super or to a private superannuation fund.
- Compulsory employer contributions cannot be converted to cash or other benefits.

Other Approved Scheme

- Where, under the *State Superannuation Act 2000*, the Minister for Government Enterprises and the Treasurer have approved an alternative scheme into which Superannuation Guarantee (ie employer contributions) payments are made, the salary packaging arrangements are to be in accordance with the relevant scheme rules.

7. INPUT TAX CREDITS

Input Tax Credits (ITCs) may arise as a result of a salary packaging arrangement. Where ITCs arise, agencies may pass the value of the ITCs back to employees within the salary packaging arrangements, provided there are no additional costs to agencies. The treatment of ITCs is at the discretion of agencies.

8. INSTRUMENT FOR IMPLEMENTATION

Employees may, by agreement with agencies and consistent with the provisions of the relevant award, industrial agreement or contract, enter into a salary packaging arrangements in accordance with these Guidelines.

Employees will be required to enter into separate written agreements with agencies setting out the terms and conditions of the salary packaging arrangements.

9. BUREAU SERVICE

The RPS contract lists the 'bureau service' providers. This list may vary from time to time during the life of the RPS contract.

The RPS contract is a panel arrangement providing WA Government agencies and other approved users a choice of 'bureau service' provider. There are three categories of bureau services for remuneration packaging:

- full scope of services;
- employee superannuation; and
- motor vehicles for private use by way of novated lease only.

For further details refer to the Buyers' Guide.

When salary packaging employee superannuation contributions, packaging can be done directly to GESB without a bureau service. For more information contact the GESB Employer Relationship Manager for your agency on 9263 4111.

10. FINANCIAL ADVICE

Employees are to seek financial advice at their own cost before entering into salary packaging arrangements, except those employees who are salary packaging 50% or less of their TEC into voluntary superannuation contributions to GESB.

Employees are required to confirm through an acceptance of offer that they have received financial advice on their proposed salary packaging arrangements.

11. APPROVALS

It is the responsibility of public sector employers and relevant ministers to ensure that salary packaging arrangements are consistent with these Guidelines and ATO requirements. Agencies seeking to introduce salary packaging arrangements that are inconsistent with these Guidelines will require specific Cabinet approval.

12. REPORTING TO THE ATO

Most packaged benefits, which would ordinarily attract FBT, are required by the ATO to be reported on employee *Group Certificates/PAYG Summary of Income Payments* in accordance with relevant taxation legislation. Information concerning the types of benefits to be reported should be obtained from the ATO. Agencies will need to consider this factor if choosing to allow salary packaging.

13. COST NEUTRALITY

Agencies are not responsible for the costs associated with salary packaging arrangements. Such costs include:

- administration of the arrangement by agencies or bureau service providers, or
- where employees elect to salary package additional contributions into a GESB or GESB approved superannuation fund that incurs a cost, such costs are to be declared and passed on to employees.

Agencies must specify, in separate written agreements (see Section 9) that all costs associated with the administration of salary packaging arrangements will be borne by employees. The types and amounts of the costs are to be itemised in these agreements.

For items which attract FBT, agencies must pass on the cost to employees through the salary packaging arrangements. Agencies which receive concessional FBT treatment (eg public hospitals) will require Cabinet approval if employees are not being required to pay the FBT for fringe benefits received in excess of the capping threshold.
