APESMA

APESMA GUIDE TO remuneration packaging

The Association of Professional Engineers, Scientists and Managers, Australia

contents

INTRODUCTION

APESMA strongly supports the availability of remuneration packaging for professionals. The Association believes that the advantages to employees and employers in remuneration packaging are significant and should be seriously considered.

The Association further believes that remuneration packaging should be available to all professionals on an optional basis. As such, the Association is continuing to seek variation to contracts and enterprise agreements to allow individuals to access salary packaging without the need to compromise prescribed rates of pay.

The current tax system provides an environment for the useful application of remuneration packaging. It does not mean that remuneration packaging will be suitable for all employees. It does however mean that all options need to be considered.

Remuneration packaging: What is it?

Remuneration packaging has increasingly developed to become a feature of the remuneration of many employees. Its principal aim is to legitimately restructure the form in which employees receive income so as to maximise disposable income. Importantly, this is done in such a way so as not to impose any additional financial burden upon the employer.

How does it work?

Remuneration packaging exchanges taxable salary for benefits paid by the employer. The employee agrees to forgo or "sacrifice" the cost to the employer of providing the benefit.

For example, instead of an employee making a superannuation contribution upon which income tax has been paid, an employer will make the equivalent payment, and the employee will agree to accept a salary lowered by the amount of superannuation contribution. The employee will then pay income tax on the lower amount, but the superannuation contribution, having already been made, will mean that income tax is paid on a lower salary, and disposable income thereby increased.

Why consider it?

Whilst the benefits for employees are obvious – greater disposable income – it should be remembered that benefits exist for employers as well.

Effective remuneration strategies are measured in terms of satisfying the human resource objectives of an organisation. An effective remuneration policy will help achieve these objectives by helping to attract and retain quality staff and minimise staff turnover.

Organisations may well reap significant financial reward in lowering turnover and optimising output of employees. This may be achieved without additional employment costs being incurred. In fact, in some States, employers might gain reductions in workers' compensation premiums and payroll tax by having reduced the size of an organisation's payroll.

IN THE BEGINNING...

The opportunities available to increase disposable income using salary sacrifice, are generally governed by the principle of determining where the lowest tax burden will fall – under Income Tax or under the FBT.

Income tax

From 1 July 2012, Income Tax rates applicable in Australia are:

Taxable Income ($)	Tax ($)
0 – 18,200	0
18,201 – 37,000	19% of excess beyond 18,200
37,001 – 80,000	3,572 + 32.5% of excess beyond 37,000
80,001 – 180,000	17,547 + 37% of excess beyond 80,000
Over 180,000	54,547 + 45% of excess beyond 180,000

In addition, a 1.5% Medicare levy is payable by those earning taxable incomes above $22,828; those earning less than $66,667 are eligible for a low-income tax offset.

Fringe Benefits Tax (FBT)

The FBT is the tax payable on a non-salary benefit provided by an employer to an employee or an associate of an employee. Whilst it is the responsibility of the employer to meet the FBT liability, remuneration packaging will generally require the cost of FBT to be charged against the salary package of the employee.

The rate at which the Fringe Benefits Tax is levied is 46.5%. Importantly, the FBT rate is not applied to the direct cost of the benefit, but rather, to the grossed-up taxable value of the benefit, as determined by Australian Tax Office (ATO) rules. The grossed-up taxable value is determined by multiplying the cost of a benefit by the appropriate gross-up factor.

GST & FBT

The GST-inclusive value of a fringe benefit must be used when calculating its taxable value. The gross-up factor of 2.0647 is to be applied where the benefit attracts an input tax credit to the employer.

Determining the grossed-up taxable value of most benefits is therefore achieved by applying the formula:

Grossed-up taxable value = Cost of benefit x Gross-up factor
i.e. Grossed-up taxable value = Cost of benefit x 2.0647
thus the FBT = Cost of Benefit x 2.0647 x 0.465

The total charge to the salary package for a supplied fringe benefit attracting GST is calculated as follows:

Cost of benefit + (Cost of benefit x 2.0647 x 0.465)
– input tax credit

For each $1 of benefit, the charge to the salary package would then be:

$1+ (0.9601) - 0.090909 = 1.8692

This arrangement discourages salary packaging items attracting the full rate of FBT as the amount charged to the salary package will be equivalent (or often more) than the amount of gross income required to pay for the benefit with normal after-tax income, viz:

Marginal tax rate (inc. Medicare)	Gross salary required to earn $1 nett	Salary Sacrifice to obtain $1 benefit
0%	$1.00	$1.87
20.5%	$1.26	$1.87
34%	$1.52	$1.87
38.5%	$1.63	$1.87
46.5%	$1.87	$1.87

Example

John is a professional scientist whose employer is registered for GST purposes and is therefore able to claim an input tax credit for GST included in the purchase price of items attracting the GST.

John decides to package his football club membership subscription of $550.

Accordingly, John's employer will apply the GST-inclusive gross-up rate of 2.0647 to calculate the amount of FBT payable.

$550 + ($550 x 2.0647 x 0.465) – $50 = $1,028

If John had instead purchased the membership outright rather than have it packaged, (and assuming a marginal tax rate of 46.5%) he would have needed to earn $550/0.535 = $1,028 – an identical outcome.

Where input tax credits are not available to the employer, or GST is not levied on the goods or services provided, the gross-up factor of 1.8692 applies.

Payment summary reporting

Employers are required to record the value of fringe benefits supplied to employees. The value placed on these items is required to be the grossed-up taxable value applied to the GST-inclusive price of goods and services provided.

All fringe benefits provided to employees must be assessed. Where the value of fringe benefits does not exceed $2,000 or the benefit is deemed exempt (e.g. superannuation contributions, car parking, entertainment-related, etc), no reporting is required.

No income tax is payable on the value shown because fringe benefits are exempt income. The amounts shown will however be used to determine eligibility and liability in respect of:

- Medicare levy surcharge
- HECS
- Child support payments
- Termination payments surcharge
- Other government benefits

> "Effective remuneration strategies are measured in terms of satisfying the human resource objectives of an organisation. An effective remuneration policy will help achieve these objectives by helping to attract and retain quality staff and minimise staff turnover."

THE MENU

Some items remain viable for the purposes of salary packaging as current FBT legislation categorises various benefits in order to ascribe different levels of FBT. Put simply, these categories are:

- **Category 1:** Items attracting full FBT
- **Category 2:** Items attracting partial or "concessional" FBT
- **Category 3:** Items exempt from FBT

Category 1: Items attracting full FBT

Generally described as expenses not otherwise tax deductible to the employee.

- School fees
- Sporting club fees
- Personal loan repayments
- HECS fees
- Rent or Mortgage Costs
- Private telephone, electricity, gas etc.
- Holiday expenses
- Health Insurance premiums
- Credit card expenses
- Council rates/charges
- Spouse travel on business
- Car parking* (see Category 2 benefits)

The charge to an employee salary package for those items attracting GST will be:

Cost of benefit + FBT-input tax credit
where FBT=Cost of benefit x 2.0647 x 46.5%

The charge to an employee salary package for those items which do not attract GST will be:

Cost of benefit + FBT
where FBT=Cost of benefit x 1.8692 x 46.5%

Packaging these items gains no overall reduction in tax as income tax normally payable to achieve cost of benefit will be replaced by an equivalent FBT liability.

For employees earning less than $180,000 per annum, the FBT will actually be greater than income tax otherwise payable.

Example

Assume:	Mortgage Payment $1000 (GST exempt)
FBT Rate:	46.5%
Gross-up factor:	1.8692
FBT:	$1,000 x 1.8692 x 0.465 = $869
Charge to package	= Cost of benefit + FBT
	= $1,000 + $869
	= $1,869

- An employee with a marginal tax rate of 46.5% would need to earn $1,869 gross to pay for the $1,000 benefit. This is identical to the charge to salary package if the benefit were to be packaged. Hence no income tax advantage would be gained by packaging.
- Employees earning less than $180,000 (paying less than 46.5% income tax rate) would in fact be paying more by packaging in this example and for any item packaged which attracts the full rate of FBT.

Category 2: Items attracting partial or concessional FBT

These items offer scope for salary packaging depending on individual income circumstance.

- Motor vehicles
- Car parking
- Employer-provided loans

Motor vehicles

Motor vehicles have been a traditional feature of remuneration packages in Australia for many years.

The terms upon which motor vehicles are included as part of a salary package will vary depending on company policy and factors such as the proportion of business and private use of the vehicle. Typically the company car policy will provide an employee with either a company-owned or leased vehicle, an allowance for personal expenses incurred in operating a private vehicle for business purposes, or the option of administering a novated lease or associate lease.

Novated leasing is the most common method used by employees wishing to include a vehicle in their salary package.

GST

Several important aspects of the GST need to be considered in relation to motor vehicles, viz:

- Second-hand vehicles will attract a GST if purchased from a dealer registered for the GST. Private sales are exempted from payment of GST.
- Employee contributions to the running costs of a vehicle included in a salary package incur GST.
- A GST liability arises on the residual value of the vehicle. This may result in shortfalls where the realised market price is below the residual amount owed.

Salary package costs of motor vehicles

Employees will need to look closely at their overall tax position before deciding to embark on remuneration packaging a motor vehicle. Many employees will already have in place mechanisms that may reduce their taxable income and thereby reduce the effectiveness of salary packaging.

The charge to the salary package of the motor vehicle will depend primarily on two factors – the cost of the motor vehicle and the number of kilometres travelled each year.

The formula is:

Cost to salary package =
Running costs + FBT + lease costs - input tax credits

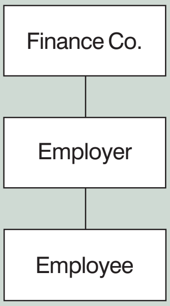
Running costs will include:

- Petrol, oil etc
- Registration (GST exempt)
- Tyres, repairs etc
- Vehicle service costs
- Insurance

In most circumstances, an employee will be issued with a single card (eg. Shell Card) against which all costs associated with the vehicle will be charged as a matter of simplifying administration.

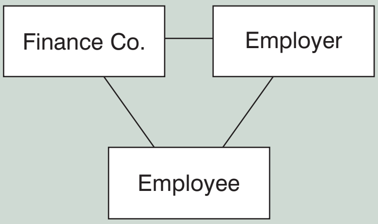
Set out here are the various types of leases available to employers/employees:

Employer-owned or leased vehicle



- The employee does not build equity in the car
- If the employee leaves, the company is responsible for ongoing payments
- The vehicle will appear as an asset on the company balance sheet
- If a profit is made on the sale of the vehicle, the owner of the vehicle will receive it even if the cost has been offset by salary sacrifice of an employee

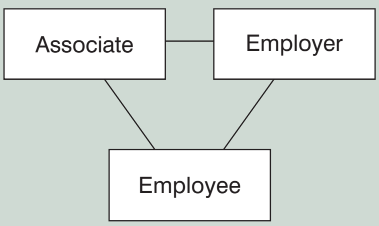
Novated lease



A novated lease is a leasing arrangement where an employee enters into a lease arrangement with a finance company.

- The car is recognised as employer-provided by the ATO (TR IT 2509)
- If employment is terminated, all financial obligations become the responsibility of the employee
- An employee is able to access equity built over time via salary sacrifice
- The vehicle will not appear on the company balance sheet
- Existing novated leases are able to be novated to new employers should the need arise
- An employee is able to choose the type of vehicle to suit personal preference
- More than one vehicle can be included in a salary package

Associate lease



An associate lease is an arrangement where an associate of the employee owns a vehicle and leases it to the employer, who in turn provides the vehicle to the employee

- The car is recognised as employer-provided by the ATO (TR IT 2509)
- If employment is terminated, all financial obligations become the responsibility of the Associate or the employee
- The Associate of the employee will be assessable for lease payments received from the employer, however the associate is eligible to claim interest and depreciation as deductions against other assessable income. The introduction of the GST has meant that due consideration must be given to the GST status of the Associate and whether or not GST-related input tax credits are available.
- The vehicle will not appear on the company balance sheet
- An Associate may be spouse, family member, family trust or family company

The Fringe Benefits Tax liability may be calculated using one of two methods – the ATO statutory rates method or the operating cost method.

The statutory rates method

The statutory rates method relies on prescribed rates dependent on total kilometres travelled by a vehicle during the year. The rates for vehicle contracts entered into **prior** to 11 May 2011 are:

Total kilometres travelled per annum	Statutory Percentage
0 – 15,000	26%
15,001 – 24,999	20%
25,000 – 40,000	11%
Over 40,000	7%

The rates for vehicle contracts entered into **after** 11 May 2011 are:

Distance travelled during the FBT year (1 April-31 March)	Statutory rate (multiplied by the cost of the car to determine taxable value of benefit)				
		New contracts entered into after 7:30pm (AEST) on 10 May 2011			
	Existing contracts	From 10/5/11	From 1/4/12	From 1/4/13	From 1/4/14
0 - 15,000 km	0.26	0.20	0.20	0.20	0.20
15,000 - 25,000 km	0.20	0.20	0.20	0.20	0.20
25,000 - 40,000 km	0.11	0.14	0.17	0.20	0.20
> 40,000 km	0.07	0.10	0.13	0.17	0.20

The taxable value is then calculated using the formula ABC/D - E where

A is the base value of the car

B is the relevant statutory percentage

C is the number of days in the year for which the car was available for private use

D is the number of days in the tax year

E is the amount of recipient contribution

Once the taxable value is established, the FBT liability is determined normally, ie. taxable value x gross-up factor x FBT rate.

The importance of the employee contribution is evident in the example at right. Without the employee contribution, the FBT charge to the salary package is 46.5%, which is much higher than the marginal tax rate of 34% (inc Medicare levy) in this example. The greatest advantage of the employee contribution to running costs accrues to those subject to less than the top marginal income tax rate of 46.5% (inc. Medicare levy). Under existing tax scales, the top rate of 46.5% will apply on taxable incomes above $180,000 per annum.

It is important to note that these savings have been achieved without additional cost to the employer.

The operating cost method

The operating cost method is rarely used to assess FBT liability because of the heavier administrative burden. It requires detailed log book entries to be kept as well as receipted records of all expenses. The taxable value of the benefit is not discounted for any input tax credits available on running costs if the operating cost method is used.

For those who wish to use the operating cost method, the following formula applies:

B=C x (100%-BP) where 'C' is the operating cost of the vehicle & BP is the business percentage deemed from logbook records.

NB: It is important to remember that under both methods, any after-tax employee contribution toward running costs will reduce taxable value by that amount contributed.

Example (see Table 1):

Assumptions:

Salary = $75,000 per annum

Base Value of Car = $33,500

Statutory rate = 20% (20,000 kms)

Employee Contribution = FBT payable = $33,500 x 0.20 = $6,700

Full input tax credits are available

Days motor vehicle available for private use = 365

Example – Table 1

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$75,000	Salary	$75,000
less Salary Sacrifice[1]	$5,702	less Income Tax	
Taxable income	$69,298	(inc. Medicare)	$17,047
less Income Tax (inc. Medicare)	$15,108	less Motor vehicle	
less Recipient contribution	$6,700	expenses	$12,922
Disposable Income	**$47,490**	**Disposable income**	**$45,031**

Disposable income has been increased by $2,459 per annum by packaging

1 Calculation of salary sacrifice

Lease costs	$8,242
Petrol & Oil	$1,980
Maintenance	$1,430
Insurance	$770
Registration (GST exempt)	$500
Total expenses	$12,922
less input tax credits	$1,129
less employee contribution	$6,700
plus GST on employee contribution	$609
Salary Sacrifice amount	$5,702

"It is important to note that the savings shown here have been achieved without additional cost to the employer."

Example (see Table 2):

Assumptions:

Salary = $75,000 per annum

Base Value of Car = $22,000

Statutory rate = 11% (25,001 kms) *

Employee Contribution = $22,000 x 0.11 = $2,420

Full input tax credits are available

Days motor vehicle available for private use = 365

Example – Table 2

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$75,000	Salary	$75,000
less Salary Sacrifice[1]	$6,028	less Income tax	
Taxable Income	$68,972	(inc Medicare)	$17,047
less Income Tax (inc Medicare)	$14,997	less Motor Vehicle	$9,001
less Recipient contribution	$2,420		
Disposable Income	**$51,555**	**Disposable Income**	**$48,952**

Disposable income has been increased by $2,603 per annum by packaging

1 Calculation of salary sacrifice	
Lease costs	$5,136
Petrol & Oil	$1,550
Maintenance	$1,155
Insurance	$660
Registration (GST exempt)	$500
Total expenses	$9,001
less input tax credits	$773
less employee contribution	$2,420
plus GST on employee contribution	$220
Salary Sacrifice amount	$6,028

Example (see Table 3):

Assumptions:

Salary = $90,000 per annum

Base Value of Car = $42,000

Statutory rate = 11% (25,001 kms) *

Employee contribution = $42,000 x 0.11 = $4,620

Full input tax credits are available

Days motor vehicle available for private use = 365

** Contract entered into prior to 11 May 2011.*

Example – Table 3

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$90,000	Salary	$90,000
less Salary Sacrifice[1]	$9,418	less Income tax	
Taxable Income	$80,582	(inc Medicare)	$22,597
less Income Tax (inc Medicare)	$18,971	less Motor Vehicle exp	$14,930
less Recipient contribution	$4,620		
Disposable Income	**$56,991**	**Disposable Income**	**$52,473**

Disposable income has been increased by $4,518 per annum by packaging

1 Calculation of salary sacrifice	
Lease costs	$9,800
Petrol & Oil	$2,350
Maintenance	$1,400
Insurance	$880
Registration (GST exempt)	$500
Total expenses	$14,930
less input tax credits	$1,312
less employee contribution	$4,620
plus GST on employee contribution	$420
Salary Sacrifice amount	$9,418

Answers to common questions about packaging motor vehicles

Can more than one motor vehicle be packaged?

There are no restrictions on the number of vehicles which can be packaged, however this would only be done by those earning sufficient income to make it worthwhile from a taxation viewpoint.

Are there any restrictions on the choice of vehicle that can be packaged?

The answer to this question will be determined by the policy of the finance company. Generally speaking, finance companies are prepared to consider any vehicle, new or used, providing agreement can be reached on the value of the vehicle.

What happens if the employee changes employers?

One of the major benefits of the novated lease is its portability. Should an employee leave their current employer, the new employer, if agreeable, is able to assume responsibility for the lease costs once the agreements have been suitably altered. In the absence of an employer, the employee is responsible for maintaining the lease payments.

Should the statutory rates method or the operating cost method be used to determine FBT liability?

Most companies use the statutory rates method to establish the FBT liability because it is less cumbersome. Also, under the GST regime, the taxable value of a car benefit is not discounted for any input tax credit on running expenses claimed when the operating cost method is used.

Does the GST apply to residual payments due at the end of the lease period?

Yes. 10% of the residual value is payable at the completion of the lease period.

Do I own the vehicle if I pay out the residual on a novated finance lease?

At the end of the lease period the finance company will sell the vehicle. The employee has no claim on the vehicle at the end of the term however finance companies will usually offer the vehicle to the employee at the residual value plus GST. The employee is under no obligation to purchase.

Does the GST apply to my after tax contribution to vehicle running costs?

Yes, a GST liability arises from employee contributions to the running costs of vehicles, being 1/11th of the contribution.

Should I package a car or take a car allowance to reimburse for business use of my own vehicle?

Unfortunately, the decision to take a car allowance or salary package a vehicle is not an easy one. Under current income tax scales, salaries in the range of $37,000 to $80,000 per annum will attract a top marginal rate of 34.5% per annum, inclusive of the Medicare levy.

The critical factor is the amount of FBT payable. This is linked to two principal factors – the cost of the vehicle and the number of kilometres travelled. Where the vehicle is above average in cost (say, more than $35,000) and the annual kilometres travelled are low (under 25,000), in most cases the car allowance will be preferable because of the relatively high packaging FBT liability. The decision will be further affected by any amount of business-related travel which may be claimed as an income tax deduction.

Where business use is high, the employer would normally provide a vehicle as part of the employment arrangement.

What are the current ATO rates for reimbursement for business use of private vehicles?

For the purposes of reimbursement for business use of a private vehicle, the 2011/12 Australian Tax Office car expense rates are as follows:

Engine size	Cents per km
up to 1600cc	63.0
1600cc to 2600cc	74.0
Over 2600cc	75.0

What about the option of a hire purchase agreement instead of a lease agreement?

Lease agreements generally attract lower interest rates and administration charges because the provision of a lease is not considered a financial supply, and so input tax credits are available to the finance company. Also, where the finance company is entitled to an input tax credit, lease payments are based on the GST exclusive value of the car.

Acquisitions made by a finance company to provide a hire purchase agreement are not eligible for input tax credits, and hire purchase contracts are based on the GST-inclusive value of the car. Also, from an employer's perspective, novated leases do not need to be shown on the balance sheet whereas hire purchase contracts must be shown.

Realistically, you should assess the cost of both options prior to making a final decision on the matter.

"One of the major benefits of the novated lease is its portability. Should an employee leave their current employer, the new employer, if agreeable, is able to assume responsibility for the lease costs once the agreements have been suitably altered. In the absence of an employer, the employee is responsible for maintaining the lease payments."

Car parking

A car parking benefit will be deemed to exist where an employer provides car parking facilities within business premises owned or leased by the employer, subject to the following criteria being fulfilled:

- a commercial parking station exists within 1km of the employer provided parking facility
- the lowest fee charged for all-day parking at the commercial facility exceeds the car parking threshold figure (currently $7.83)
- the employee's car is parked for a total of more than 4 hours between 7am and 7pm, not necessarily on a continuous basis.

Note: An exemption exists on FBT for car parking for certain employers where the benefit is not provided in a commercial carpark.

Employers (other than government bodies, listed public companies and subsidiaries) qualify for exemption where their gross income in less than $10m.

Employer-provided loans

Low interest loans are sometimes offered by employers. The attractiveness will depend on the level of interest being charged by the employer as these loans are subject to the Fringe Benefits Tax.

A fringe benefit arises where the rate of interest charge on an employer provided loan is less than the benchmark rate prescribed by the ATO. The benchmark rate for the FBT year commencing 1 April 2012 is 7.4%.

The taxable value of the fringe benefit is determined as the difference between the amount of interest that would have accrued had the statutory interest rate been applied to the outstanding balance, and the actual interest which accrued.

Hence:

Taxable value =
Benchmark rate - actual interest rate

If the loan is an investment loan, a reduction in taxable value is available. If the employee would have received a tax deduction for the interest on the loan, the taxable value is reduced by that proportion. A declaration is required from the employee in this circumstance.

Example (see Table 5)

Assumptions:

Professional subscription = $550 (inc. GST)

Annual salary = $75,000 per annum

Category 3 – Items exempt from FBT

Considerable advantages may be gained from packaging items which are exempt from the Fringe Benefits Tax. The following are the most commonly packaged items which attract no FBT liability.

- a laptop computer (where used primarily for business, one per year)
- mobile phones (where used primarily for business)
- protective clothing
- briefcase
- calculators
- computer software (work-related)
- work related tools of trade
- employee share plans
- contributions to superannuation
- employer provided child care
- $1,000 of employer product or service

Example – Laptop Computer (see Table 4)

Assumptions:

Laptop cost = $3,300 (inc GST)

Salary = $70,000

The initial purchase could be funded as either a loan from the employer which could be repaid pre-tax over a short-term or a lease/purchase arrangement could be entered into and the lease payments made pre-tax over the term of the lease.

Example – Table 4

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$70,000	Salary	$70,000
less Salary Sacrifice[1]	$3,000	less Income tax (inc Medicare)	$15,347
Taxable Income	$67,000	less cost of laptop	$3,300
less Income Tax (inc Medicare)	$14,327		
Disposable Income	**$52,673**	**Disposable Income**	**$51,353**

Disposable income has been increased by $1,320 per annum by packaging

1 Calculation of salary sacrifice

Cost of laptop	$3,300
less input tax credit	$300
Salary Sacrifice	$3,000

Otherwise deductible expenses

Under existing legislation it appears that exempt and otherwise deductible expenses may be salary packaged in order to avoid part of the GST. Previously, an otherwise deductible expense, such as professional subscriptions, was claimed as an income tax deduction or salary packaged in order to facilitate its exemption from income tax.

Currently, the same deductiblilty rules apply, however, as an otherwise deductible item, no FBT is payable and therefore the new gross-up factor of 2.0647 will not be applied. An input tax credit is still available to the employer and so the cost to the salary package will be the cost of the expense less the GST payable.

Example – Table 5

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$75,000	Salary	$75,000
less Salary Sacrifice[1]	$500	less prof. subscription	$550
Taxable Income	$74,500	Taxable income	$74,450
less Income Tax (inc Medicare)	$16,877	less Income Tax (inc Medicare)	$16,860
Disposable Income	**$57,623**	**Disposable Income**	**$57,590**

Disposable income has been increased by $33 per annum by packaging

1 Calculation of salary sacrifice

Cost of subscription	$550
less input tax credit	$50
Salary Sacrifice	$500

Other items which fall into the category of otherwise deductible expenses include:

- Disability/income protection insurance premiums
- Work-related travel expenses
- Home office expenses
- Financial planning advice

Superannuation

Under Superannuation Guarantee legislation, an employer is required to contribute a minimum 9% of an employee's salary to an approved superannuation fund.

This contribution level is a minimum requirement only. Generally, professionals have traditionally received employer sponsored superannuation well in excess of these legislated amounts.

The APESMA June 2012 Professional Engineer Remuneration Survey reported an average employer superannuation contribution of around 11%.

Contributions made by an employer are exempt from FBT however all employer contributions are subject to a contributions tax of 15%.

Note: From 1 July 2012, a limit of $25,000 per annum of employer superannuation contributions will be imposed. This limit will apply to all contributors regardless of age.

Additional contributions made by employees after income tax has been paid attract no additional tax liability.

Types of schemes

Accumulation schemes are the most common type of superannuation schemes. These schemes work much like a savings account so that contributions are made over time by the employer and into which employees may elect to make matching contributions. Fund managers then invest these sums in order to obtain returns for fund members.

Accumulation funds are ideally suited for remuneration packaging as the level of employer contribution can be varied as desired. The other type of superannuation scheme is known as a Defined Benefit scheme. These types of schemes are more common in the public sector. They are designed around fixed levels of employer contributions in order to facilitate a fixed level of return for employees. As such, these types of schemes are not suited to remuneration packaging arrangements.

The methodology for packaging superannuation is relatively straightforward. It simply requires an employee reaching agreement with their employer to have the elected amount of employee superannuation contribution salary sacrificed and paid into the complying superannuation fund.

Example – Table 6

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$80,000	Salary	$80,000
less Salary Sacrifice[1]	$4,706	less Income Tax (inc Medicare)	$18,747
Taxable Income	$75,294	less Superannuation Contribution	$4,000
less Income Tax (inc. Medicare)	$17,147		
Disposable Income	**$58,147**	**Disposable Income**	**$57,253**

Disposable income has been increased by $894 per annum by packaging

1 Calculation of salary sacrifice

Superannuation Contribution	$4,000
plus contributions tax	$706
Salary Sacrifice	$4,706

Example (see Table 6)

Assumptions:

Annual salary = $80,000

Employee Contribution = 5% = $4,000

Alternatively, the employee could elect to increase the level of superannuation contributions rather than enjoy a higher disposable income.

Example – Table 7

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$80,000	Salary	$80,000
less Salary Sacrifice[1]	$6,060	less Income Tax	$18,747
Taxable Income	$73,940	less Superannuation Contribution	$4,000
less Income Tax	$16,687		
Disposable Income	**$57,253**	**Disposable Income**	**$57,253**

Disposable income has remained the same, but contribution to superannuation fund has increased by $1,270

1 Calculation of salary sacrifice

Superannuation Contribution	$5,270
plus contributions tax	$790
Salary Sacrifice	$6,060

PUTTING IT ALL TOGETHER

Example

Assumptions:

Salary = $80,000 per annum

Employee superannuation contribution = 3.75% = $3,000 per annum

Laptop computer = $3,300

Base value of car = $30,000

Statutory Rate for motor vehicle FBT = 20% (20,000 kms per annum)

Employee contribution to MV running costs = $30,000 x 20% = $6,000

100% private use of motor vehicle

Days motor vehicle available for private use = 365

Full input tax credits available

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$80,000	Salary	$80,000
less Superannuation[1]	$3,529	less Income Tax	
less Laptop[2]	$3,000	(inc Medicare)	$18,747
less Motor Vehicle[3]	$5,550	less Superannuation	$3,000
less Income Tax (inc Medicare)	$14.640	less Laptop	$3,300
less MV recipient contribution	$6,000	less Motor Vehicle exp	$12,050
Disposable Income	**$47,281**	**Disposable Income**	**$42,903**

Disposable income has been increased by $4,378 per annum by packaging

1	Superannuation Contribution (5%)	$3,000
	plus Contributions tax adjustment	$529
	Salary Sacrifice amount	$3,529
2	Laptop	$3,300
	less input tax credit	$300
	Salary Sacrifice amount	$3,000
3	Motor vehicle lease	$7,000
	Petrol & Oil	$2,400
	Maintenance	$1,300
	Insurance	$800
	Registration (GST exempt)	$550
	Total expenses	$12,050
	less input tax credits	$1,045
	less employee contribution	$6,000
	plus GST on employee contribution	$545
	Salary Sacrifice amount	$5,550

Example

Assumptions:

Salary = $90,000 per annum

Employee superannuation contribution = 4.45% = $4,000 per annum

Laptop computer = $3,300

Base value of car = $30,000

Statutory Rate for motor vehicle FBT = 20% (20,000 kms per annum)

Employee contribution to MV running costs = $30,000 x 20% = $6,000

100% private use of motor vehicle

Days motor vehicle available for private use = 365

Full input tax credits available

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$90,000	Salary	$90,000
less Superannuation[1]	$4,706	less Income Tax	
less Laptop[2]	$3,000	(inc Medicare)	$22,597
less Motor Vehicle[3]	$5,550	less Superannuation	$4,000
less Income Tax (inc Medicare)	$17,639	less Laptop	$3,300
less MV recipient contribution	$6,000	less Motor Vehicle exp	$12,050
Disposable Income	**$53,105**	**Disposable Income**	**$48,053**

Disposable income has been increased by $5,052 per annum by packaging

1	Superannuation Contribution (5%)	$4,000
	plus Contributions tax adjustment	$706
	Salary Sacrifice amount	$4,706
2	Laptop	$3,300
	less input tax credit	$300
	Salary Sacrifice amount	$3,000
3	Motor vehicle lease	$7,000
	Petrol & Oil	$2,400
	Maintenance	$1,300
	Insurance	$800
	Registration (GST exempt)	$550
	Total expenses	$12,050
	less input tax credits	$1045
	less employee contribution	$6,000
	plus GST on employee contribution	$545
	Salary Sacrifice amount	$5,550

Example

Assumptions:

Salary = $200,000 per annum

Employee superannuation contribution = 2.5% = $5,000 per annum

Laptop computer = $3,300

Base value of car = $50,000

Statutory Rate for motor vehicle FBT = 20% (20,000 kms per annum)

Employee contribution to MV running costs = Nil

100% private use of motor vehicle

Full input tax credits available

Days motor vehicle available for private use = 365

WITH PACKAGING		WITHOUT PACKAGING	
Salary	$200,000	Salary	$200,000
less Superannuation[1]	$5,882	less Income Tax (inc. M'care)	$66,547
less Laptop[2]	$3,000	less Superannuation	$5,000
less Motor Vehicle[3]	$26,332	less MV expenses	$18,350
less Income Tax (inc. Medicare)	$51,390	less Laptop	$3,300
Disposable Income	**$113,396**	**Disposable Income**	**$106,803**

Disposable income has been increased by $6,593 per annum by packaging

1	Superannuation Contribution (2.5%)	$5,000
	plus Contributions tax adjustment	$882
	Salary Sacrifice amount	$5,882
2	Laptop	$3,300
	less input tax credit	$300
	Salary Sacrifice amount	$3,000
3	Motor vehicle lease	$12,000
	Petrol & Oil	$3,000
	Maintenance	$1,600
	Insurance	$1,200
	Registration (GST exempt)	$550
	Total expenses	$18,350
	less input tax credits	$1,618
	plus FBT	$9,600
	Salary Sacrifice amount	$26,332

Qualifying employee share plans

Employee share plans allow employees to receive $1,000 of shares, tax exempt, per annum or alternatively, elect to defer tax on shares for up to 10 years. Only those plans which meet certain criteria qualify. Such criteria includes:

- no employee holds more than 5% of voting shares of the company
- the shares must be of the employer or holding company
- the shares acquired must not be subject to forfeiture
- there exists restrictions on disposal of shares for three years
- the same share benefits are offered to all eligible employees

Employer-provided child care

Where an employer provides a childcare facility on or near its business premises, the cost of the childcare is exempted from FBT.

Remuneration packaging checklist

Whilst there is no general right to remuneration packaging (although it is a feature of many awards and enterprise agreements), most employers and employees are able to implement various arrangements to make use of the concept once agreement is obtained from the employer.

It is strongly recommended that salary sacrifice arrangements are documented so as to protect the interests of both employers and employees. Such documentation should make reference to the following:

- Items linked to the amount of normal salary received by an employee are not affected by salary packaging and that calculations of these items are done on the value of pre-package salary. Such items might include superannuation contributions, overtime and shift penalties, annual leave loading, termination payments and any other entitlements paid in proportion to normal salary
- Where the payroll function is outsourced, the entity administering the salary package should be readily identifiable. Many organisations allow the employee to nominate a salary administration bureau for the purposes of remuneration packaging
- Rise and fall clauses should be included to allow for a change in the mix of benefits arising from changes to taxation laws or pay increases
- A glossary of terms used in the agreement
- Explicit procedures relating to termination of employer obligations for packaged benefits
- A comprehensive list of items included in the salary package, including FBT liabilities and GST status.

Important points to remember

- Employer superannuation contributions are preserved until retirement and cannot be accessed unless significant financial hardship can be demonstrated.
- Items linked to salary such as overtime payments and annual leave loading need to be linked to total package, not notional salary. Ensure this is agreed upon with your employer.
- Where an Award exists, salary sacrifice cannot reduce salary below award level, unless the Award is varied to allow for salary packaging. Over-award payments will not be affected.
- Given ATO scrutiny of mechanisms aimed at avoiding taxation obligations, employees should be mindful that devices used to avoid rather than minimise tax are under constant scrutiny and such devices should not be the basis of long-term salary packaging strategies.
- Salary packaging is unavailable for income that has already been derived. Attempts to package retrospective salaries are not recognised as legitimate by the ATO and an employee will be assessed on the value of the benefits provided in such cases.
- Adjustments and reconciliations are often a part of salary packaging arrangements as often the anticipated cost of a benefit will vary from the actual cost (esp. motor vehicles). It is important to document arrangements to deal with shortfalls or overpayments, with appropriate rise and fall clauses.

Special cases

Rebateable employers

Some employers receive a rebate of 48% on the rate of FBT payable, affording a far greater opportunity for employees of these organisations to engage in effective salary packaging arrangements. Generally speaking these are non-profit non-government agencies such as religious institutions, schools, trade unions, sporting clubs and research bodies.

Employees of these bodies are restricted to packaging amounts with a grossed-up value of up to $30,000 per annum.

Employers exempt from FBT

Fringe Benefits provided to employees of certain other organisations are exempt from FBT, making salary packaging extremely effective as only the cost of the benefit is charged to the employee's before tax salary package. Most notably these are charities and public benevolent institutions. Again the $30,000 cap will apply.

Special case: Employees of public and not-for-profit hospitals will have a cap of only $17,000 worth of grossed-up benefits available.

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