Arrangements for salary packaging from 1 April 2016

What is Salary Packaging?
Salary packaging is an arrangement whereby future cash salary and wages are remodelled with the approval of the employer into a combination of cash and non-cash benefits to suit the employee's individual needs.

A legitimate salary packaging arrangement cannot be made retrospectively for salary or wages which have already been earned. Employees may obtain a benefit in net remuneration but it must be at no additional cost to the Government as the employer.

What Can Be Salary Packaged?
The full list of the Queensland Government approved benefit items is included in Attachment One.

Provision to be in Certified Agreements
The Government's approval of the introduction of salary packaging in the Queensland public sector was on the basis that it would be delivered through wage bargaining where business cases had been approved by the Government as part of the wage bargaining approval process.

The Office of Industrial Relations shall be consulted when an agency wishes to have a suitable clause inserted into a certified agreement or an award.

Salary Packaging Principles
The following principles for salary packaging were endorsed by the Government in 1999 and remain unchanged ***except for the financial advice requirements***.

- There is to be no cost to the Government either directly or indirectly. The fringe benefits tax (FBT) debts and recovery policy is found at Attachment Two.
- The costs for administering the package, including FBT, will be passed to employees as part of their salary package.
- There must be no additional increases in superannuation costs or to FBT payments made by the Government.
- Increases or variations in taxation that arise from salary packaging arrangements are passed to employees as part of their salary package.
- The Government ***strongly recommends*** that employees obtain independent financial advice before taking up a salary package.
- There will be no significant additional workload or other recurring costs to the Government.
- The salary packaging arrangements will be managed through contracted companies which would provide a salary packaging service. Salary packaging service providers are to be contracted through the appropriate State Purchasing Policy arrangement.
- The management and administrative costs charged by the salary packaging service are to be recovered from the participating employee.

Requirements of the Australian Taxation Office (ATO)
Currently the ATO does not have a limit on the percentage of income that can be packaged, but 50% is considered an appropriate maximum proportion. However, the Government has approved that there be no limit on the amount of salary that an employee may salary package to superannuation. (See NOTE at page 5). Examples are included on page 4.

Standing Offer Arrangement (SOA)
All agencies (other than Government-Owned Corporations) are required to use the salary packaging administrators contracted by Queensland Government Procurement under an SOA.

Government-Owned Corporations may at their discretion utilise the services of the contracted salary packaging administrators.

Participating employees will be required to recompense any administration fees as agreed in the SOA (or another contractual arrangement if the SOA is not used) by including them in their salary packaging amounts. The payment of these will not be subject to FBT. The fees charged for administering the salary packaging payments made under the SOA will be deducted from the employee's pre-tax salary packaged amount that has been transferred by the employer to the salary packaging administrator.

SOA from 1 April 2016
During 2015/16 a process to enter a new Standing Offer Arrangement (SOA No. PTD0027-16) was undertaken resulting in a panel arrangement of two providers. The providers as from 1 April 2016 are Remuneration Services (Qld) Pty Ltd (RemServ) and SmartSalary Pty Limited.

Accordingly, Queensland Health which under the previous SOA had elected to exercise its right to utilise the services of a sole provider (RemServ), will also now utilise the services of SmartSalary under the new SOA. Subject to the necessary payroll system configuration and process changes having been finalised, it is anticipated that Queensland Health will be able to operate salary packaging through SmartSalary from the **first pay day in July 2016**.

Employees under the new Standing Offer Arrangement will be able to:
- salary package with one (1) provider per FBT year;
- request transition to another provider during the period 15 January through to 15 February each year; and
- transition to the other provider at the commencement of the FBT year (1 April).

Queensland Government Procurement at its entire discretion may vary this and introduce different transition procedures, including 3 or more additional transition opportunities for employees during the FBT year.

Employees transferring and/or seconding to Queensland Health who have an existing salary packaging arrangement with SmartSalary will be required to transition to RemServ at the time of transfer/secondment to RemServ until such time as Queensland Health is able to also accommodate SmartSalary as referred to above.

Employees wishing to transition to another provider must repay any outstanding FBT liabilities prior to transition. Employees transferring and/or seconding to Queensland Health, in the circumstances described above will be requested to repay any outstanding FBT liabilities prior to transition.

Salary Packaging Administrators
The salary packaging administrators are to:
- Copy and distribute documentation to employees explaining salary packaging.
- Conduct information sessions for employees in Brisbane and regional centres.
- Provide ongoing administration.

Liability
There are four main contractual relationships that need to be considered:
- Agency and participating employee.
- Agency and salary packaging administrator.
- Employee and salary packaging administrator.
- Employee and his/her financial adviser.

The participation agreement provides for the following:
- Indemnity of the agency against any claims by the employee arising from the salary packaging arrangement; and
- The employee's written or electronic authorisation for the agency to make the necessary deductions from salary.

The participation agreement between the agency and the employee allows the employee mobility across the service with minimal disruption to their remuneration arrangements.

A contract between the State of Queensland and the salary packaging administrator should provide for the following:

- An indemnity from the administrator against all claims that the employee might make;
- The procedures and protocols to ensure a quality service; and
- A requirement that the administrator would not act outside the scope of the agreed procedures and protocols.

Independent Financial Advice
These arrangements do not contain any mandatory requirement for independent financial advice. The Queensland Government therefore strongly recommends that employees obtain independent financial advice before entering into a packaging arrangement. According to ATO guidelines, financial advice sought by employees in regard to salary packaging arrangements will be subject to FBT when the cost is included as part of a salary packaging arrangement.

Superannuation
Effective July 2017, Queensland public sector employees will be able to choose their superannuation provider. However, QSuper will remain the default fund, which means your superannuation contributions made by way of salary packaging will continue to be made to QSuper unless you exercise choice. Superannuation payments are to be sent directly from the agency's payroll to the employee's nominated super fund, rather than being paid through a salary packaging administrator's account.

If you wish to exercise choice, you should carefully consider your options and seek independent financial advice. Your human resources unit or payroll provider can tell you how to arrange for your superannuation contributions to be paid to a different provider – but they cannot provide you with advice on which fund to choose. For more information, please visit: www.forgov.qld.gov.au/superannuation.

Government Boards, Committees and Statutory Authorities
Remuneration of part-time members of government boards, committees and statutory authorities may be packaged in accordance with these principles and arrangements.

Further Enquiries
Please ensure when distributing this information within your agency that a contact officer from your agency is nominated for further enquiries.

Andrew Harris
Executive Director

FURTHER INFORMATION

The Division of Public Sector Industrial Relations (PSIR) provides advice services to Queensland Government departments and agencies. It is part of the Office of Industrial Relations.

General enquiries about public sector industrial relations matters should be directed to PSIR on phone number 07 3225 8027 or email M-IR@justice.qld.gov.au.

Specific enquiries about salary packaging should be directed to either of the salary packaging administrators on phone 1300 30 40 10 (RemServ) or phone 1300 218 598 (SmartSalary).

For information about salary packaging go to either the Queensland Contract Directory website (http://qcd.govnet.qld.gov.au/Pages/Details.aspx?RecID=1696) or the administrators' websites at www.remservsalarypackage.com.au (RemServ) or http://qld.smartsalary.com.au/ (SmartSalary).

ATTACHMENT ONE - ALLOWABLE SALARY PACKAGING ITEMS

Note: The arrangements outlined in this attachment include amendments to take effect 1 July 2010

Subject to any future limitations introduced by amendments to Commonwealth legislation and/or changes to ATO guidelines, an employee may package up to 50% of their salary into items other than superannuation. Superannuation may be packaged up to 100% of salary (excluding that portion of superannuation which is nominated as the 'employer contribution').

That is, an employee may choose to salary package in either of the following combinations:

- Any percentage of salary up to 100% sacrificed to superannuation only. (See NOTE at page 5)
- Up to 50% of salary packaged to other items, plus the remaining percentage, up to a total of 100% of salary, packaged to superannuation (eg, 20% to each laptop and novated car lease, plus 60% to superannuation) (See NOTE at page 5).

When entering into a salary packaging arrangement for the first time, or adding a new item/items to an already agreed packaging arrangement, the employee is ***strongly recommended*** to seek independent financial advice.

"Not subject to FBT" or "Otherwise Deductible" Package Items

- Superannuation
- Portable electronic devices - from 7:30pm on 13 May 2008 portable electronic devices primarily for use in the employee's employment. Only one item with substantially identical features is available per FBT year (excluding items purchased as a replacement for an existing device)
- Computer software primarily for use in the employee's employment and purchased with the portable electronic device
- Work Uniforms (ATO conditions apply)
- Professional association membership fees or subscriptions (work-related)
- Airport lounge membership
- Child care fees (at facilities that comply with FBT legislation regarding centres located on the employer's business premises, as advised by Queensland Treasury and Queensland Government Procurement)
- Public transport costs[1] (bus travel between home and workplace only.)
- Financial counselling fees (FBT conditions apply) [2]
- Disability/Income protection insurance premiums
- Professional development expenses [3] (related to the employee's current employment activities)
- Professional development travel expenses [3] (not including travel to and from work)
- In-House private health/fitness centre membership (at facilities that comply with FBT legislation regarding centres located on the employer's business premises, and as advised by Queensland Treasury and the Queensland Government Procurement)
- Royal Brisbane Women's Hospital Cycle Centre Fees
- Car parking fees [4]

"Part or Concessionally Taxed for FBT Purposes" Package Item

- Novated lease on a motor vehicle (private use)

"Full FBT Applied" Package Items

- HELP fees (previously known as HECS Fees)
- Private health insurance
- Private health/fitness centre memberships
- Private rental payments
- Own home mortgage payments
- Car parking
- Desktop computer (non-work related) including other peripherals (hard drive, printer, router and web cam)
- Computer software (non-work related)
- Portable electronic devices (non-work related)
- Personal loan repayments
- Aged and disabled care payments
- Savings/investment scheme (non-superannuation) contributions
- Insurance premiums (other than income protection insurance)
- House/contents insurance (on employee's principal place of residence)
- Child care fees (non employer owned)

- Private school fees
- Private travel
- Public transport costs
- Financial counselling fees [2]
- Club/association (non work-related) membership subscriptions
- Motor vehicle operating expenses
- Payments to utilities (private telephone, electricity, local government rates, etc)

1 This item has not yet been established as at 1 April 2016. It will be made available in due course subject to the finalisation of Translink processes and obtaining the relevant ATO private ruling).

2 Financial counselling/advice about salary packaging will attract full FBT.

3 Professional Development Expenses and Professional Development Travel Expenses must be wholly deductible for income tax purposes in the year in which they were incurred as if the employee had not claimed through salary packaging but rather sought to claim a personal deduction on their income tax return.

4 Provided that the car parking provider invoices the employer and not the employee.

NOTES:

Concessional Contributions Limits

Federal legislation governing superannuation contributions provide for a concessional tax rate of 15% of superannuation contributions up to a certain maximum per year depending on the person's age.

For 2016-2017, employees aged 49 or over on 30 June 2016 are able to receive up to $35,000 of concessionally taxed employer contributions. Employees aged less than 49 on 30 June 2016 are subject to a $30,000 concessional contributions cap.

Concessional contributions include:

- employer contributions (including contributions made under a salary sacrifice arrangement)
- personal contributions claimed as a tax deduction by a self-employed person.

The concessional contributions cap is indexed in line with average weekly ordinary time earnings, in increments of $5,000 (rounded down).

Employer/salary sacrifice contributions in excess of the maximum limits will be included as taxable income and taxed at the marginal tax rate plus an excess concessional contributions charge.

Reportable Employer Super Contributions (RESC)

Where an employee enters into salary packaging for superannuation contributions, Commonwealth legislation requires the employer to show on the employee's payment summary the amount of the sacrificed superannuation. This amount is known as the Reportable Employer Super Contribution (RESC) and will be required to be included in an employee's income tax return.

An employee's RESC will affect their income tests for some tax offsets, the Medicare levy surcharge, and certain government benefits and obligations. RESCs are not included in an employee's assessable income.

Depending on an individual's specific circumstances, the financial impact of salary packaging arrangements may be affected and ***it is strongly recommended*** that independent financial advice is sought.

ATTACHMENT TWO - FRINGE BENEFITS TAX DEBTS AND RECOVERY POLICY

For the purposes of this Attachment:

"Non-salary packaged fringe benefits" means those benefits that the employer provides or occur through means **other** than via the arrangements administered by the external salary packaging administrator. Non-salary packaged fringe benefits include, but are not limited to, home garaging of a pool car, private use of an employer-provided car, housing assistance, living away from home allowances, remote area holiday travel, private e-tolls and salary overpayment loan fringe benefits.

The following policy principles apply to all Queensland public sector agencies and employees except where otherwise expressly approved by the Queensland Government.

- Non-salary packaged fringe benefits have first priority over any general FBT exemption cap (e.g. $17,667 or $31,177 FBT exemption cap currently applicable to certain Queensland Health (i.e. public hospital and ambulance services) and Legal Aid Queensland employees which can be applied to any taxable benefits, including non-salary packaged fringe benefits. This is because it is Queensland Government policy that the salary packaging arrangements must involve no additional cost to agencies.
- Any general FBT exemption cap and other FBT concessions are not employee entitlements. The general FBT exemption cap is a tax concession under the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) for limited categories of employers, not employees. Therefore, the manner of the application of this FBT concession is determined by the employer in accordance with the FBT legislation.
- Employees relying on the ongoing existence of and/or access to the FBT exemption cap as part of their salary packaging arrangements do so solely at their own risk. Employees will not be compensated for the permanent or temporary loss of access to the FBT exemption cap, regardless of the circumstances.
- Subject to this Policy, employees' FBT debts must not be waived, written off, forgiven, ignored or adjusted, or compensation paid by agencies to offset FBT debts, regardless of the circumstances. Employees incurring an FBT liability have incurred a debt due to the Crown, and as such **must** repay the full FBT amount outstanding within a reasonable timeframe as appropriate for the circumstances, or be subject to debt recovery action which could include the use of debt collection agencies, suspension/cancellation of salary packaging arrangements, and/or legal action if required.
- Due to the requirements of this Policy, the writing off of an employee's FBT debt must only occur in very exceptional circumstances involving **ex-**Queensland public sector employees who are either deceased or who cannot be located, and, in the latter case only after:
  - proper steps have been taken to investigate the raising and non-recovery of the debt;
  - legal prosecution is unlikely to be successful or cost effective;
  - all reasonable steps have been taken to recover the debt including if necessary the use of debt collection agencies;
  - the debt is reasonably considered to be non-recoverable;
  - the circumstances surrounding the loss are examined fully to ensure that satisfactory controls are put in place to limit similar occurrences in the future; and
  - documentation regarding the debt is placed on the former employee's personal file to ensure the debt is reinstated and recovered in the event of re-employment in the future.
- There are **no** circumstances where it would be in accordance with this policy to write off an FBT debt for a **current employee**. As FBT replaces normal income tax (Pay As You Go) deductible had salary packaging not occurred, financial hardship is not considered a valid reason for write-off for a current employee (particularly given the potential substantial income tax savings achievable especially over the longer term of a salary packaging agreement).
- Employees **must** either pay the FBT immediately or negotiate reasonable repayment arrangements with the employer within a period of 28 days of receiving written advice of an FBT liability (including acknowledgement that the full amount outstanding becomes payable on or by the date of termination of employment). Failure to do so will result not only in debt recovery processes, but also in the cancellation/suspension of the employee's salary packaging arrangements after the required notice, until such time as the FBT debt is satisfied or an appropriate debt repayment arrangement is entered into.

- Some FBT debt recovery issues may involve the employee disputing departments' application of the FBT legislation. However, interpretation of the FBTAA and FBT treatment decisions are at the sole discretion of the entity that is the employer for FBT purposes. The employer is obliged to exercise due care and diligence in this respect, and respond to reasonable questions from employees regarding FBT calculations. Lengthy discussions or correspondence with an employee or the employee's representative regarding matters of FBT interpretation and treatment will not be entered into.
- Employees must raise any queries with respect to FBT with the employer (or salary packaging administrator in case of salary packaged fringe benefits) as soon as possible, and must not unduly delay the FBT debt recovery process. Where there is a reduction in FBT liability, the employer (or the administrator as the case may be) is not obliged to respond to any further queries after 21st December following the end of the FBT year on 31 March in the same calendar year. Also, where there is a reduction in FBT liability, the employer is not obliged to amend its FBT information once the post-lodgement period for processing FBT return amendments has expired.
- It is not the employer's or the salary packaging administrator's responsibility to inform individual employees regarding the FBT impact of any fringe benefit occurring or provided to them, nor to predict and/or advise employees of any emerging issues which may give rise to the existence of, or changes in the value of, taxable fringe benefits that may or may not affect an employee's salary packaging arrangements. This is because the FBT law is inherently very broad and subject to changes made by the Commonwealth Government, Court decisions and the administration of the law by the ATO.
- Entering into salary packaging arrangements is at the sole risk of the **employee**. Therefore it is **strongly** recommended that employees obtain independent financial advice.
- The employee must obtain and provide to the salary packaging administrator, the employer, the Australian Taxation Office and/or any other relevant person or body all necessary declaration forms, receipts and supporting documentation and information reasonably required by the employer or required to be provided for the purposes of taxation legislation in respect of any benefits provided to the employee under the salary packaging arrangements ("*required information*").
- The employee is responsible for all costs, losses, outgoings and liabilities of every description including, without limitation, any penalties, or general interest charge payable under any taxation legislation suffered or incurred by the employer, arising out of any failure on the employee's part to provide any required information or for any inaccuracies or omissions in any required information provided by the employee.

Under the terms of the Standing Offer Arrangement (SOA PTD0027-16), salary packaging administrators will recover all employee FBT debts incurred. Agencies are required to invoice the full value of employee FBT debts to the salary packaging administrator which will directly manage the employee debt recovery process. Employees are required to make arrangements with the salary packaging administrator to repay the total of any FBT liability outstanding to the salary packaging administrator.

Therefore, employees are subject to the salary packaging administrators' debt recovery processes as part of their salary packaging arrangements. This could include the use of debt collection agencies, suspension/cancellation of salary packaging arrangements, and/or legal action. Employees are expected to either pay the FBT immediately or negotiate reasonable repayment arrangements with the salary packaging administrator within a period of 28 days of receiving written advice of an FBT liability.

Failure to do so will result not only in the salary packaging administrator commencing debt recovery processes, but also in the cancellation/suspension of the employee's salary packaging arrangements after the required notice, until such time as the FBT debt is satisfied or an appropriate debt repayment arrangement is entered into.