

## Salary Packaging

**Summary** This Policy Directive outlines the Salary Packaging Scheme for staff employed in the NSW Health Service.

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**Audience** All staff that are eligible to salary package

## SALARY PACKAGING

### PURPOSE

Pursuant to Section 57A of the *Fringe Benefits Tax Assessment Act 1986* (“FBT Act”) government employees whose duties are performed **exclusively** in or in connection with a public hospital, or employees who are **predominantly** involved in connection with the provision of ambulance services are eligible to be provided with fringe benefits which are exempt from FBT up to a threshold cap (“the exemption status”).

Salary packaging is a tax effective means, for an employee to utilise the exemption status, whereby the employee agrees to forego part of their future remuneration in exchange for non-cash benefits.

Permanent full time and part time employees, temporary employees, and employees employed under specific grants or funds for periods in excess of 12 months who work in agencies of the NSW Health Service which meet the exemption status under the FBT Act may be eligible to enter this scheme. Casual employees would usually be ineligible to join the scheme given the limitations of casual engagement; however casuals may salary package at the discretion of the Health agency based on the work patterns established and the administrative policy of the Health agency.

The scheme also applies to Health Executives employed in the Health Executive Service who meet the exemption status under s 57A of the FBT Act.

The eligibility of employees of other Health agencies is determined by their role in the relevant organisation, and whether they meet the exemption status under s 57A of the FBT Act.

Board members and/or Chairperson are considered to be officeholders for tax purposes and are not employees. As such, Board members and/or Chairperson are ineligible to join the scheme.

### MANDATORY REQUIREMENTS

Entry into the salary packaging scheme is voluntary. Employees who choose not to salary package will continue to receive 100% of their salary in cash. Employees who participate in the salary packaging scheme may exit at any time should their circumstances change, subject to meeting the required period of notice and any payout obligations, e.g. under novated lease arrangements for a motor vehicle. Those choosing to join the scheme can select benefits from the menu at Section 5 of the Procedures Document.

An employee can devote up to 100% of their salary to either salary sacrifice to superannuation or to salary packaging (subject to the exemption cap), or to a combination of both.

## IMPLEMENTATION

### Procedures for salary packaging

Please refer to the Salary Packaging Procedures Document for further information about the implementation of this policy.

### “Salary” for salary packaging purposes

For the purpose of salary packaging, salary is an employee’s substantive base salary as at the date of commencement of each package year, and excludes higher duties allowances. The substantive salary is the award salary. Some allowances may be included in award salary, but this will depend on the award.

‘Salary’ is defined in the salary packaging clauses of NSW Health Awards as being:

- the award salary as expressed in the salaries clause of the award,
- the award salary as though the employee was not salary packaging, and
- salary as also including ‘approved employment benefits’ which encompass the benefits packaged, the packaging administration fee, and the employer’s share of tax savings.

Where an employee decides to participate in both salary sacrifice for superannuation and salary packaging, the amount of salary to be used for salary sacrifice for superannuation is deducted first from the employee’s pre-tax salary.

Salary packaging is then based on the salary after the amount for salary sacrificing for superannuation has been deducted. The value of the salary packaging benefit(s), the employer’s 50% share of the savings, and the 50% share of the administration fee, is deducted from the employee’s remaining salary.

### Administration fees

Each Health agency will charge each participating employee an annual fee for administering their package which will be deducted on a pro rata basis for each period. The cost of the administration fee, including GST, will be shared equally by the agency and the employee.

In all instances, the Health agency will require the employee to salary package for the administration fee liability. In other words, the employer recovers 50% of the administration fee from the employee.

An employee may review and alter their salary packaging arrangements at the end of each package year (usually 31 March) at no extra cost. If an employee elects to change their packaging arrangements during the packaging year, they may incur an alteration fee.

## External Salary Packaging Administration Provider

Health agencies that elect to outsource the administration of the salary packaging scheme are to elect an external salary packaging provider from the NSW Health Salary Packaging Administration Service Panel.

Health Agencies that engage an external salary packaging administration provider must ensure that a Salary Packaging Relationship/ Liaison Manager is appointed with the appropriate skill and experience to manage the external salary packaging administration provider and ensure compliance with this policy and other legislation obligations including tax.

## REVISION HISTORY

Version	Approved by	Amendment notes
December 2018 (PD2018_044)	Deputy Secretary & CFO, Finance and Asset Management	First Policy Directive.

## ATTACHMENTS

1. Salary Packaging: Procedures.

## Salary Packaging

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# 1 BACKGROUND

## 1.1 About this document

This Document provides information on the policies and guidelines applicable to the Salary Packaging Scheme (“the scheme”) for staff employed in the NSW Health Service. This Document may be varied from time to time to reflect changes in policy and taxation law and guidelines.

This Document begins with an introduction to the Fringe Benefits Tax regime in Australia, including an overview of salary packaging, recent changes in FBT and an outline of the exemption status applicable to the NSW Health Service.

The policy overview section outlines the policies surrounding the administration and operation of the scheme including who is eligible to participate, the administration fees that are applicable and how the scheme operates in the case of a change in employment circumstances.

The various categories of benefits are then explained, followed by the approved menu of benefits available to eligible Health Service employees. Following the approved menu of benefits is a detailed explanation of each benefit. A number of benefits that cannot be salary packaged are also listed. Detailed guidelines in relation to meal entertainment and motor vehicles are provided separately.

This Document also includes a Frequently Asked Questions page, worked examples and sample forms and declarations designed to assist employees with understanding the mechanisms of salary packaging.

This Document is current as at 1 April 2018.

## 1.2 What is FBT?

Fringe Benefits Tax (“FBT”) is a tax payable by the employer on the “taxable value” of fringe benefits provided to its employees or their associates. FBT ensures that tax is paid on benefits which are provided in place of, or in addition to, salary or wages of employees unless the benefit is exempt from FBT or is “otherwise deductible”. The FBT year runs from 1 April to 31 March.

A fringe benefit is a non-cash benefit provided to an employee by an employer. Examples include mortgage repayments, residential rent payments, credit card payments, school fees, the provision of a car and more.

The FBT Act defines the types of benefits that can be provided and how the benefits are taxed for FBT purposes (and what value is attributable to each particular benefit).

The amount of FBT payable in respect of non-cash benefits will be determined according to whether the benefits attract full, concessional, or exempt category status for FBT purposes.

### 1.3 What is salary packaging?

Salary packaging is a tax-effective means for an employee to package part or all of their future remuneration in exchange for non-cash benefits.

As a result of salary packaging, the employee will ultimately pay less Pay-As-You-Go (“PAYG”) withholding tax, i.e. personal income tax.

Salary packaging works by reducing the employee’s gross salary by the value of the items packaged along with any associated costs, which in this instance would be the employer’s share of the tax savings and the administration fee. The employee’s remaining salary, after the deduction of all such costs, is subject to normal PAYG withholding and paid to the employee in cash (i.e. credited to the employee’s bank account)..

The tax saving for the employee is achieved from the lower amount of PAYG tax applicable as a result of their pre-tax salary being packaged in exchange for benefits which are exempt from FBT or benefits that attract a lower amount of FBT.

### 1.4 Legal and legislative framework

Under the *Fringe Benefits Tax Assessment Act 1986* (“FBT Act”) government employees whose duties are performed exclusively in or in connection with a public hospital, or employees who are predominantly involved in connection with the provision of ambulance services are eligible to be provided with fringe benefits which are exempt from FBT up to a threshold cap (“the exemption status”).

Under the FBT Act, employees who meet the applicability test are eligible to salary package benefits up to a threshold cap (“the exemption threshold”). The exemption threshold has reverted back to \$17,000 from 1 April 2017 and may change as result of legislative updates. This threshold is applied to the grossed up taxable value of the fringe benefits provided to each employee (rather than the actual cost).

This arrangement results in a tax saving for the employee. This tax saving, together with the annual administrative fee charged to individual participants for administering their salary packaging arrangements, is shared on a 50/50 basis between employees and the Health agency.

A separate salary packaging scheme for Staff Specialists subject to the *Staff Specialist (State) Award* operates parallel to this scheme along somewhat similar lines and with a similar range of benefits.

## 2 NSW HEALTH AND FBT

### 2.1 Exemption status

Under the FBT Act, it is possible for eligible staff of the NSW Health Service to be provided with fringe benefits up to the exemption threshold per employee per salary packaging year free of FBT. The threshold represents the “grossed-up” taxable value of fringe benefits. This means that the maximum actual dollar value of the benefit(s) that employees can ‘package’ without creating an FBT liability is currently \$9,009 per annum.

If the grossed up taxable value of fringe benefits provided to an employee exceeds the exemption threshold, the employee can be required to meet the cost of any FBT arising to the employer.

Note that the capped exemption threshold applies even if the employee was not employed for the whole of the FBT year. The threshold amount is not required to be pro-rated according to the period of employment during the FBT year.

It is NSW Health policy that employees are not to salary package in excess of the FBT exemption cap.

### 2.2 FBT

The FBT rate has reverted back to 47% and the capped threshold amount to \$17,000 for the year ending 31 March 2018 onwards.

The rate changes are summarised below.

FBT year	FBT rate	Capped threshold amount	Actual value amount	Relevant gross-up rate
Ending 31 March 2015	47%	\$17,000	\$9,009	1.8868
Ending 31 March 2016 and 31 March 2017	49%	\$17,667	\$9,010	1.9608
Ending 31 March 2018 onwards	47%	\$17,000	\$9,009	1.8868

For the purposes of this Document, the rates relevant to the FBT years ending 31 March 2018 have been applied in all calculations and worked examples.

Salary packaged meal entertainment expenses will be subject to a grossed-up cap of \$5,000 from 1 April 2016. Meal entertainment expenses in excess of the \$5,000 cap will be included in the \$17,000 exemption cap. Additionally, all salary packaged meal entertainment benefits will become reportable.

A “grossed-up cap of \$5,000” is practically equivalent to \$2,650 of actual employee meal entertainment expenditure for the year ending 31 March 2018 and onwards. Any meal entertainment expenditure in excess of this amount would either “use up” part of the \$17,000 exemption cap or, if the exemption cap has been reached, the meal entertainment expenditure would be subject to FBT.

### 2.3 Reportable fringe benefits

If the actual value of certain fringe benefits the employer provides to the employee or their associate exceeds \$2,000 in an FBT year, the employer must record the grossed-up taxable value of those benefits on the employee’s payment summary for the corresponding income year (for example, 1 July to 30 June). This amount is known as the employee’s **reportable fringe benefits amount (RFBA)**.

Benefits are reportable (except for those benefits that are exempt under the FBT Act), even though the employer may not pay FBT in relation to the benefit(s) provided due to its exemption status.

Please note, not all salary packaging benefits are reported. Non-reportable benefits include, but are not limited to, the following:

- Remote area housing benefits
- Car parking (provided by employer)
- Benefits paid after 1 April (this will be reported in the next FBT year) and
- Total benefits of less than \$2,000 a year.

Superannuation is not a fringe benefit and therefore cannot form part of an employee’s reportable fringe benefits amount. However, salary sacrificed superannuation may form part of an employee’s **reportable employer superannuation contributions**.

## 3 POLICY OVERVIEW

### 3.1 Who is eligible to access this scheme?

Permanent full time and part time employees, temporary employees, and employees employed under specific grants or funds for periods in excess of 12 months who work in agencies of the NSW Health Service which meet the exemption status under the FBT Act may be eligible to enter this scheme. Casual employees would usually be ineligible to join the scheme given the limitations of casual engagement, however casuals may salary package at the discretion of the Health agency based on the work patterns established and the administrative policy of the Health agency (keeping in mind that retrospective packaging is not allowed).

The scheme also applies to Health Executives employed in the Health Executive Service who meet the exemption status under s 57A of the FBT Act.

A majority of NSW Health Service employees meet the exemption status to access the salary packaging scheme. For instance, employees of Local Health Districts / Specialty Networks and Ambulance Service of NSW are eligible to access the salary packaging scheme.

The eligibility of employees of other Health agencies is determined by their role in the relevant organisation, and whether they meet the exemption status under s 57A of the FBT Act.

Board members and/or Chairperson are considered to be officeholders for tax purposes and are not employees. As such, Board members and/or Chairperson are ineligible to join the scheme.

### **3.2 Voluntary participation**

Entry into the salary packaging scheme is voluntary. Employees who choose not to salary package will continue to receive 100% of their salary in cash. Employees who participate in the salary packaging scheme may exit at any time should their circumstances change, subject to meeting the required period of notice and any payout obligations, e.g. under novated lease arrangements for a motor vehicle. Those choosing to join the scheme can select benefits from the menu at section 5 which are offered by the relevant agencies of the NSW Health Service at any given time, which best suit their own individual financial situation.

### **3.3 Salary sacrifice to superannuation**

Salary sacrificing to superannuation arrangements are administered separately from salary packaging schemes. The benefits derived from salary sacrifice to superannuation accrue to the employee, without any sharing of tax savings and administrative fees between employee and employer.

An employee can devote up to 100% of their salary to either salary sacrifice to superannuation or to salary packaging (subject to the exemption cap), or to a combination of both.

For salary sacrifice to superannuation provisions, refer to the salary sacrifice to superannuation clause in the relevant Health Service Awards.

### **3.4 “Salary” for salary packaging purposes**

For the purpose of salary packaging, salary is an employee’s substantive base salary as at the date of commencement of each package year, and excludes higher duties

allowances. The substantive salary is the award salary. Some allowances may be included in award salary, but this will depend on the award.

‘Salary’ is defined in the salary packaging clauses of NSW Health Awards as being:

- The award salary as expressed in the salaries clause of the award
- The award salary as though the employee was not salary packaging, and
- Salary as also including ‘approved employment benefits’ which encompass the benefits packaged, the packaging administration fee, and the employer’s share of tax savings.

The purpose of these definitions is to protect the value of an employee’s award salary for the calculation of award entitlements and for the annual notification of superable salary to the various superannuation funds, i.e. as though salary is not diminished by virtue of either salary packaging or salary sacrificing to superannuation.

The benefits available to package at section 5 have been approved by the Treasury and Premier’s Department for use within the NSW Health Service as ‘approved employment benefits.’

Where an employee decides to participate in both salary sacrifice for superannuation and salary packaging, the amount of salary to be used for salary sacrifice for superannuation is deducted first from the employee’s pre-tax salary.

Salary packaging is then based on the salary after the amount for salary sacrificing for superannuation has been deducted. The value of the salary packaging benefit(s), the employer’s 50% share of the savings, and the 50% share of the administration fee, is deducted from the employee’s remaining salary.

### **3.5 Limit on threshold per employee**

Where staff are employed in the NSW Health Service, they are not to be regarded as changing employers if they move from one agency of the Health Service to another in a single FBT year. Therefore they cannot access the exemption threshold more than once in a year, i.e. they cannot ‘double dip’.

NSW Health has a declaration procedure to track Health employees moving between Health agencies during an FBT year. This procedure seeks to ensure that the exemption threshold is not accessed more than once per FBT year.

As part of the salary packaging scheme application employees must disclose the details of other NSW Health agencies for which the employee has worked during the current FBT year.

Where an employee, such as a Junior Medical Officer, employed in one Health agency is on rotation or secondment at another Health agency the salary packaging arrangements must be made and managed only by the employee's "home" or permanent LHD, that is, by the employer. The share of tax savings must be distributed between those NSW Health agencies on a pro rata basis for the period the employee is on rotation or secondment.

### 3.6 Administration fees

Each Health agency will charge each participating employee an annual fee for administering their package which will be deducted on a pro rata basis for each period. The cost of the administration fee, including GST, will be shared equally by the agency and the employee.

Health agencies that elect to outsource the administration of the salary packaging scheme are to elect an external salary packaging provider from the NSW Health Salary Packaging Administration Service Panel.

Health Agencies that engage an external salary packaging administration provider must ensure that a Salary Packaging Relationship/ Liaison Manager is appointed with the appropriate skill and experience to manage the external salary packaging administration provider and ensure compliance with this policy and other legislation obligations including tax.

In all instances, the Health agency will require the employee to package salary for the administration fee liability. In other words, the employer recovers 50% of the administration fee from the employee.

### 3.7 Goods and Services Tax (GST) and FBT

- *Type 1: higher gross-up rate*

This rate is used where NSW Health is entitled to a GST input tax credit in respect of the provision of a benefit, e.g. novated leases.

FBT year	FBT rate	Type 1 gross-up rate
Ending 31 March 2016 and 31 March 2017	49%	2.1463
Ending 31 March 2018 onwards	47%	2.0802

- *Type 2: lower gross-up rate*

This rate is used if the NSW Health is not entitled to claim input tax credits, e.g. meal entertainment.

FBT year	FBT rate	Type 2 gross-up rate
Ending 31 March 2016 and 31 March 2017	49%	1.9608
Ending 31 March 2018 onwards	47%	1.8868

- *Input tax credits for novated leased vehicles*

As Health agencies are entitled to claim the input tax credits in relation to the costs associated with providing a novated lease vehicle to the employee, Health Agencies are to pass the value of the input tax credit to employees.

The passing of input tax credits effectively means that the salary packaging cost to the employee will be the GST exclusive cost associated with the novated lease vehicle. Health Agencies will pay the GST in respect of the novated lease, either direct or via their external salary packaging administrator or directly to the lease provider and claim the input tax credit from the ATO.

As a transitional measure specifically for novated leases, input tax credits must be passed on to employees in relation to novated leases executed **on or after 1 April 2016**.

- *After-tax employee contributions – taxable supply*

Where an employee chooses to contribute after-tax contributions (via payroll deductions) to reduce the taxable value of fringe benefits provided during the year, the after-tax contribution is considered to be a taxable supply pursuant to subsection 9-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (“GST Act”). As such, Health Agencies are required to remit the GST (1/11<sup>th</sup> of the amount of the after-tax contribution) to the ATO. The GST on after-tax contributions are factored into the salary packaging calculations and are deducted from an employee’s pre-tax component.

- *Charging FBT cost to employees*

It is NSW Health policy that employees are not to salary package in excess of the FBT exemption cap. Non-salary packaged fringe benefits (e.g. salary overpayments, housing and private use of vehicles where applicable) will take first priority when applying the FBT exemption cap. Any FBT costs after applying non-salary packaged fringe benefits, provided it is not an error made by a salary packaging administrator (whether internal or external), must be charged to the employees to whom the FBT relates.

The actual amount of the FBT must be charged to the employee. Accordingly, if the FBT related to a type 1 benefit, the FBT cost to the employee must be calculated using the type 1 gross-up rate. The type 2 gross-up rate must be used for type 2 benefits.

If the FBT related to a novated lease executed before 1 April 2016 which are still on the transitional provisions where the salary packaging costs to the employee are calculated GST inclusive, the FBT cost to the employee is calculated using the type 2 gross-up rate. On the other hand, the Health agency will be paying FBT to the ATO at the higher type 1 gross-up rate and retaining the input tax credits in respect of this lease.

- *Reportable fringe benefits amounts*

Regardless of whether the benefits provided are type 1 or type 2, only the lower gross-up rate is used for reporting on employees' payment summaries.

### 3.8 Workers compensation

Employees in the NSW Health Service are covered for workers compensation under the Treasury Managed Fund Scheme.

Under the statutory method of calculating workers compensation payments, the compensation payment amount may be less than the base salary used for salary packaging purposes. To continue salary packaging whilst receiving workers compensation payments, any shortfall will need to be made up through the employee's personal arrangements.

If an employee has insufficient salary to meet packaging commitments, salary packaging may need to be suspended for the duration of the workers compensation, and recommence once the employee returns to full time employment. Unilaterally suspending packaging may be inappropriate, and this needs to be considered on a case-by-case basis in consultation with the employee. The main consideration is whether the employee's workers compensation payment is sufficient to service the amount packaged, and whether the individual will have sufficient cash to live on.

It is the responsibility of the employee to notify the employer where their salary packaging arrangements will be affected as a result of an employee being off work due to a workers compensation claim.

The employee must immediately notify the salary package administrator if they chose to cease salary packaging arrangements whilst receiving workers compensation payments.

### 3.9 Cessation of employment or change in employment circumstances

- *Moving to another employer*

Employees who cease to be employees of NSW Health, and take up employment either in a public sector organisation or in the private sector, will have no carried-forward entitlement to the same range of benefit items, or to a continuation of the overall features of this salary packaging scheme.

Further, employees whose employment situation is altered by a transfer to another organisation within NSW Health Service which does not have FBT exempt status cannot continue to access this scheme.

The employee must immediately notify the salary packaging administrator upon becoming aware of a date for appointment to a position outside of the NSW Health Service.

- *Unpaid leave or leave at half pay*

In most instances, approval of any period of leave without pay of more than five days will require the employee to cease or suspend salary packaging.

It is the responsibility of the employee to notify the salary package administrator when an employee's salary packaging arrangements will be affected as a result of the approval of leave on half pay or unpaid leave. Where possible, this notification should be provided prior to the commencement of the leave period to enable the necessary arrangements to be made by the employer.

On returning from unpaid leave, the employee and employer will need to reach agreement on an appropriate time for the employee to re-join the salary packaging scheme.

- *Suspension without pay*

In the event of an employee being suspended without pay, any salary packaging arrangements will cease or suspend until further notice.

Where an external salary package administrator is used, it is the employee's responsibility to notify the administrator upon becoming aware of the date for suspension without pay.

With the approval of the employer, salary packaging can recommence once the employee resumes normal employment with the NSW Health Service.

- *Changing from full time employment to part time employment/reduced hours*

Where an employee ceases full time employment and enters into a new agreement with the employer to work part time, the existing salary packaging arrangements may need to be renegotiated from the commencement of part time employment.

Where an external salary package administrator is used, it is the employee's responsibility to notify the administrator of any change in employment status.

- *Cessation of employment*

From the date of cessation of employment, the administrator will cease all benefit payments. It is necessary that the employee notifies the administrator upon identifying the last payment date. This permits the administrator to send final payments and

determine any action to be taken with account balances. Any remaining balance can be paid as a lump sum towards an existing benefit item, or paid to the employee as salary and taxed accordingly.

A pro forma *Cessation of Salary Packaging Form* is at 15.3.

- *Moving within NSW Health*

Where a salary packaging employee transfers to another Health agency, the first (or former) employer must, if requested, provide all relevant information to the second (or new) employer. A Crown declaration is required to be completed with the relevant information including details of benefit types, amounts, novated lease details, dates and other information necessary for a new salary package to be established.

### 3.10 Changing the agreed salary package

An employee may review and alter their salary packaging arrangements at the end of each package year (usually 31 March) at no extra cost. If an employee elects to change their packaging arrangements during the packaging year, they may incur an alteration fee.

In the event of an employee taking up a new position with the employer with an increased salary during the package year, the employee will receive any increase in salary as a cash component until the annual review date of the package. At the annual review date the employee has the option of including new benefit items and/or changing the amounts allocated to previous benefit items.

The employer can initiate a review of salary packaging where a fringe benefit is identified which may result in additional FBT liability to the Health Service.

### 3.11 Commonwealth Paid Parental Leave

This refers to financial support to help eligible parents take time off work to care for a newborn or recently adopted child. Such payments are ordinarily subject to the normal PAYG withholding regime.

To the extent employees are entitled to Commonwealth Paid Parental Leave, they are able to arrange for benefits to be packaged from their Parental Leave Pay.

### 3.12 Financial planning

It is important that all employees intending to participate in salary packaging seek independent financial advice before entering the scheme to ensure they have a proper understanding of the terms and conditions. This advice can be sought from the employee's existing financial adviser or accountant.

Health agency employees, including staff in salary packaging and tax functions, must not provide financial advice to employees.

### 3.13 Waiver

The action of an employer in paying benefit items from an employee's salary package to a third party does not in any way imply a transfer of responsibility or liability to the employer in relation to any agreement, understanding, obligation etc. between the employee and the third party.

## 4 CATEGORIES OF BENEFITS

A summary of benefit items available for salary packaging and the FBT effects is shown at Section 5, together with a notation as to the relevant tax category of each benefit item, i.e. otherwise deductible, exempt, concessionally taxed or fully taxable fringe benefits. Each category of benefits is explained further below.

### 4.1 Otherwise deductible benefits

Otherwise deductible items are benefits which an employee would usually claim as a tax deduction in their personal income tax return. There is generally no financial advantage gained by packaging those items. These benefits will have no FBT effect, provided the specific requirements are satisfied and appropriate substantiation is provided.

An employee cannot legally claim tax deductions for these items in their personal income tax return if they have been salary packaged. This is because the deductible element will have already been taken into account in calculating the taxable value of the benefit provided for FBT purposes.

From 1 April 2018, otherwise deductible items will not be offered as eligible benefits.

### 4.2 Exempt benefits

Exempt benefit items are specifically exempt under the FBT Act and do not attract FBT. These benefits do not form part of the exemption threshold.

### 4.3 Concessionally taxed benefits

These are benefit items for which the FBT Act provides a concessional tax treatment. This concession is usually applied in determining the taxable value of the benefit and as a result the tax rate applied to the benefit is less than the FBT rate. An employee would not normally obtain a tax deduction for these items. For example, the private use of a motor vehicle is concessionally taxed. Accordingly, these benefit items are most commonly included in a salary package arrangement.

These benefits form part of the exemption threshold.

### 4.4 Fully taxable benefits

These are items which would normally attract the full FBT rate. However these benefits will be exempt from FBT when packaged, provided that the grossed up taxable value of the package is below the exemption threshold.

Benefits for which an employee cannot claim a tax deduction are generally fully taxable benefits.

Salary packaging fully taxable items will generally be advantageous for employees when their taxable value remains below the exemption threshold.

## 5 APPROVED MENU OF BENEFITS: SUMMARY OF FBT TREATMENT

Please note that the Item reference number relates to the corresponding reference in *section 6.0 Approved menu of benefits: details*.

Item	Benefit	Category	Count towards exemption cap	Eligible costs	Reportable fringe benefit?*	Forms/declarations^
<b>Education benefits</b>						
1.	HECS-HELP payments	Fully taxable	Yes	HECS-HELP payments	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
2.	<ul style="list-style-type: none"> <li>Tertiary education fees – non-work related</li> <li>HELP for fees</li> </ul>	Fully taxable	Yes	Tertiary institution term fees	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
<b>Insurance expenses</b>						
3.	Other insurance premiums (e.g. health, life, house and contents insurance)	Fully taxable	Yes	Cost of the insurance policy premiums (GST-inclusive where applicable)	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
<b>House and family</b>						
4.	Own home mortgage payments (not investment property)	Fully taxable	Yes	Cost of mortgage payments	Yes	Payment/Reimbursement Claim Form, along with a copy of the loan documentation or statement of the mortgage repayment

Item	Benefit	Category	Count towards exemption cap	Eligible costs	Reportable fringe benefit?*	Forms/declarations^
						commitment is required.
5.	Home rental payments (other than living away from home benefits)	Fully taxable	Yes	Cost of home rental payments	Yes	Payment/Reimbursement Claim Form, along with a copy of the lease/ rental agreement which provides the lease/ rental amount.
6.	Strata fees and utilities	Fully taxable	Yes	Cost of strata fees/utilities (GST-inclusive)	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
7.	Child care (a) located on employer premises <b>and</b> the cost is <b>not</b> reimbursed by employer (b) located on employer premises <b>and</b> the cost is reimbursed by employer (c) not located on employer premises	(a) Exempt  (b) Fully taxable  (c) Fully taxable	(a) No  (b) Yes  (c) Yes	(a) N/A  (b) Cost of childcare services  (c) Cost of childcare services	(a) No  (b) Yes  (c) Yes	(a) N/A  (b) Payment/Reimbursement Claim Form, along with invoices/receipts  (c) Payment/Reimbursement Claim Form, along with invoices/receipts
8.	Aged care expenses	Fully taxable	Yes	Cost of aged care services	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
9.	School fees (a) Not temporary visitor (b) Temporary visitor**	(a) Fully taxable (b) Exempt	(a) Yes	Cost of school fees	(a) Yes (b) No	Payment/Reimbursement Claim Form, along with invoices/receipts

Item	Benefit	Category	(b) No Count towards exemption cap	Eligible costs	Reportable fringe benefit?*	Forms/declarations <sup>^</sup>
<b>Transport and travel</b>						
10.	Relocation	Exempt	No, provided specific conditions are satisfied	Costs of relocation (GST-inclusive)	No	Payment/Reimbursement Claim Form, along with invoices/receipts
11.	Living-away-from-home expenses	Exempt	No, provided specific conditions are satisfied	Accommodation, food and other additional costs for living-away-from-home (GST-inclusive)	No	Payment/Reimbursement Claim Form, along with invoices/receipts  Living away from home declaration, including declarations/receipts in relation to accommodation and food
12.	Private travel (a) Home leave for temporary visitor (b) All other private travel	(a) Concessional  (b) Fully taxable	(a) Yes  (b) Yes	(a) Cost of travel  (b) Cost of travel (GST-inclusive)	(a) Yes  (b) Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
13.	Airport lounge membership	Exempt	No	Cost of membership (GST-inclusive)	No	Payment/Reimbursement Claim Form, along with invoices/receipts
<b>Motor vehicle benefits</b>						
14.	Novated leased motor vehicle	Concessional	Yes	Refer to "Motor Vehicles" section	Yes	Refer to "Motor Vehicles" section
15.	Motor vehicle repairs and					

	running costs (a) Provided with car fringe benefit (b) Not provided with car fringe benefit	(a) Exempt  (b) Fully taxable	(a) No  (b) Yes	Cost of repairs and other running costs (GST-inclusive)	(a) No  (b) Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
<b>Item</b>	<b>Benefit</b>	<b>Category</b>	<b>Count towards exemption cap</b>	<b>Eligible costs</b>	<b>Reportable fringe benefit?*</b>	<b>Forms/declarations^</b>
<b>Meal entertainment</b>						
16.	Meals and entertainment (via meal entertainment card or direct reimbursement)	Exempt up to a grossed-up \$5,000 cap	Only benefits in excess of the \$5,000 cap	Refer to “Meal entertainment” section	Yes	Refer to “Meal entertainment” section
<b>Other benefits</b>						
17.	Personal loan repayments	Fully taxable	Yes	Personal loan repayment amounts	Yes	Payment/Reimbursement Claim Form, along with a copy of the personal loan agreement
18.	Club or association membership subscriptions (non work-related)	Fully taxable	Yes	Actual cost of the membership (GST-inclusive)	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts
19.	Credit card payment or	Fully taxable	Yes	The periodic credit card balance	Yes	Payment/Reimbursement Claim Form, along with credit card statement
20.	Employee Benefits Card (not meal entertainment)	Fully taxable	Yes	The spend on the Employee Benefits Card during the FBT year	Yes	Refer to section 6.20
21.	Savings investment schemes (other than superannuation)	Fully taxable	Yes	The periodic amount as required	Yes	Payment/Reimbursement Claim Form

Item	Benefit	Category	Count towards exemption cap	Eligible costs	Reportable fringe benefit?*	Forms/declarations^
22.	Car parking (a) Provided by employer (b) Provided by third party	(a) Exempt (b) Fully taxable	(a) No (b) Yes	(a) N/A (b) The car parking fee charged by the third party parking provider (GST-inclusive)	(a) No (b) Yes	(a) N/A (b) Payment/Reimbursement Claim Form
23.	Hire purchase arrangement	Fully taxable	Yes	Payments under hire purchase agreement	Yes	Payment/Reimbursement Claim Form, along with a copy of the hire purchase agreement indicating the payment terms
24.	Remote area benefits	Exempt or Concessional	Specific conditions are required to be satisfied for the different types of remote area benefits	All or part of the expenditure incurred in the different remote area benefit categories	No	A payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred, a copy of the settlement contract and title deed, rental agreement, loan documentation and loan statements
25.	Other entertainment (except for meal entertainment)	Fully taxable	Yes	The cost of the entertainment (GST-inclusive)	Yes	Payment/Reimbursement Claim Form, along with invoices/receipts

\*if total fringe benefits provided during the FBT year exceeds \$2,000

\*\*a temporary visitor is an individual from an overseas country, whose usual place of residence is not Australia.

^Provided at section 15 are the following forms/declarations:

- A sample Payment/Reimbursement Claim Form
- A sample Expense payment benefit declaration
- A sample living away from home declaration

## 6 APPROVED MENU OF BENEFITS: DETAILS

For each of the approved benefits, this section outlines:

- NSW Health policy and
- The circumstances in which the benefit is provided

For the purposes of this section, the following terms are used:

*Costing: The cost of the benefit item from the employee's package.*

*Substantiation: The documentation required for Australian Taxation Office compliance purposes, which verifies the payment of a benefit item to an employee or on behalf of an employee to a third party.*

### 6.1 HECS-HELP payments of work-related self-education

The Higher Education Loan Program ("HELP") was introduced to replace the Higher Education Contribution Scheme ("HECS"). HELP includes the following components:

- HECS-HELP assistance: This relates to assistance to meet a student's liability to pay student contribution amounts for units of study that are Commonwealth supported. HECS-HELP replaced HECS
- FEE-HELP assistance: This relates to assistance to meet a student's liability to pay tuition fees for units of study that are not Commonwealth supported and
- OS-HELP assistance: This relates to assistance to a student who, as part of his or her course of study, is to undertake study at an overseas higher education institution (this is only available to undergraduates).

HECS-HELP payments are not otherwise deductible expenses, the benefit will be fully taxable and will count towards the exemption cap.

The payment of HELP can be done as monthly or biannual lump sum amounts.

*Costing: HECS-HELP payments.*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

### 6.2 Tertiary Education Fees – non-work related and associates (including HELP)

The payment of family member education fees and the HELP payments which are not work related can be made from the package, but will count towards the exemption threshold.

For example, this can include payments made to a third party for current tertiary educational expenses incurred for the education of an immediate family member, or for the employee for non-work related education.

This benefit applies to tertiary institution term fees only, billed by the Institution, and does not cover books, uniforms, sporting equipment or other related expenses.

It does not extend to payments to education funds or similar savings schemes that allow the accrual of monies in preparation for educational expenses.

The payment of HELP can be done as monthly or biannual lump sum amounts.

*Costing: Tertiary institution term fees, HELP payments.*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

### **6.3 Other insurance premiums**

Payment of insurance premiums may be selected as a benefit item.

Insurance premiums other than income protection insurance premiums are considered private expenses and would generally not be deductible for income tax purposes in the employee's personal income tax return. Examples include:

- Health insurance
- Life insurance
- Home and contents insurance
- Vehicle insurance
- Boat insurance.

Health insurance payments will only be made to registered health insurance companies. Employees may request payment of an existing policy or a new policy. It is usual for insurance rates to increase during a salary package year, therefore it is suggested that more of the total salary package is allocated to this item at the beginning of the package year to cover any increase.

*Costing: Cost of the insurance policy premiums.*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

### **6.4 Own Home Mortgage Payments/Reimbursements (not investment property)**

Employees may select a housing mortgage payment to a financial institution as a benefit option for any owner occupied non-income producing property. The principal and interest components of an own-home mortgage may be packaged separately or combined.

The loan agreement for the mortgage will remain between the employee and the financial institutions and no liability will be transferred to the employer. It is not necessary for the employee to be the sole party to a housing mortgage document for this option to be part of the salary package.

*Costing: Mortgage payments.*

*Substantiation: Copy of the loan documentation or statement of the mortgage repayment commitment is required.*

*Method of Payment: Payments to line of credit, equity and revolving lines of credit loans are also acceptable for packaging. Payments are not to be made into home mortgage offset facilities. The employer can make a direct payment to an authorised third party (i.e. financial institutions) or reimburse the employee for same.*

## 6.5 Private Home Rental Payments/Reimbursements

Payments made to a real estate agent or landlord under a formal rental lease agreement for the provision of private on-going home rental accommodation used as the principal place of residence by the employee.

*Costing: Rental payments.*

*Substantiation: Copy of the rental agreement which provides the lease and rental amount.*

*Method of Payment: The employer can make a direct payment to the real estate agent or landlord or reimburse the employee for same. Wherever possible this will be done by electronic funds transfer. Accordingly, bank account details of the agent or landlord need to be provided.*

## 6.6 Strata fees and utilities (not investment property)

Payments made in relation to strata levies and utilities (this covers the cost of gas, electricity, telephone rental and connection, water, sewerage and council rates) can be packaged, where the property is used as the principal place of residence by the employee.

*Costing: Cost of strata levy, gas, electricity, telephone rental and connection, water, sewerage and council rates (GST-inclusive, where applicable).*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## 6.7 Child care

- In-house childcare facility

Where the childcare services are provided by an employer in an in-house childcare facility and the cost of the childcare service is **not** reimbursed by the employer, the cost may be exempt from FBT and may not count towards the exemption threshold.

Health agencies should seek advice from the Ministry before proceeding as there are specific requirements that need to be satisfied to treat the in-house childcare facility as an exempt benefit.

In the case where childcare services are provided by an employer in an in-house childcare facility but the cost of the childcare fees are paid by the employee (for entitlement to *childcare rebate*) and reimbursed by the employer, the benefit will not be exempt and its cost of the benefit will count towards the exemption threshold.

- External childcare facility

Where the childcare services are not provided by the employer in-house, and are instead provided at external facilities, the benefit will not be exempt and its cost of the benefit will count towards the exemption threshold.

*Costing: Cost of childcare services.*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## 6.8 Aged Care

The costs associated with the care and accommodation of elderly persons can be salary packaged.

*Costing: Cost of aged care services.*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## 6.9 School Fees

School expenses such as tuition fees, board and lodging, and excursion costs can be salary packaged. Ordinarily, such expenses will count towards the exemption threshold.

However, the taxable value counting towards the exemption threshold may be reduced (potentially to nil) if the temporary visitor conditions are satisfied. This reduction will only apply for an overseas employee (whose place of residence is not ordinarily in Australia) posted in Australia for employment. For the conditions to qualify for the concession, please consult the tax function within your Health agency and refer to the FBT Policy and Procedures Manual.

*Costing: School fees and other costs directly incurred in relation to the full time education of the child.*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## 6.10 Relocation

Relocation applies when an employee permanently relocates to another place in order to perform his or her employment duties. Expenses which will be exempt fringe benefits under the 'Relocation' category are:

- Removal and storage of household effects

This includes the costs of removal, storage, packing, unpacking and insurance of household effects (including pets) kept primarily for the personal use of the employee or family.

- Temporary accommodation

The costs of temporary accommodation may be exempt for up to a period of 12 months, provided specific conditions are satisfied and the employee makes sustained and reasonable efforts to buy or lease suitable long-term accommodation as soon as reasonably practicable after starting work at the new location.

For the conditions to qualify for the concession, please consult the tax function within your Health agency and refer to the FBT Policy and Procedures Manual.

- Transport costs

The costs of providing relocation transport (and any meals and accommodation en route) to the employee (and family members) are exempt benefits. This includes relocation air fares for the employee and their family members.

If an employee is reimbursed on a cents per kilometre basis for using their own car as relocation transport, the taxable value of the expense payment fringe benefit may be reduced. However, the reduction is limited to the amount the employer would have reimbursed based on the applicable rate if income tax deductions were claimed on a cents per kilometre basis for that amount of travel. The reduction in taxable value is conditional on the employee providing a signed *Relocation transport declaration*.

- Connection or reconnection of certain utilities

The costs of *connecting or reconnecting* gas, electricity and telephone services to the new place of residence may be exempt benefits.

- Costs of utilities

The cost of gas, electricity, water and telephone services are not exempt benefits but can be salary packaged and counted towards the exemption cap.

- Costs of selling the former home and the purchase of a new home (including statutory charges and commissions)

Costs incidental to the sale and/or purchase of a house include stamp duty, advertising, legal fees, agent commission, discharge of a mortgage, expenses of borrowing, or any similar capital expenses may be exempt from FBT provided specific conditions are satisfied.

Note that for such costs to be exempt from FBT, a number of conditions must be satisfied. For the conditions to qualify for the concession, please consult the tax function within your Health agency and refer to the FBT Policy and Procedures Manual.

*Costing: Costs of relocation (GST-inclusive).*

*Substantiation: Relocation transport declaration will be required, where applicable. A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## 6.11 Living Away From Home Expenses

The payment of an allowance to, or reimbursement of expenses incurred by, employees who are living away from their usual place of residence for work related purposes constitutes a Living-Away-From-Home (“LAFH”) fringe benefit. The benefit must be provided as compensation for additional expenses the employee might be expected to incur and other disadvantage suffered, because the duties of the employee’s job require them to live away from their normal residence. Such expenses may include rent, food and other incidental costs.

The changes to the LAFH rules in 2012 effectively removed the concessions available to employees who do not maintain a home in Australia that is readily available for their use (i.e. the home remains vacant and is not rented out).

The changes also limited access to the LAFH concessions to a period of the first 12 months that the employee is required to live away from home at a particular location.

- Substantiation
  - Accommodation – all accommodation expenditure must be substantiated, either by the employee providing the relevant receipts to the employer or providing a declaration that they have retained all receipts.
  - Food – for food and drink expenses that exceed the ATO’s reasonable limits, the employee must provide the relevant receipts or provide a declaration to the employer that they have retained all receipts.

If the employee’s spouse and/or children accompany the employee, their expenses can also be salary packaged.

If these costs are subject to a contribution by NSW Health e.g. as approved claims under the Transferred Officers Award, the amount of the benefit will be restricted to the net out-of-pocket expenses incurred by the employee.

*Costing: Actual cost of accommodation or food (GST-inclusive).*

*Substantiation: Copy of rental agreement, receipts in relation to accommodation/food, Living-Away-From-Home Declaration – Employees who*

*maintain an Australian home, Living-Away-From-Home Declaration – Employee related expenses, copy of rental agreement, receipts in relation to accommodation/food.*

## **6.12 Private Travel**

- Home leave for temporary visitor

Transport, or the reimbursement of transport, provided to an employee and family members in connection with having a holiday may be concessionaly taxed where the employee does not ordinarily reside in Australia.

*Costing: Cost of travel.*

*Substantiation: A payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

- All other private travel

Weekly rail, ferry, and bus tickets can be packaged under 'Private Travel'. Direct ticket purchase schemes which are offered under a NSW Government initiative can also be packaged under this benefit item.

*Costing: Cost of the rail, ferry or bus ticket (GST-inclusive).*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## **6.13 Airport lounge membership**

Employees can choose to package the cost of airport lounge memberships, which is an exempt benefit.

*Costing: Cost of membership (GST-inclusive).*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## **6.14 Motor Vehicle (for private use) by way of Novated Lease**

This benefit will only be provided via a Novated Lease, which is described in more detail at Section 9.

## **6.15 Motor Vehicle Running Expenses (not associated with novated leases)**

Acceptable expenses included under this benefit are the recurrent costs associated with motor vehicle running expenses (not associated with a novated lease) including fuel, registration fee, 'green' insurance slips, vehicle inspection slip, comprehensive insurance, services and repairs, new tyres and batteries.

Note that the payment or reimbursement of motor vehicle running expenses provided in conjunction with a car fringe benefit (under novated lease) are exempt from FBT. Motor vehicle running expenses associated with novated leases are described in more detail at Section 9.

*Costing: Cost of running expenses (GST-inclusive).*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## **6.16 Meal Entertainment Expenses**

This benefit relates to costs incurred by an employee for meal entertainment. The employee must be the person who paid the account. This benefit does not apply to business-related meals and entertainment costs.

This benefit is described in more detail at Section 8.

## **6.17 Personal Loan Repayments**

Payments for a personal loan provided through a registered provider, such as a bank or building society are permitted to be paid through a salary package. Loans between family members, leases or lines of credit are not permitted under this arrangement.

*Costing: Personal loan repayment amounts.*

*Substantiation: Loan agreement or a copy of the loan statement.*

*Method of Payment: Reimbursement or the employer making the payment to the moneylender by Electronic Funds Transfer directly into the loan account. Where this is not available other arrangements will be made.*

## **6.18 Club/Association Membership or subscriptions (non work-related)**

Payments may be made to a third party in relation to Membership Fees of private (i.e. non work-related) associations or clubs including sporting associations, e.g. Football Clubs, Golf Clubs, Handicraft Clubs.

*Costing: The actual cost of the membership or subscription (GST-inclusive).*

*Substantiation: An original invoice should be provided to the employer for a direct payment to be made to the club or association. If the payment has been made, a Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## **6.19 Credit Cards**

Employees can choose to package their credit card through the repayment of the card balance (as opposed to being a reimbursement of the individual items on the credit card statement). Note that debit cards are not acceptable.

Statements must be produced by the employee and lodged with their salary packaging administrator, confirming the amount to be packaged and verifying that the card is maintained in credit.

Employees can seek payment either as soon as the statement is received or after the nominated payment is made to the financial institution.

Note that 'double-dipping' is not permitted, i.e. an employee cannot pay for school fees with a credit card, package that amount under their credit card and also package school fees as a separate amount.

*Costing: The periodic credit card balance.*

*Substantiation: Copy of the credit card statement. If the payment has been made, a Payment/Reimbursement Claim Form will be required, along with a copy of the credit card statement.*

## 6.20 Employee Benefits Card (EBC)

### NSW Health Policy

- The EBC can be used by employees to purchase everyday expenses.
- Periodical payments or direct debits cannot be set up on the card, and the card cannot be used to withdraw cash.
- Additional cards are not to be issued to family members.
- Employees are not to transfer or deposit after tax funds (whether via BPAY, internet banking or over the counter deposits) onto the EBC.
- There are no restrictions on the use of the EBC when the employee is on leave (including annual leave, long service leave and unpaid leave).
- Where an employee terminates employment with NSW Health or ceases salary packaging, the card will be cancelled within one month of termination date and the employer will return any unused balance (greater than \$30) to the employee via the payroll system as salary. The unused amounts will be subject to PAYG withholding. Unused amounts less than \$30 will be donated to one of Westpac's charity funds.
- At the end of each FBT year, 31 March, unspent card balances in excess of zero will be deducted from the amount of \$9,009 cap that can be packaged in the following FBT year. This is a governance measure designed to assist salary packaging administrators to monitor expenditure up to the grossed-up \$9,009 cap.

*Costing: The calculated spend on the EBC during the FBT year.*

*Substantiation: Employees are required to complete an application form to receive an EBC. The Health agency may request further information from the employee where the information provided together with the statement is not adequate.*

## 6.21 Savings Investment Schemes (non-superannuation) contributions

Savings investment schemes are bona fide medium term investment strategies which are offered by banks and other financial institutions under various marketing titles and strategies. Such schemes enable an employee to invest a nominated amount of their gross salary towards packaging a range of Australian-managed investments.

Investment schemes are an identifiable item that is being purchased, whereas funds deducted from an employee's pay and put directly into a savings account is a direct deduction for savings which is subject to PAYG withholding. The savings/investment schemes are usually promoted with the following benefits; withdrawals at any time, the employee being able to select their own investment portfolio, plus a single stage tax on withdrawals.

A set amount is deducted from the employee's pay and paid directly to the company which acts as a funds manager to disburse monies into one or several investment schemes such as local and international shares, equity investment schemes, cash management accounts, property management funds etc.

*Costing: The set amount as required by the savings/investment scheme.*

*Substantiation: A copy of the valid tax invoice must be provided, along with details of payments to be made (e.g. weekly, fortnightly, monthly, quarterly) and regular due date (e.g. 15<sup>th</sup> of each month). If the payment has been made, a payment/Reimbursement Claim Form will be required, along with a copy of relevant tax invoice.*

*Method of Payment: Reimbursement or employer making the payment to the scheme provider by Electronic Funds Transfer directly into the savings / investment account.*

## 6.22 Car Parking benefits

- Provided by the hospital (i.e. the car park is owned or leased by the hospital).

Car parking provided by a hospital will not be subject to FBT, will not count towards the employee's exemption cap and will not be a reportable benefit. The tax savings arising from the salary package of car parking benefits provided by the hospital are not shared on a 50/50 basis between employees and the Health agency.

- Not provided by the hospital.

If either:

1. The employee pays a fee to a third party parking provider and is then reimbursed by the employer or
2. The employer pays a fee to a third party parking provider to allow the employee to use the car park

an expense payment benefit will arise. The benefit will be fully taxable and will count towards the employee's exemption cap

*Costing: The car parking fee charged by the third party parking provider (GST-inclusive).*

*Substantiation: A Payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

### **6.23 Hire purchase arrangements**

A hire purchase arrangement is an agreement to purchase vehicles, equipment or other assets subject to payment terms. Generally, ownership of the asset is transferred when the final payment is made.

Payments under the hire purchase arrangement can be salary packaged.

*Costing: Payment under hire purchase arrangement.*

*Substantiation: A copy of the hire purchase agreement indicating payment terms.*

*Method of Payment: Reimbursement or the employer makes the payment to the provider by Electronic Funds Transfer directly into the loan account. Where this is not available other arrangements will be made.*

### **6.24 Remote area benefits**

Remote area benefits are generally provided to employees who have or relocate their usual place of residence to a remote area. The definition of 'remote area' is provided in FBT Policy and Procedures Manual.

This benefit applies to existing and future employees who reside in or have been relocated to a remote area for the purpose of continuing employment with a Health agency.

The benefit is available to employees who have incurred the expenditure in the current FBT year, or, to employees who have incurred expenditure in prior FBT years but after 1 April 2006, and were employed by the Health Service at that time, or, to employees who meet one of the above two categories. The benefit does not apply to employees who have subsequently left the remote area where the land and dwelling is situated.

- Remote area housing benefits

This benefit category provides to the employee the right to use the unit of accommodation as their usual place of residence.

Provided specific conditions are met, this benefit is an exempt benefit.

The following benefits attract concessional tax treatment where the employee, if specific conditions are satisfied, can receive a 50% reduction in the taxable value of the benefit:

- Remote area rent

The remote area rent benefit category allows employees to be reimbursed for rent accrued on an employee's unit of accommodation.

It is important to note that the 50% reduction applies to the employee's expenditure (the gross rent), not to 50% of the taxable value.

- Remote area interest

The remote area interest benefit category allows employees to be reimbursed for interest expense accrued on an employee's remote area housing loan.

A remote area loan where the employee's financial institution has provided additional funds by way of redraw or draw down that are not separately maintained will not be eligible to the 50% reduction.

- Remote area residential property

The remote area residential property benefit category allows employees to be reimbursed for all or part of the expenditure incurred in the cost of acquiring land, or a house and land, in a remote area where the property becomes the employee's usual place of residence.

The expenditure must be for the purchase of land and house, or of land with the intention of building on that land. Evidence of purchase must be demonstrated by way of sighting a title deed and a copy is to be retained by the Health agency.

- Residential fuel

Residential fuel is any form of fuel (including electricity) used in connection with the employee's usual place of residence. Please note the ATO does not consider water to be residential fuel.

*Costing: All or part of the expenditure incurred in the cost of the above benefit category listed.*

*Substantiation: A payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred, a copy of the settlement contract and title deed, rental agreement, loan documentation and loan statements.*

## 6.25 Other entertainment

Recreational entertainment expenses in relation to amusement, sport and similar leisure time pursuits can be salary packaged. Examples include:

- A game of golf
- Theatre or movie tickets
- A joy flight or
- A harbour cruise.

Note these expenses are not meal entertainment and are fully taxable and will count towards the exemption cap.

*Costing: The cost of the entertainment (GST-inclusive).*

*Substantiation: A payment/Reimbursement Claim Form will be required, along with invoices/receipts for expenses incurred.*

## 7 EXCEPTIONS

**The following are benefits that cannot be packaged:**

### *Entertainment facility leasing expenses*

Entertainment facility leasing expenses are the expenses incurred in hiring or leasing:

- A corporate box
- Boats or planes for providing entertainment
- Other premises or facilities for providing entertainment (such as a private function room).

### *Associate lease*

Associate lease arrangements is similar to a novated lease arrangement but involves a motor vehicle that is owned by the employee's associate. Under this arrangement the employee's associate (i.e. spouse, child or relative) leases a motor vehicle to the employer.

## 8 MEAL ENTERTAINMENT

Salary packaged meal entertainment expenses are subject to a grossed-up cap of \$5,000. Meal entertainment expenses in excess of the \$5,000 cap will be included in the \$17,000 exemption cap. Additionally, all salary packaged meal entertainment benefits are reportable.

A "grossed-up cap of \$5,000" is practically equivalent to \$2,550 of actual employee meal entertainment expenditure in the 2016/17 FBT year and \$2,650 for each year thereafter. Any meal entertainment expenditure in excess of this amount will either "use up" part of the \$17,000 exemption cap or, if the exemption cap has been reached, will be subject to FBT.

This benefit is part of superable salary.

Meal entertainment expenses can be paid by way of the meal entertainment card or claimed from the employer via direct reimbursement.

## 8.1 What is meal entertainment?

Meal entertainment expenses are expenses representing the provision of:

- (a) Entertainment by way of food and drink or
- (b) Accommodation or travel in connection with, or for the purpose of facilitating, entertainment by way of food and drink.

In order for food and drink to qualify as meal entertainment, there must be some element of entertainment present. The provision of food and drink will not be regarded as meal entertainment in all circumstances.

Entertainment in this sense does not refer to a performance or the like, but more generally to some gathering of people to carry out some activity with a view to enjoying themselves. Food and drink consumed by the employee alone is not meal entertainment.

Meals costing less than \$15.00 (including GST) will not be eligible.

The following factors should be considered when determining whether or not the provision of food or drink constitutes entertainment:

- (a) **Why is the food or drink being provided?** Food or drink provided for the purposes of refreshment does not generally have the character of entertainment, whereas food or drink provided in a social situation where the purpose of the function is for employees to enjoy themselves generally has the character of entertainment.  
The meal entertainment expenses can be incurred by an employee in respect to entertainment by way of food and drink and may include purchases for family, friends or work associates. The guests of the eligible employee do not have to be related to employment with NSW Health.
- (b) **What food or drink is being provided?** Light meals such as morning tea are less likely to be meal entertainment as opposed to more elaborate meals. In general, the more elaborate a meal, the greater the likelihood that entertainment arises from the consumption of the meal.  
Breakfast/lunch/dinner with friends or family at a restaurant/café (with knife and fork), would be considered meal entertainment. Drinks including alcoholic beverages can only be included as meal entertainment when consumed in conjunction with a meal (this may include bring-your-own alcohol (BYO)).
- (c) **When is the food or drink provided?** Meals must be consumed out of working hours as part of a staff member's private social function. Food and drink consumed during work time or overtime on the employer's premises is not meal entertainment. Food and drink consumed while an employee is travelling as part of their employment duties is not meal entertainment.

(d) **Where is the food or drink being provided?** Food provided in a social setting, e.g. hotel, restaurant, café, coffee shop, etc. is more likely to be meal entertainment (as opposed to food or drink provided on the employer's business premises or at the usual place of work of the employee). The meal must be consumed immediately at a sit down facility i.e. a restaurant or like establishment, and take away meals and home delivered meals are not meal entertainment.

#### ***Meal entertainment related accommodation and travel***

- Accommodation or travel 'in connection with, or for the purpose of facilitating' meal entertainment e.g. taxi charges, overnight stay in the city to attend the function, etc., are allowable expenses.
- Accommodation and/or travel costs for holidays or any other recreational purposes do not meet the criterion of 'in connection with' and are not allowed.
- Reimbursements of car expenses on a per-kilometre basis are not allowable meal entertainment expenses.

#### ***Examples of expenses that are likely to be meal entertainment***

- Purchases of food or drink for a party, BBQ, etc. (special event declaration required, refer section regarding self-catered functions below)
- Drinks/food while on holidays at a resort/hotel, etc.
- Taxi travel to a club/restaurant, etc. for the purposes of consuming food/drink at that venue.

#### ***Examples of expenses that are not likely to be meal entertainment***

- Purchase of general household food and drink
- Purchase of alcohol (unless consumed with a meal, i.e. BYO or at a self-catered function)
- Tickets to movies, sporting or cultural events
- Cost of recreational pursuits
- Travel/accommodation costs for local or overseas holidays for recreation purposes.

## **8.2 Meal entertainment card**

### ***NSW Health policy***

- The meal entertainment card (ME card) is to be used for meal entertainment costs only. No other purchases are allowed.
- Periodical payments or direct debits cannot be set up on the card, and the card cannot be used to withdraw cash.

- Only cards issued by NSW Health's banking provider, Westpac, may be used for salary packaging benefits, including meal entertainment. This policy must be reviewed when NSW Health's banking provider changes.
- Existing cards, including ME cards and all other salary packaging cards, issued by other financial institutions must, upon expiry, be replaced immediately with cards issued by Westpac.
- Additional cards are not to be issued to family members.
- Employees are not to transfer or deposit after tax funds (whether via BPAY, internet banking or over the counter deposits) onto the ME card.
- There are no restrictions on the use of the ME card when the employee is on leave (including annual leave, long service leave and unpaid leave).
- Where an employee terminates employment with NSW Health or ceases salary packaging, the card will be cancelled within one month of the termination date and the employer will return any unused balance (greater than \$30) to the employee via the payroll system as salary. The unused amounts will be subject to PAYG withholding. Unused amounts less than \$30 will be donated to one of Westpac's charity funds.
- At the end of each FBT year, 31 March, unspent card balances in excess of zero will be deducted from the amount of ME that can be packaged in the following FBT year. This is a governance measure designed to assist salary packaging administrators to monitor meal entertainment expenditure up to the grossed-up \$5,000 cap.

### ***Substantiation requirements***

- Employees are required to complete an application form to receive an ME card. Along with the application form, the employee must declare that the ME card will only be used for meal entertainment expenses in accordance with NSW Health policy.
- Employees are not required to retain original ME card receipts and documentation unless:
  - The card is used for a self-catered function (refer to section 8.4 below) or
  - The card is used for ME at a business that is not obviously a meal entertainment establishment, for example, a café located in a bookshop, nursery or hardware store.
- Items that are not food or drink do not qualify in any circumstances unless the items are travel or accommodation for the purpose of facilitating entertainment by way of food or drink. In these circumstances the statement and invoices need to identify the particular meal entertainment event

connected with the travel and/or accommodation expenses charged to the ME card.

- The Health agency may request further information from the employee where the information provided together with the statement is not adequate.

### ***ME Card Audits***

At least 1% of cards must be reviewed per quarter. Apart from that requirement, the frequency and scope of ME card audits are to be determined by each Health agency and must be reviewed by the Health agency's internal audit function.

### ***Sanctions for Unauthorised Use of the ME card by Employees Subject to Audit***

1. From 1 July 2017, any inappropriate use of the ME card by the employees are not to be managed via after tax deposits onto the ME card.
2. Where inappropriate use of the ME card has been identified, it can be managed using the following processes:
  - a. A reduction of the \$9,009 exemption cap by the amount of the inappropriate spend. E.g. if an employee packaged \$2,500 to a MEC, and there is a non-compliant spend of \$500, then the standard \$9,009 exemption cap will be reduced to \$8,509
  - b. Where the employee has already fully packaged up to the \$9009 exemption cap then standard reversal practice will apply to reduce the packaged value by \$500
  - c. Where possible, the employee should request the merchant to reverse/refund the inappropriate transaction on the MEC and pay for the item using other personal funds.
3. Where the Health agency is of the view that an employee continually breaches the policy, NSW Health may cancel the employee's card without further notice and disqualify the employee from applying for another ME card for a period of time determined at the discretion of NSW Health.

## **8.3 Direct reimbursement**

### ***NSW Health policy***

- Meal entertainment claims will be paid in arrears on production of detailed invoices/receipts.
- Receipts dated more than 12 months before the date the employee started salary packaging are not eligible.

### ***Substantiation requirements***

- The employee must sign a declaration that they have paid for the meal entertainment and have not been reimbursed for the meal entertainment by

any party. This is required with every claim and should be incorporated into the claim form.

- For each item listed on the claim form, the employee must attach an electronic copy of the receipt containing the following information for the venue / restaurant:
  - Name and address and ABN
  - An itemised account of the food or drinks purchased
  - The day the food / drink was provided
  - Validation that the meal was eaten at the restaurant, not taken away
  - The total amount paid and the method of payment
  - If the payment was made by a credit card - the credit card receipt must also be attached that details the credit card number and accounts name
- A simple receipt without any details is not proof of meal entertainment.
- Internal and external salary packaging administrators are required to obtain electronic evidence from employees so that this can be reproduced if requested by the ATO.

#### 8.4 Self-catered functions

- ME cards can be used for self-catered functions but original receipts must be provided in support of the claim and the substantiation requirements below apply to ME cards as they do to direct reimbursements.
- However, a Health agency is entitled to prohibit the use of ME cards for self-catered functions if the risk of inappropriate use is considered by the Health agency to be too great.
- A detailed receipt containing ONLY the purchases of food and drink for the function will be accepted: if the shopping docket is mixed with other grocery shopping the claim will not be accepted.
- Employees must provide additional information relating to the self-catered function if required by internal audit.

#### 8.5 Frequently asked questions – meal entertainment

***What happens when the amount of a direct reimbursement is greater than the employee's agreed value of ME salary package?***

Reimbursements that are greater than an employee's agreed value of ME salary package at the time of claim will not be honoured by the Health agency.

***What happens when there are insufficient funds on the ME card?***

If an employee makes a purchase and there are insufficient funds in the card account, the card terminal will reject the employee's use of the card. The employee

will need to use another form of payment and may then submit a manual claim form to the employer along with the receipt and tax invoice.

***Are meals consumed at “chain” restaurants and “fast food” eligible?***

Yes, provided that the general meal entertainment eligibility criteria are satisfied and that the meal is consumed on the premises, i.e. not take-away.

***Are there “vendor blocks” on the ME card?***

Yes. From 1 August 2017, a single list of vendor blocks were implemented on the ME card to reduce the risk of inappropriate spends incurred on the card.

Vendor blocks are implemented via identifying categories of merchant category codes (MCC). MCC are allocated by the bank issuing the eftpos machine to the merchant on establishment. All vendors with MCC that are not in the business of providing food and drink have been identified on the vendor block list.

From 1 January 2018, all grocery and supermarkets was added to the vendor block list.

## **9 MOTOR VEHICLES**

### **9.1 Overview**

Each Health agency provides detailed information on the novated leases used in that organisation. This section provides guidelines and policies in relation to novated leases.

### **9.2 Understanding Novated Motor Vehicle Leasing**

***Deed of Novation / Lease arrangements***

An employee leases a motor vehicle from the financier using a standard Finance Lease Agreement. A Deed of Novation is then entered into by the employee, the employer and the financier, under which the employee’s obligation to pay the lease rental payments under the finance lease is transferred to the employer for the term of the deed of novation. Thereafter the employer pays the lease rental to the financier and the lease rental payments will be deducted from the employee’s pre-tax salary as part of the salary package arrangement.

The Deed of Novation must comply with the Australian Taxation Office Guidelines in *IT 2509* and *Taxation Ruling TR 1999/15*.

It is obligatory to use the pro forma Deed of Novation of Motor Vehicle Lease prepared by the Crown Solicitor as shown at Section 15.

Once the Deed of Novation has been entered into, the employer is the lessee of the motor vehicle and provides it to the employee as a car fringe benefit.

### ***Taxation Treatment***

The Australian Taxation Office's (ATO) Income Tax Ruling *IT 2509* and *Taxation Ruling TR 1999/15* deal with the Income Tax and Fringe Benefits Tax consequences of a Novated Lease. In summary:

- The provision of the vehicle to the employee for the employee's own private use will be a car fringe benefit;
- FBT will be calculated on the cost value of the vehicle under the "Statutory Formula method". As a result there is no FBT applied to the operating expenses paid by the employer in respect of the vehicle;
- If the employee purchases the vehicle at the expiry of the lease at the residual value, an FBT liability will not arise if the residual value is less than the market value of the vehicle providing the novated lease is a bona fide lease.

A finance lease will generally be a bona fide lease if:

- There is no express or implied right, option or agreement under which the employee is able to acquire the car at the end of the finance lease; and
- The residual value at the end of the lease is no less than the minimum values set by the Commissioner in ATO rulings (discussed further below).

Note that novated lease motor vehicles are regarded as 100% private use under NSW Health policy. In addition to impacting the taxable value of the fringe benefit, this means that employees are not permitted to claim income tax deductions for any "business use."

All operating expenses such as fuel, service, maintenance, registration and insurance will be transacted through the employer and included in the employee's Salary Package.

### ***Key features of a Novated Motor Vehicle Lease***

The Novated Motor Vehicle Lease gives the employee the flexibility and choice normally enjoyed by a vehicle lessee under a standard lease.

The term of the lease is flexible and is usually set by the employee in association with the financier. Normal lease terms would range between two and four years.

The vehicle is registered and insured in the employee's name and the employee will pay the running cost associated with the vehicle from their salary package.

### ***Residual Value***

At the expiration of the novated lease, employees will have the option of purchasing the vehicle at a residual value. The residual value amount is the value of the car at the end of the lease term and it is agreed at the point the employee enters into the novated lease. The residual value is used to calculate the monthly lease payment.

The minimum residual values set by the Commissioner is provided in ATO Interpretative Decision ATOID 2002/1004 as follows:

Term of lease	Effective Life
	8 years
Year 1	65.63%
Year 2	56.25%
Year 3	46.88%
Year 4	37.5%
Year 5	28.13%

It is NSW Health policy that Health agencies will not enter into a novated lease arrangement where the residual value is less than the ATO's minimum residual value above.

The amount of the lease rentals under the Deed of Novation will be expressed under a standard Finance Lease.

Payment of the residual value under the finance lease arrangement is the responsibility and liability of the employee.

#### **Calculation of FBT on Novated Leased Motor Vehicles**

The taxable value of a car fringe benefit will be calculated using the statutory method (refer below) and included in the employee's salary package.

#### **The Statutory Formula Method**

This is the most common method used in determining FBT for motor vehicles. The taxable value of the car fringe benefit is a percentage of the leased car value. If the car is acquired or sold during the year the kilometres are annualised to calculate the distance that would have been travelled for the whole year.

A flat **20%** statutory rate applies on car fringe benefits for **contracts entered into after 10 May 2011**.

Lease contracts entered into prior to 10 May 2011 retain the same statutory rate until such time as the vehicle is replaced (or a "new commitment" such as change of employment position).

Total kilometres travelled during the year	Prior to EST 7.30pm 10 May 2011 Statutory percentage
Less than 15,000	26%
15,000 to 24,999	20%
25,000 to 40,000	11%
Over 40,000	7%

For new contracts entered into after 7.30pm (AEST) on 10 May 2011 a flat statutory rate of 20% applies.

Taxable value = A x B x C/D – E

Where: A = the lease value of the car

B = the statutory percentage

C = the number of days in the FBT year when the car was used or available for private use of the employee. Under NSW Health policy this is deemed to be 365 days

D = the number of days in the FBT year

E = the employee contribution: this must be an after-tax contribution

### Worked example

Calculation of taxable value of Motor Vehicle where contract entered into after 10 May 2011

A = \$25,000

B = 20%

C = 365 days

D = 365 days (i.e. a full FBT year)

E = NIL

Taxable value = \$25,000 x 20% x 365/365 – 0

Taxable value = \$5,000 – this amount will be applied to the package and “grossed-up”

Calculation of FBT recovery on motor vehicle:

FBT = Taxable value x Gross-up rate x 47%

FBT = \$5,000 x 2.0802 x 47%

= \$4,888

Where the amount exceeds the exemption threshold, the employee will be liable to the FBT recovery amount.

## 9.3 Motor Vehicle Policy

### *Leasing requirements*

All motor vehicles provided to employees under the salary packaging option shall be by way of Novated Leasing arrangements in accordance with the Australian Taxation Office Ruling IT 2509 and any subsequent changes including TD 95/63 and Taxation Ruling TR 1999/15, together with NSW Health policy applying to Novated Leasing from time to time.

All employees and the motor vehicle financiers facilitating Novated Leasing must use the approved Deed of Novation at section 15. No other agreement or documentation may be used.

The employee is responsible for securing their Novated Lease finance from one of the motor vehicle financiers and arranging comprehensive insurance for the leased

vehicle. Health Services must provide employees with the option of at least three Novated Leasing providers from the NSW Health Novated Leasing Panel.

Novated leasing providers are required to provide novated lease quotes in accordance with the NSW Health standard quote requirements which is provided at section 15.9. Salary packaging administrators must obtain a copy of the signed NSW Health Novated Leasing Quote Checklist from their employees. A copy of this checklist is provided at 15.10.

It is the responsibility of each Health Service to determine the extent to which those Novated Lease providers can contact and market their services to employees. Where a Health Service outsources salary packaging administration to an external firm, that external firm is not permitted to restrict or impede the activities of Novated Lease providers in any way.

The employer will not act as a guarantor for any employee.

Under the Deed of Novation, the employer is the lessee of the motor vehicle (though the financial liability remains with the employee) and provides it to the employee for their use without restriction.

The Deed of Novation is required to be approved and signed off by appropriate delegates within each Health Agency. The Deed of Novation cannot be signed off by salary packaging administrators.

The employee retains possession of the vehicle until the expiry of the finance lease.

The employee shall immediately notify the employer upon disposal of the motor vehicle.

The employee shall be required to indemnify the employer for any financial loss incurred on the disposal of the motor vehicle.

Lease rentals will be paid from the employee's salary package by the employer.

### ***Motor vehicle restrictions***

The salary packaging scheme is flexible in allowing an employee to choose a vehicle to be included in the package.

Employees are encouraged to consider Australian manufactured motor vehicles, if such a vehicle meets their needs.

An employee is entitled to salary package more than one vehicle.

It is NSW Government policy that V8 and above vehicles (with the exception of emergency vehicles) may not be salary packaged.

Where the lease value of the motor vehicle is in excess of the luxury car tax threshold (that is, \$66,331 for the 2018/19 financial year), the motor vehicle is considered to be a luxury vehicle and there may be an additional cost in respect of Luxury Car Tax.

The definition of a motor vehicle for salary packaging purposes does not include a motor cycle, a vehicle designed to carry more than 1 tonne, or a vehicle designed to carry more than nine passengers (refer to information in relation to determining carrying capacity below). Consequently, these vehicles cannot be packaged.

Depending on the financier chosen, leasing arrangements can be considered for both new and second-hand vehicles, including motor vehicles already owned or leased by the employee.

The following vehicles can be salary packaged:

- Passenger car
- Station wagon
- 4WD vehicle
- Panel van
- Utility truck (ute).

The only acceptable authority for verifying the carrying capacity of a utility, van or similar vehicle is the Road Vehicle Certification Service (RVCS) managed by the Department of Infrastructure and Regional Development:

(Website: <http://rvcs.dotars.gov.au/>).

The RVCS search function currently can be accessed via the following link:

[http://rvcs-prodweb.dot.gov.au/pls/www/pubrvcs.Notify\\_Search](http://rvcs-prodweb.dot.gov.au/pls/www/pubrvcs.Notify_Search).

Before a vehicle supplied by a novated lease provider can be salary packaged the novated lease provider must produce an extract of the RVCS search for the specific make and model to confirm the vehicle's carrying capacity is less than 1 tonne.

In exceptional cases, when a particular vehicle cannot be located on the RVCS, the only other acceptable form of documentation is the registration papers stating the Gross Vehicle Mass (GVM) and Tare Weight for the specific vehicle.

Miscellaneous Taxation Ruling MT 2024 provides the load carrying capacity of a motor vehicle to be:

*“the gross vehicle weight (GVM) as specified on the compliance plate by the manager reduced by the basic kerb weight of the vehicle. For this purpose, basic kerb weight is synonymous with unladen weight, as specified in the Australian Design Rules, being the weight of the vehicle with a full tank of fuel, oil and collant together with spare wheel, tools (including jack) and installed options. It does not include the weight of goods or occupants.”*

The current Australian Design Rules provide that “unladen mass” which is equivalent to unladen weight as:

*“the mass of the vehicle in running order unoccupied and unladen with all fluid reservoirs filled to nominal capacity including fuel, and with all standard equipment”.*

Standard equipment refers to the common equipment that a specific model of car is supplied with as specified and provided by the manufacturer. As such the equipment that are included when determining the vehicle's carrying capacity are those that are fitted at the time the gross vehicle weight is determined by the manufacturer.

As such, adding additional accessories at the dealer does not alter the GVM or change the calculation of the designed load carrying capacity of a vehicle.

Dealer or manufacturer marketing material and information from other sources must not be relied upon to verify the carrying capacity of a vehicle.

### ***Operating costs of motor vehicle***

All operating costs such as insurance (Third Party and comprehensive), registration, fuel, NRMA (or similar) membership and mechanical repairs and servicing shall be fully deductible from the individual employee's Salary Package. Any costs incurred by the employee additional to that provided for shall not be deducted from the Salary Package. Such costs shall be the responsibility of the employee. Employees should endeavour to cost the operating expenses of the motor vehicle as accurately as possible.

### ***Cessation of employment***

If an employee leaves the employer's employment for whatever reason, the Deed of Novation terminates immediately and the employer no longer has an obligation to pay the lease rental. The obligation to pay the lease rental under the Finance Lease reverts to the employee. The employee retains use of the vehicle, as lessee, until the Finance Lease expires.

Upon ceasing employment with the employer an employee has the following options in relation to the motor vehicle:

- Continue standard lease payments to the financier
- Re-finance with another form of borrowing
- Transfer the novated lease to a new employer or
- Walk away from the transaction by returning the vehicle to the financier subject to the payment of an early return fee.

A Cessation of Salary Packaging Form similar to the pro forma example at Appendix B will need to be completed and forwarded to the employer/administrator.

In the event of termination of the lease by the employee with the financier, any fees, charges or costs associated with the termination of the lease are borne by the employee.

### ***Other issues***

Costs relating to traffic fines or similar infringements are the responsibility of the employee and cannot form part of the operating costs of the motor vehicle.

## 9.4 Procedures for Leasing a Motor Vehicle

### **Selecting an Approved Motor Vehicle Financier**

Motor vehicle financiers provide employees with “prime” finance (competitive pricing), the use of appropriate novated leasing documentation, and customer service in terms of providing quotations, detailed explanation and liaison with motor vehicle trades, accountants and others.

The financiers have varying terms and conditions associated with motor vehicle leasing. The employee should contact at least two motor vehicle financiers to identify the financier which best suits their individual needs.

In obtaining and comparing lease quotations from financiers, employees should consider the following:

- The intended lease term
- The residual value of the vehicle
- The rate of interest to be charged
- The monthly repayments which can be afforded
- The penalty charged by the financiers for early repayment of the lease, or early withdrawal from the lease and
- Other costs or obligations associated with leasing a motor vehicle (e.g. stamp duty).

It is NSW Health policy that the ***whole of the cost of the vehicle is leased***. In other words, Health Agencies will not enter into the novated lease if the employee has paid an amount towards the cost of the vehicle or traded-in a vehicle on the vehicle being leased.

### **Negative equity**

NSW Health Agencies will not enter into any novated leases where there is negative equity from a previous vehicle that has been rolled over into the current novated lease.

### **Obtain “in principle” approval from the financier**

Having selected a financier, the employee should seek “in principle” approval from the financier for:

- Financing the contract value of the lease and
- The estimated monthly repayments.

### **Selecting the motor vehicle**

The following should be considered when selecting a motor vehicle:

- Vehicle price (including on road costs)
- Fuel economy
- Maintenance costs and

- Residual value of the motor vehicle at the end of the lease.

### ***Purchasing the motor vehicle***

Prior to entering into any contract of sale, the employee, or the motor vehicle trader, should contact the selected financier to obtain approval for the purchase of the vehicle and the preparation of the approved Deed of Novation.

The motor vehicle must be registered for private use.

Note: In accordance with Tax Ruling IT 2509 the employee is not permitted to have any equity in the leased motor vehicle. On this basis, the employee cannot reduce the purchase price of the motor vehicle intended for lease with either a cash payment or a “trade-in”.

### ***Securing the motor vehicle lease***

Procedures may vary between financiers. Usually the Deed of Novation is forwarded to the employer for approval. Once approved, the employer will arrange for a fuel card to be issued and for the payment of the lease and operating costs through the Salary Package.

Depending upon the timing of the lease payment as required by the financier, the employee may be required to make the first lease payment and seek reimbursement from the employer once sufficient funds have been accumulated. The employer will not reimburse payments made by the employee before the commencement date of their salary packaging agreement.

Employees considering purchasing an ex-State Government vehicle should be aware that the taxable value will be based on the original cost price of the vehicle and not on the amount paid for the vehicle. Therefore, the FBT will be higher than would normally be the case when purchasing a second-hand vehicle.

## **9.5 Motor Vehicle Operating Expenses**

### ***Motor vehicle fuel charge card***

A charge card is available under certain lease arrangements. This card can be used for the purchase of unleaded fuel, diesel, LPG, oils and lubricants, i.e. costs associated with the operation, repairs and maintenance to the vehicle.

Fuel and other items mentioned above which are purchased through the charge system will be paid from the employee’s Salary Package. Fuel purchased with cash or other credit facilities will not be reimbursed through the package unless alternative arrangements are agreed to by the employer.

Access to the charge card will only be available to employees who have included an approved Novated Motor Vehicle Lease within their Salary Package.

Application for a card should be made to the employer at the time an employee registers their salary package information and instructions with the employer.

Each month the provider will invoice the employer for the motor vehicle operating expenses that have been purchased with the charge card. The employer will then make the payment directly to the provider from the salary package. This payment amount will then be shown on the employee's next quarterly statement from the employer. Details of individual purchases are available through the employer's remote access report facility.

The employer will only be able to make payments for motor vehicle operating expenses in accordance with the amount that has been nominated within the salary package for these costs. If an employee exceeds the nominated amount within the motor vehicle operating expenses, there will no longer be access to the credit facility and the employee must immediately pay any outstanding amounts.

### ***Registration and Insurance***

The motor vehicle should be registered for private use. Payments should be made for registration and insurance as required and then reimbursement sought from the employer.

### ***Repairs and Maintenance***

Payment or reimbursement for repairs and maintenance expenditure can be made by the employer to the employee, subject to appropriate substantiation requirements or by use of the charge facility.

## **9.6 Novated lease and GST**

In a third party lease, the taxable supply to the Health agency is the provision of the leasing services. As such, the GST will be calculated based on 10% of total lease costs. A reconciliation of the GST in respect of actual expenses incurred in respect of the novated lease can be determined at the end of the lease period.

A third party lease is a lease where the employee has sourced a novated lease with a provider who is different to their salary packaging administrator. For internal salary packaging administrators all novated leases will be third party leases.

Where the novated lease provider and the salary packaging administrator is the same, GST will be calculated on actual expenses.

## **10 ADMINISTRATIVE GUIDELINES**

### **10.1 Methods of Payment**

The employer will pay packaged benefits to third parties (service providers) as agreed and on behalf of employees, using an Electronic Funds Transfer payment method for benefits requiring both regular payment (fortnightly, monthly or quarterly), or for irregular payments (e.g. annually). Electronic Funds Transfer will be used for

the reimbursement of paid accounts. Wherever possible, regular payments will be made by Electronic Funds Transfer.

The employer undertakes to make payments and reimbursements within a reasonable time frame after receiving an employee's reimbursement claim form, subject to the employee having sufficient packaged funds available to make the payment and having provided the required substantiating documentation.

Employees who have current payroll deductions or arrangements with their bank or financial institution for the payment of items which they wish to include in their salary package will be responsible for changing those arrangements with the financial institution.

## 10.2 Terms and Conditions

The employer will not extend credit on any payments for a benefit item. Employees will not be reimbursed for any benefit payments they have made unless they have accumulated sufficient funds to cover the payment. Employees can however incur the expense but hold their reimbursement claim until there are enough funds accumulated.

The employer will cease to pay any benefit when the total yearly allocation for that benefit has been expended. As a precaution, employees may wish to allocate additional money for a particular benefit to meet any increases in the cost of that benefit during the salary packaging year.

A reconciliation of the employee's salary package will be made at the conclusion of each salary package year. Any benefit entitlement not paid will be rolled over to the next package year unless the employee seeks reimbursement of the excess, available by completing a reimbursement claim form.

The reimbursement of the excess will form part of the employee's salary and taxed accordingly.

## 10.3 Annual FBT Adjustment

At the conclusion of each FBT year (31 March), the employer conducts a reconciliation between the amount of FBT provision debited and the amount of FBT to be recovered. FBT to be recovered from the employee is calculated as follows:

$[(\text{Total taxable value of benefits} \times \text{gross-up rate}) - \text{exemption cap}] \times \text{FBT rate}$

For example, where there is \$10,000 taxable value of type 2 benefits in 2019:

$(\$10,000 \times 1.8868 - \$17,000) \times 0.47 = \$878.$

This additional cost will be charged to the employee's pre-tax salary.

Should there be a surplus balance in the employee's FBT account the employer will transfer the surplus from the FBT account to the employee's package account.

If there are insufficient funds in the employee's FBT account to meet the FBT liability, the following steps are followed:

1. If there are enough funds in the employee's package account to cover the entire shortfall, the appropriate amount will be transferred from the package account to the FBT account.
2. If there are insufficient funds in the employee's package account to meet the entire deficit in the FBT account, the available funds will be transferred from the package account. The recovery of the remaining FBT deficit will be initiated in accordance with the employer's overpayment recovery procedure.
3. The employee will be notified of the FBT account deficit and of the appropriate course of action to be followed.
4. The FBT provision for the ensuing year will be automatically increased in line with the FBT liability for the past year, unless other arrangements are agreed between the employee and the employer.
5. Employees will be provided with all the pertinent information relating to their FBT account when reviewing their salary packaging arrangements for the following year.

#### **10.4 Responsibilities of the Employer**

1. The employer is responsible for ensuring all forms are received from the employee and checked to ensure they are duly authorised and notated, together with any substantiating documents.
2. The employer is to ensure the package details are correct according to the information provided by the employee, and that packaging commences on the agreed date.
3. The employer also ensures that all periodic payments are organised for the agreed dates and to the correct institutions, and that arrangements for payment by other methods are understood and confirmed.
4. It is a condition of individual contracts either with the Health agency which manages salary packaging in-house, or with an external administrator, that provided the employee has fulfilled all of his/her obligations concerning packaging requirements, the responsibility for any costs or penalties arising from late payments will be apportioned to the Health agency or the external administrator, respectively.
5. The employer must not provide financial advice to employees.

## 10.5 Responsibilities of the Employee

1. An employee who is interested in participating in Salary Packaging is strongly advised to obtain financial advice from an independent financial adviser experienced in salary packaging.
2. Before proceeding with salary packaging, the employee should carefully review all salary packaging options available.
3. If the employee chooses to proceed with salary packaging, the employee completes a Salary Packaging Information Form (see section 15.2) indicating the payment details and instructions for the package items the employee has decided to include.
4. The employee then forwards this form to the employer along with the appropriate substantiation documentation.
5. The employee is responsible for providing proof of payment. It is important that forms are completed accurately and that appropriate substantiation documentation, e.g., rent receipts, bank statements etc., is provided to avoid delays in the commencement of packaging.
6. An incomplete Salary Packaging Information Form will be returned to the employee for completion.
7. Employees who are currently making payroll deductions or who have standing arrangements with their bank for the payment of items which they wish to include in their package, such as insurance premiums, must take the appropriate steps to change their current arrangements.
8. Any legally required post-tax commitments such as compulsory superannuation payments, HELP bills, child support payments, judgement debtor/garnishee orders etc. together with any post-tax payroll deductions such as private health fund membership, union fees etc., must be taken into account prior to determining the portion of salary to be packaged. The employee must provide details of such commitments at the time of entering into a salary packaging agreement.

## 11 OTHER ISSUES TO CONSIDER

### 11.1 Benefits provided outside salary packaging

Benefits provided to employees outside salary packaging are included in the calculation of the exemption threshold for that employee and therefore may impact the amount available to the employee to package on an FBT-free basis.

For example:

1. The overpayment of salary – a loan fringe benefit may arise when an employee is overpaid salary and has not yet repaid the full amount to the employer.
2. The private use of a Health Service vehicle – an employee’s private use of a Health Service vehicle such as home garaging will be a car fringe benefit and will affect the amount available for an employee to salary package. For what constitutes private use of a health service vehicle, please refer to the FBT Policy and Procedures Manual.

It is the responsibility of each Health agency to manage these potential FBT liabilities and, where appropriate, communicate with affected employees and consider adjusting their salary packaging.

## 11.2 Reportable fringe benefits

Reportable fringe benefits amounts do not form part of an employee’s taxable income, but will be taken into account in determining an employee’s:

- Entitlement to various Government benefits (such as family tax benefits), tax offsets and rebates
- Medicare Levy surcharge liability
- Division 293 tax liability
- Higher Education Loan Program (“HELP”) repayment amount
- Entitlement/liability to child support payments.

The above list is not exhaustive and reportable fringe benefits may be taken into account in determining other payments and entitlements of the employee.

Accordingly, the benefits of salary packaging need to be considered and balanced against employees’ individual circumstances, particularly where an employee has access to various benefits and/or is required to pay other tax liabilities.

## 11.3 Adjustments to payroll or salary packaging arrangements after 31 March

Adjustments to salary packaging arrangements, including payroll reversals, are not permitted after the end of the FBT year, 31 March. The only exception is where NSW Health or an external provider has made a genuine administrative error. For these purposes, a genuine administrative error is one that results in an employee’s agreed salary packaging arrangement being implemented incorrectly e.g. an employee agreed to package \$2,000 of mortgage repayments but, due to an error on the part of an external provider, during the FBT year only \$200 was actually paid.

However, no adjustments are permitted after 31 March simply because an FBT liability has arisen, for example, due to the private use of a Health Service vehicle during the FBT year.

## 12 FREQUENTLY ASKED QUESTIONS

### 12.1 How is the employer's share of saving calculated?

The employer's share of saving is calculated such that the difference between the after-tax position of the employee before and after packaging is shared equally between the employer and employee (after deducting administration fees).

Broadly speaking, the employer's share of saving is calculated as follows:

*50% x (Disposable income with packaging less employee's disposable income without packaging).*

In calculating the employer's share of savings, the following items are included in the salary packaging calculation as pre-tax benefits:

- Value of the benefit;
- Administration fee;
- Share of tax savings.

### 12.2 How does salary packaging affect HELP debt repayments?

HELP repayments are calculated based on an employee's HELP Repayment Income ("HRI"). HRI is an employee's taxable income plus:

- Reportable Fringe Benefits Amount ("RFBA")
- Reportable Employer Superannuation Contributions
- Total net investment loss (which includes net rental losses) and
- Exempt foreign employment income.

Salary packaging reduces an employee's taxable income, and hence their HRI. However, the grossed up value of certain packaged benefits may be included in the employee's RFBA. This could therefore increase the employee's HRI.

### 12.3 How does salary packaging affect child support payments?

Child support payments are calculated by reference to adjusted taxable income ("ATI"). The following amounts are used to calculate an employee's ATI.

- Taxable income
- Reportable employer superannuation contributions
- Deductible personal superannuation contributions
- Adjusted fringe benefits (total reportable fringe benefits amounts multiplied by 0.535)
- Certain tax-free government pensions or benefits received
- Target foreign income

- Tax-exempt foreign income
- Net financial investment loss
- Net rental property loss
- Superannuation income stream benefits, including both taxable and non-taxable components
- Less any child support payments the employee provided to another person.

Given that salary packaging affects an employee's taxable income and adjusted fringe benefits amount, the employee's child support payments will be affected.

***It is strongly recommended that employees consult a financial adviser to determine if salary packaging is appropriate in their circumstances.***

### 13 WORKED EXAMPLES

These worked examples are designed to demonstrate how an individual's circumstances, elections and benefits choices are integral to the calculation of the net savings for the employee.

Note that the administration fees applied are indicative only and may vary across Health agencies.

#### Income tax rates

The following rates have been applied in all worked examples:

#### ***Individual income tax rates 2018-19***

Taxable income	Tax on this income
0 – \$18,200	Nil
\$18,201 – \$37,000	19c for each \$1 over \$18,200
\$37,001 – \$90,000	\$3,572 plus 32.5c for each \$1 over \$37,000
\$90,001 – \$180,000	\$20,797 plus 37c for each \$1 over \$90,000
\$180,001 and over	\$54,097 plus 45c for each \$1 over \$180,000

The above rates exclude the Medicare Levy – 2% (applies at a flat rate if taxable income exceeds \$27,475)

#### ***HELP repayment thresholds and rates 2018-19***

For repayment income in the range	%
Below \$51,957	Nil
\$51,957 to \$57,729	2.0
\$57,730 – \$64,306	4.0
\$64,307 – \$70,881	4.5

\$70,882 – \$74,607	5.0
\$74,608 – \$80,197	5.5
\$80,198 – \$86,855	6.0
\$86,856 – \$91,425	6.5
\$91,426 – \$100,613	7.0
\$100,614 – \$107,213	7.5
\$107,214 and above	8.0

**Savings to employees: 1 benefit packaged up to the exemption threshold of \$9,009 and meal entertainment card packaged up to the exemption threshold of \$2,650 at the beginning of the year**

This table is indicative of the savings that employees on the following salaries can achieve by packaging one benefit item valued up to the maximum FBT exemption cap of \$9,009 p.a., meal entertainment card up to the maximum FBT exemption cap of \$2,650 and with an administration fee for one item of \$120 pa (\$60 p.a. shared).

Calculations are based on tax rates applicable from 1 July 2018.

Salary (\$ p.a.)	One benefit item packaged at a value of \$9,010 p.a.	Meal entertainment card packaged at a value of \$2,650 p.a.	Saving to employee (\$ p.a.)
40,000	9,009	2,650	1,601
50,000	9,009	2,650	2,355
60,000	9,009	2,650	2,443
70,000	9,009	2,650	2,443
80,000	9,009	2,650	2,443
90,000	9,009	2,650	2,443
100,000	9,009	2,650	2,715
110,000	9,009	2,650	2,838

**Example 1A**

John is currently on a salary of \$80,000 (exclusive of super). He salary packages one item under the \$9,009 exemption cap, being his credit card payments and an amount of \$2,650 on his meal entertainment card. John does not have a HELP debt.

Salary	\$80,000 p.a.	
Number of benefits packaged	1 item	
Administrative fee	\$120	(\$60 shared)

**Calculation of taxable value for FBT purposes**

	<i>Cost</i>	<i>Taxable value</i>
Credit Card payments	9,009	9,009
Meal entertainment card	2,650	2,650
<b>Total</b>	<b>11,659</b>	<b>11,659</b>

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	80,000	80,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	60
Employer's 50% share admin fee	0	60
Health Service 50% share of saving	0	2,383
<b>Taxable income</b>	<b>80,000</b>	<b>65,838</b>
Income tax payable	17,547	12,944
Medicare levy	1,600	1,317
<b>After tax income</b>	<b>60,853</b>	<b>51,577</b>
Benefit payable w/out packaging (post tax dollars)	11,659	0
<b>Disposable income after benefit</b>	<b>49,194</b>	<b>51,577</b>
<b>Reportable fringe benefits</b>	<b>0</b>	<b>21,998</b>
Employee saving		2,383

### Example 1B

John is currently on a salary of \$80,000 (exclusive of super). He salary packages his mortgage repayments (\$6,009) and credit card payments (\$3,000) under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card.

John does not have a HELP debt.

Salary	\$80,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

### Calculation of taxable value for FBT

**purposes**

	<i>Cost</i>	<i>Taxable value</i>
Mortgage repayments	6,009	6,009
Credit card payments	3,000	3,000
Meal entertainment card	2,650	2,650
Total	11,659	11,659

**Comparison of employee's net tax position**

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	80,000	80,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	160
Employer's 50% share admin fee	0	160
Health Service 50% share of saving	0	2,304
Taxable income	80,000	65,717
Income tax payable	17,547	12,905
Medicare levy	1,600	1,314
HELP repayment amount	0	0.00
After tax income	60,853	51,498
Benefit payable w/out packaging (post tax dollars)	11,659	0.00
Disposable income after benefit	49,194	51,498
Reportable fringe benefits	0	21,998
Employee saving		2,304

**Example 1C**

John is currently on a salary of \$80,000 (exclusive of super). He salary packages \$1,200 of his private health insurance, an amount of \$2,650 on his Meal entertainment card and a motor vehicle under novated lease. John does not have a HELP debt.

Salary	\$80,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

### Calculation of taxable value for FBT purposes

	<i>Cost</i>	<i>Taxable value</i>	
Car	11,000	7,510	Note 1
Private health insurance	1,200	1,200	
Meal entertainment card	2,650	2,650	
<b>Total</b>	<b>14,850</b>	<b>11,360</b>	

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	80,000	80,000
Benefit packaged (pre-tax dollars)	0	14,850
FBT payable	0	0
Employee's 50% share admin fee	0	160
Employer's 50% share admin fee		160
Health Service 50% share of saving	0	2,969
<b>Taxable income</b>	<b>80,000</b>	<b>61,861</b>
Income tax payable	17,547	11,652
Medicare levy	1,600	1,237
HELP repayment amount	0	0
<b>After tax income</b>	<b>60,853</b>	<b>48,972</b>
Benefit payable w/out packaging (post tax dollars)	14,850	0
<b>Disposable income after benefit</b>	<b>46,003</b>	<b>48,972</b>
Reportable fringe benefits	0	21,434

Employee saving 2,969

#### Notes:

1. Assuming the car has a cost of \$37,550 (GST-inclusive), and requires annual lease payments of \$11,000. The taxable value of the car and the private health insurance payments does not exceed the exemption threshold of \$9,009.

### Example 1D

John is currently on a salary of \$80,000 (exclusive of super). He salary packages his mortgage repayments under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card. John also has a HELP debt of \$20,000.

Salary	\$80,000 p.a.	
Number of benefits packaged	1 item	
Administrative fee	\$120	(\$60 shared)

### Calculation of taxable value for FBT purposes

	Cost	Taxable value
Credit Card payment	9,009	9,009
Meal entertainment card	2,650	2,650
<b>Total</b>	<b>11,659</b>	<b>11,659</b>

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	80,000	80,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	60
Employer's 50% share admin fee	0	60
Health Service 50% share of saving	0	2,383
<b>Taxable income</b>	<b>80,000</b>	<b>65,838</b>
Income tax payable	17,547	12,944
Medicare levy	1,600	1,317
<b>After tax income (before HELP repayment)</b>	<b>60,853</b>	<b>51,577</b>
Benefit payable w/out packaging (post tax dollars)	11,659	0
<b>Disposable income after benefit (before HELP repayment)</b>	<b>49,194</b>	<b>51,577</b>
<b>Reportable fringe benefits</b>	<b>0</b>	<b>21,998</b>

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HELP repayment amount	4,400	5,709
Disposable income after HELP	<u>44,794</u>	<u>45,868</u>
Employee saving (before HELP)		2,383
Employee saving (after HELP)		1,074

**Notes:**

HELP repayment rates for the 2018-2019 financial year have been applied. The HELP repayment amount has increased because the HELP repayment income has increased from \$80,000 to \$87,836 (\$65,838 + \$21,998), and the repayment rate has increased from 5.5% to 6.5%.

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### Example 2A

Kirsten is currently on a salary of \$140,000 (exclusive of super). She salary packages one item, being her credit card payments under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card. Kirsten does not have a HELP debt.

Salary	\$140,000 p.a.	
Number of benefits packaged	1 item	
Administrative fee	\$120	(\$60 shared)

### Calculation of taxable value for FBT purposes

	<i>Cost</i>	<i>Taxable value</i>
Credit card payments	9,009	9,009
Meal entertainment card	2,650	2,650
Total	11,659	11,659

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	140,000	140,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	60
Employer's 50% share admin fee	0	60
Health Service 50% share of saving	0	2,779
Taxable income	140,000	125,442
Income tax payable	39,297	33,910
Medicare levy	2,800	2,509
HELP repayment amount	0	0
After tax income	97,903	89,023
Benefit payable w/out packaging (post tax dollars)	11,659	0
Disposable income after benefit	86,244	89,023
Reportable fringe benefits	0	21,998
Employee saving		2,779

**Example 2B**

Kirsten is currently on a salary of \$140,000 (exclusive of super). She salary packages mortgage repayments (\$6,009) and credit card payments (\$3,000) under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card.

Kirsten does not have a HELP debt.

Salary	\$140,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

**Calculation of taxable value for FBT purposes**

	<i>Cost</i>	<i>Taxable value</i>
Mortgage repayments	6,009	6,009
Credit card payments	3,000	3,000
Meal entertainment card	2,650	2,650
<b>Total</b>	<b>11,659</b>	<b>11,659</b>

**Comparison of employee's net tax position**

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	140,000	140,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	160
Employer's 50% share admin fee	0	160
Health Service 50% share of saving	0	2,703
<b>Taxable income</b>	<b>140,000</b>	<b>125,318</b>
Income tax payable	39,297	33,865
Medicare levy	2,800	2,506
HELP repayment amount	0	0
<b>After tax income</b>	<b>97,903</b>	<b>88,947</b>
Benefit payable w/out packaging (post tax dollars)	11,659	0
<b>Disposable income after benefit</b>	<b>86,244</b>	<b>88,947</b>
Reportable fringe benefits	0	21,998
Employee saving		2,703

**Example 2C**

Kirsten is currently on a salary of \$140,000 (exclusive of super). She salary packages \$1,300 of her private health insurance, an amount of \$2,650 on her Meal entertainment card and a motor vehicle under novated lease. Kirsten does not have a HELP debt.

Salary	\$140,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

**Calculation of taxable value for FBT purposes**

	<i>Cost</i>	<i>Taxable value</i>	
Car	11,000	7,510	Note 1
Private health insurance	1,300	1,300	
Meal entertainment card	2,650	2,650	
<b>Total</b>	<b>14,950</b>	<b>11,460</b>	

**Comparison of employee's net tax position**

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	140,000	140,000
Benefit packaged (pre-tax dollars)	0	14,950
FBT payable	0	0
Employee's 50% share admin fee	0	160
Employer's 50% share admin fee	0	160
Health Service 50% share of saving	0	3,500
<b>Taxable income</b>	<b>140,000</b>	<b>121,230</b>
Income tax payable	39,297	32,352
Medicare levy	2,800	2,425
HELP repayment amount	0	0
<b>After tax income</b>	<b>97,903</b>	<b>86,399</b>
Benefit payable w/out packaging (post tax dollars)	14,950	0
<b>Disposable income after benefit</b>	<b>82,953</b>	<b>86,453</b>
<b>Reportable fringe benefits</b>	<b>0</b>	<b>21,623</b>
Employee saving		3,500

**Notes:**

1. Assuming the car has a cost of \$37,550 (GST-inclusive), and requires annual lease payments of \$11,000.

**Example 2D**

Kirsten is currently on a salary of \$140,000 (exclusive of super). She salary packages one item, being her credit card payments under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card. At the end of the year it was found that Kirsten also salary packaged credit card payments of \$3,000 at another Health agency.

Kirsten does not have a HELP debt.

Salary	\$140,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

### Calculation of taxable value for FBT purposes

	Cost	Taxable value
Credit card payments	9,009	9,009
Utility bills	3,000	3,000
Meal entertainment card	2,650	2,650
Total	14,659	14,659

### Comparison of employee's net tax position

	Without packaging	With packaging	
Gross salary	140,000	140,000	
Benefit packaged (pre-tax dollars)	0	14,659	
FBT payable	0	5,282	Note 1
Employee's 50% share admin fee	0	160	
Employer's 50% share admin fee	0	160	
Health Service 50% share of saving	0	1,428	
Taxable income	140,000	118,311	
Income tax payable	39,297	31,272	
Medicare levy	2,800	2,366	
HELP repayment amount	0	0	
After tax income	97,903	84,673	
Benefit payable w/out packaging (post tax dollars)	14,659	0	
Disposable income after benefit	83,244	84,673	
Reportable fringe benefits	0	27,659	
Employee saving		1,429	

### Notes:

1. FBT payable by employee is calculated as the total type1 taxable value of the benefits packaged multiplied by the Type 1 gross up rate plus the total type 2 taxable value of the benefits multiplied by the Type 2 gross up rate less the exemption threshold multiplied by the FBT rate of 47% i.e.  $[(\$3,000 \times 2.0802) + ((\$9,009 + \$2,650) \times 1.8868) - \$17,000] \times 47\% = \$5,282$ .

### Example 3A

Tracey is currently on a salary of \$200,000 (exclusive of super). She salary packages one item, being her credit card payments under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card. Tracey does not have a HELP debt.

Salary	\$200,000 p.a.	
Number of benefits packaged	1 item	
Administrative fee	\$120	(\$60 shared)

### Calculation of taxable value for FBT purposes

	<i>Cost</i>	<i>Taxable value</i>
Credit card payments	9,009	9,009
Meal entertainment card	2,650	2,650
Total	11,659	11,659

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	200,000	200,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	60
Employer's 50% share admin fee	0	60
Health Service 50% share of saving	0	3,540
Taxable income	200,000	184,681
Income tax payable	63,097	56,203
Medicare levy	4,000	3,694
HELP repayment amount	0	0
After tax income	132,903	124,784
Benefit payable w/out packaging (post tax dollars)	11,659	0
Disposable income after benefit	121,244	124,784
Reportable fringe benefits	0	21,998
Employee saving		3,540

### Example 3B

Tracey is currently on a salary of \$200,000 (exclusive of super). She salary packages mortgage repayments and credit card payments under the \$9,009 exemption cap and an amount of \$2,650 on his meal entertainment card.. Tracey does not have a HELP debt.

Salary	\$200,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

### Calculation of taxable value for FBT purposes

	<i>Cost</i>	<i>Taxable value</i>
Mortgage repayments	6,009	6,009
Credit card payments	3,000	3,000
Meal entertainment card	2,650	2,650
Total	11,659	11,659

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	200,000	200,000
Benefit packaged (pre-tax dollars)	0	11,659
FBT payable	0	0
Employee's 50% share admin fee	0	160
Employer's 50% share admin fee	0	160
Health Service 50% share of saving	0	3,471
Taxable income	200,000	184,550
Income tax payable	63,097	56,144
Medicare levy	4,000	3,691
HELP repayment amount	0	0
After tax income	132,903	124,715
Benefit payable w/out packaging (post tax dollars)	11,659	0
Disposable income after benefit	121,244	124,715
Reportable fringe benefits	0	21,998
Employee saving		3,471

### Example 3C

Tracey is currently on a salary of \$200,000 (exclusive of super). She salary packages \$1,300 of her private health insurance, an amount of \$2,650 on her Meal entertainment card and a motor vehicle under novated lease. Tracey does not have a HELP debt.

Salary	\$200,000 p.a.	
Number of benefits packaged	2 items	
Administrative fee	\$320	(\$160 shared)

### Calculation of taxable value for FBT purposes

	<i>Cost</i>	<i>Taxable value</i>	
Car	11,000	7,510	Note 1
Private health insurance	1,300	1,300	
Meal entertainment card	2,650	2,650	
Total	14,950	11,460	

### Comparison of employee's net tax position

	<i>Without packaging</i>	<i>With packaging</i>
Gross salary	200,000	200,000
Benefit packaged (pre-tax dollars)	0	14,950
FBT payable	0	0
Employee's 50% share admin fee	0	160
Employer's 50% share admin fee	0	160
Health Service 50% share of saving	0	4,482
Taxable income	200,000	180,248
Income tax payable	63,097	54,208
Medicare levy	4,000	3,605
HELP repayment amount	0	0
After tax income	132,903	122,435
Benefit payable w/out packaging (post tax dollars)	14,950	0
Disposable income after benefit	117,953	122,435
Reportable fringe benefits	0	21,623
Employee saving		4,482

### Notes

1. Assuming the car has a cost of \$37,550 (GST-inclusive), and requires annual lease payments of \$11,000.



## 14 APPENDIX A: SAMPLE AGREEMENT

This agreement is between the NSW Health Service [xxxxxxx Division] (the employer), and [employee name] (the employee). The employer and the employee have agreed to undertake salary packaging on the following terms and conditions:

### ***Cash and Non-Cash Salary***

1. For the purpose of salary packaging, salary is the employee's substantive base award salary excluding any higher duties allowances, as at the date of commencement of the salary packaging year. Any increment or other salary increase occurring during the package year is to be taken by the employee as a cash component of salary.
2. The employee may elect to package part or all of salary for salary packaging purposes up to a maximum grossed-up amount of \$17,000 pa which is the maximum fringe benefit exemption threshold. Any packaging of benefits which attract full fringe benefits tax and which exceeds the maximum fringe benefit exemption cap, will attract fringe benefit tax – see paragraph 5 below.
3. If the employee elects to package part of their salary, the remainder of the employee's salary will be paid as cash on the usual fortnightly basis by the employer.
4. The employee authorises the employer to reduce the employee's cash salary by the amount of salary to be packaged. The employee further authorises the employer to disperse the packaged component of salary, including any fringe benefits tax liability, to the packaging administrator.
5. The employee may elect to include one or more of the benefit items, provided that the total grossed-up value of the benefit items does not exceed \$17,000. The employee is liable to pay the fringe benefits tax on any benefit value in excess of the \$17,000 threshold. The calculation is: total taxable value of benefits multiplied by applicable gross-up rate, less exemption cap, multiplied by FBT rate. This additional cost will be charged to the employee's pre-tax salary.
6. The employee must pay fringe benefits tax or reimburse the employer the amount of any liability for any tax, charge, duty, or other payment payable by the employer which arises out of or is connected with this agreement including any tax, charge duty or other payment which becomes payable as a result of the amendment, introduction or coming into effect of any legislation. The employer may deduct this amount from any remuneration payable to the employee.

### ***Duration of the Agreement***

This agreement will commence on the first pay period after the processing of all the necessary documentation by both parties.

Subject to any review as provided by this agreement, the agreement if executed prior to 1 April shall be reviewed on 1 April and thereafter every 12 months on 1 April in order to comply with FBT year reporting requirements.

---

***Disclaimer***

The employee releases and hereby indemnifies the employer from all actions, claims, demands and proceedings whatsoever which the employee or any other person has or may have against the employer arising out of or in respect of or in any way connected with any advice received by the employee from the employer, or any remuneration consultant in connection with this agreement, and all costs, damages, and expenses which the employer may incur in defending or settling such actions, claims, demands and proceedings.

***Review of the Agreement***

Towards the end of each package year, an employee may review the components of their salary packaging agreement and vary their package items for the next package year.

The employer may initiate a review of the employer's salary packaging agreement with the employee in the event of substantial change in circumstances, e.g. change in working hours from full time to part-time.

***Confidentiality and General Conditions***

The terms of this agreement remain confidential between the employee and the employer, and relate only to the employee's salary package.

The employer is not liable for taxation or any other liabilities, judgements, penalties or outcomes suffered or incurred by the employee resulting from entering into this agreement.

The employee confirms that the package benefit items selected for their salary packaging are legitimate expense items, and that payments made under the salary packaging arrangements will only be used to pay these expenses.

If the employee ceases employment with the employer, this agreement will lapse.

The employee is under no obligation to participate in salary packaging. The employee may elect at any time to cease salary packaging by giving at least four weeks' notice in writing.

Subject to any review permitted under this agreement, the employee agrees that the terms of this agreement cannot be varied or terminated without the specific written consent of the employer.

## 15 APPENDIX B: SAMPLE FORMS/DECLARATIONS

### 15.1 SAMPLE SALARY PACKAGING ACCEPTANCE FORM

I ..... understand and accept the offer of salary packaging by the .....NSW Health Service ( xxxxx Division) on the terms and conditions detailed in this agreement.

Employee Surname and Given Names .....

Employee Signature .....

Employee Number .....

Date .....

Witness Surname and Given Names .....

Witness Signature .....

**15.2 SAMPLE SALARY PACKAGING INFORMATION FORM**

Private and Confidential

Employee’s Personal Details

Full Name : .....  
 (Surname) (Given Names)

NSW Health Service ( XXXX Division) (Employer)  
 .....

Position Title : .....

Award Classification and Salary : .....

Work Location : .....

Telephone Contact Number/s : .....

Home Address : .....  
 (no. and street)  
 .....  
 (town/suburb) (state) (postcode)

Telephone : .....( Home) ..... (Mobile)

**BENEFIT ITEMS SELECTED FOR SALARY PACKAGING**

(For reimbursement of expenses paid, please nominate an account to be paid into)

Benefit	Service Provider	Bank or Credit Union Payment	Branch Name and Address	Account Type	BSB	Account Number

--	--	--	--	--	--	--

**15.3 SAMPLE CESSATION OF SALARY PACKAGING**

I wish to cease salary packaging and all related payments, to take effect from  
..... / ..... / ..... (A minimum of four (4) weeks' notice is required).

Reason for the cessation of salary packaging is : (please tick appropriate box)

Cessation of employment ..... (Date)

Promotion/ Transfer to a new position ..... (Date)

Finalisation of novated lease ..... (Date)

(indicate odometer reading)

Other reason .....

.....

Employee Surname : .....

Given Names : .....

Serial Number : .....

Employee Signature : .....

Date : .....

**15.4 SAMPLE PAYMENT / REIMBURSEMENT CLAIM FORM**

Payment :

Please make the following direct payment(s) from my salary package. Note – for direct payments an original invoice must be attached to this form.

Benefit	To Be Paid To	Date Due	Amount

Reimbursement :

Please make the following reimbursement(s) from my salary package. Proof of payment by way of receipt must be attached to this form. Reimbursement is to be made by EFT to my bank account.

Benefit	Paid To	Date Paid	Receipt Amount

CLAIMANT'S SURNAME : .....

CLAIMANT'S GIVEN NAMES : .....

SERIAL NUMBER : .....

CLAIMANT'S SIGNATURE : .....

DATE : .....

**15.5 SAMPLE EXPENSE PAYMENT BENEFIT DECLARATION**

I ..... (name of the employee) declare that

..... (show nature of expense e.g. telephone rental and/or calls)

were provided to me by or on behalf of my employer during the period from

.....20.....to.....20.....and the expenses were incurred by me for the following purpose(s)

.....  
.....

(Please give sufficient information to demonstrate the extent to which the expenses were incurred by you for the purpose of earning your assessable income.)

I also declare that the percentage of those expenses incurred in earning my assessable income was

.....%.

Signature .....

Date .....

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## 15.6 SAMPLE LIVING-AWAY-FROM-HOME DECLARATION – EMPLOYEE RELATED EXPENSES

I ..... (name of the employee) declare that

from.....(DD/MM/YYYY) to..... (DD/MM/YYYY)

I have incurred the following expenses for which a living-away-from-home allowance fringe benefit has been provided

### 1 Accommodation

The total amount of accommodation expenses for which I can substantiate with documentary evidence is:

\$.....

(including accommodation expenditure for all eligible family members living with me during the above period).

### 2 Food or drink

I have incurred expenses which exceed the amount that the Commissioner of Taxation considers reasonable for food and drink expenses for the above period. The total amount of my food or drink expenses which I can substantiate with documentary evidence is

\$.....

(including food or drink expenditure for all eligible family members living with me during the above period).

**Note: You must retain documentary evidence of these expenses for a period of five years starting from the declaration date.**

Signature .....

Date .....

**15.7 SAMPLE LIVING-AWAY-FROM-HOME DECLARATION –  
EMPLOYEES WHO MAINTAIN AN AUSTRALIAN HOME**

I ..... (*name of the employee*) declare that the address I usually reside at

in Australia is

Street number/name

.....  
.....

Suburb/town.....State/territory.....Postcode.....

(*address of employee*)

Either myself or my spouse have an ownership interest in the unit of accommodation located at the address stated above. This residence continues to be available at any time for my immediate use and enjoyment during the period that the duties of my employment require me to live away from it and it is where I expect to resume living when that period ends; and

from.....(*DD/MM/YYYY*) to..... (*DD/MM/YYYY*)

when the duties of my employment required me to live away from where I usually reside when in Australia, I actually resided at the following addresses

Street number/name

.....  
.....

Suburb/town.....State/territory.....Postcode.....

(*temporary address of employee*)

Signature .....

Date .....

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**15.8 SAMPLE DEED OF NOVATION OF MOTOR VEHICLE LEASE**

**(“Lessor”)**

**and**

**(“Employer”)**

**and**

**(“Employee”)**

**DEED OF NOVATION OF MOTOR VEHICLE LEASE**

I V KNIGHT  
Crown Solicitor  
60-70 Elizabeth Street  
SYDNEY NSW 2000

DX 19 SYDNEY

Tel: 9224 5053  
Fax: 9224 5055  
Ref: PRE128.242

THIS DEED is made on the \_\_\_\_\_ day of \_\_\_\_\_ 200 .

**BETWEEN:** The party nominated as the Lessor in Part 1 of Schedule I (“Lessor”);

**AND:** The person nominated as the Employer in Part 2 of Schedule 1 (“Employer”);

**AND:** The person nominated as the Employee in Part 3 of Schedule 1 (“Employee”).

**WHEREAS:**

A. The Employee has leased the Motor Vehicle from the Lessor under the Lease.

B. The Employer employs the Employee and as part of the remuneration package which it provides to the Employee the Employer has agreed, with the consent of the Lessor and upon the terms and conditions of this Deed, to the rights and obligations of the Employee under the Lease being novated to the Employer.

C. The Lessor has consented to the discharge of the Employee from the Lease and to the novation of the Lease to the Employer and accordingly the parties to this Deed have agreed that with effect from the execution of this Deed the Employee’s rights and obligations under the Lease will be novated to the Employer.

**NOW THIS DEED WITNESSES:**

**1. DEFINITIONS:**

In this Deed unless the context otherwise requires:

“Business Day” means the day on which trading banks are open for general banking business in Sydney, New South Wales;

“First Novation Date” means the date of execution of this Deed.

“Lease” means the lease between the Lessor and the Employee attached in Schedule 2, the particulars of which are set out in Part 5 in Schedule 1;

“Motor Vehicle” means the Motor Vehicle specified in Part 4 in Schedule I;

“Second Novation Date” means the date on which the earlier of the Trigger Events

occurs.

“*Trigger* Event” means any event listed in subclause 5.3.

## 2. NOVATION TO THE EMPLOYER

- 2.1 With effect on and from the First Novation Date the Employer will be substituted for the Employee under the Lease and thereby becomes the lessee instead of the Employee and all references in the Lease to the Employee in any capacity shall be read and construed as if they were references to the Employer; and
- 2.2 The Employer will be bound by and comply with the provisions of the Lease that bind the lessee and will enjoy all the rights and benefits of the lessee under the Lease.
- 2.3 On and from the First Novation Date up to but not including the Second Novation Date the Lessor releases the Employee from all the Employee’s obligations under the Lease as novated to the Employer except in relation to payment of any rental or other amounts owed by the Employee to the Lessor as at the First Novation Date.

## 3. EMPLOYEE INDEMNITIES

- 3.1 The Employee indemnifies the Lessor from and against any loss, damage, cost or expense suffered or incurred by the Lessor arising out of or in connection with the lease of the Motor Vehicle to the Employee and/or the Employer as the case may be. In particular, the Employee indemnifies the Lessor from and against any loss, damage, cost or expense suffered or incurred by the Lessor as a result or consequence of the Employer not performing any obligation under the Lease as novated to the Employer.
- 3.2 The Employee indemnifies the Employer from and against any liability incurred by the Employer as a result of any action, demand, claim or proceeding against the Employer by the Lessor under or in respect of the Lease as novated to the Employer by this Deed which relates to loss of, or damage to, the Motor Vehicle whether before or after the First Novation Date.

## 4. ACKNOWLEDGEMENTS

- 4.1 The parties acknowledge that the Employee is not entitled to any rights of exclusive possession or other similar rights in relation to the Motor Vehicle under the Lease as novated to the Employer notwithstanding the Employer making the Motor Vehicle available for the use of the Employee or the Employee’s associates (as defined in the Fringe Benefits Tax Assessment Act 1986).
- 4.2 The Employee acknowledges that:

(i) in deciding whether to enter into this Deed, the Employee has not

relied upon any advice or information provided by the Employer and has relied on his or her own enquiries and independent advice;

(ii) he or she has entered into this Deed of their own volition and understands the meaning and effect of this Deed;

(iii) no representation or assurance has been made or given by the Employer that the Employee will continue to be employed by the Employer for the term of the Lease;

(iv) the Employee will become personally liable for ongoing rent or lease payments and all the lessee obligations under the Lease on and from the Second Novation Date.

## 5. NOVATION OF LEASE BACK TO THE EMPLOYEE

5.1 On and from the happening of the earlier of any of the Trigger Events listed in subclause 5.3 the parties agree that, by operation of this clause, the Employee will be substituted as lessee for the Employer under the Lease as novated to the Employer by this Deed and all references in the Lease which by this Deed are read and construed as references to the Employer in any capacity shall be read and construed as if they were references to the Employee.

5.2 The Employee will be bound by and comply with the provisions of the Lease as novated to the Employer which were binding upon the Employer and the Employee will then also enjoy all the rights and benefits of the Employer under the Lease as novated to the Employer.

5.3 For the purposes of subclause 5.1, a Trigger Event is the earlier of:

(a) The last business day before the date of the expiry of the term of the Lease; or

(b) The date upon which written notice is given by the Employer to the Lessor that:

- (i) the Employee has ceased to be an employee of the Employer; or
- (ii) the Employer has suspended the employment of the Employee; or
- (iii) in the Employer's opinion, which is a matter for the absolute discretion of the Employer, the Employee has failed to take reasonable care of the Motor Vehicle; or
- (iv) the Employer and the Employee have agreed that they wish the

Lease to be novated to the employee; or

(c) the Motor Vehicle is lost or stolen; or

(d) the Motor Vehicle is so damaged that, in the opinion of the Lessor, its repair is uneconomical and the Lessor gives written notice to the Employer and the Employee of this opinion.

5.4 On and from the Second Novation Date the Lessor shall release the Employer from all the Employer's obligations under the Lease as novated to the Employer except in relation to payment of any rental or other amounts owed by the Employer to the Lessor as at that date.

## 6. COSTS AND STAMP DUTY

The costs of preparation, execution and stamping of this Deed are payable by the Employee.

## 7. NOTICES

7.1 All notices, requests, demands, consents or other communications ("notices") required to be given or served or given or served to or upon any party pursuant to or in connection with the Deed shall be in writing and shall be deemed to be duly given or made:

(a) in the case of personal delivery, when delivered;

(b) in the case of by letter, on the second Business Day following posting;

(c) in the case of facsimile transmission, subject to cl.7.2, when despatched provided the machine of the sending party has produced a printed record or transmission to the party to which such notice is to be given or served if given or served at the address or facsimile number of such party as specified in this Deed.

7.2 A written notice includes a notice by facsimile transmission. The issuer of any notice by facsimile transmission shall forthwith confirm the same by letter but the failure of the addressee to receive such letter shall not prejudice the validity or effect of such notice. Any notice given by facsimile transmission on a day which is not a Business Day shall be deemed despatched on the next succeeding Business Day.

## 8. GOVERNING LAW

8.1 The Deed will be governed by the law of the State of New South Wales and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of

New South Wales and the courts of appeal from them.

**9. SEVERABILITY**

9.1 If any provision of this Deed is held invalid, unenforceable or illegal for any reason, this Deed will remain otherwise in full force apart from such provision which will be deemed to be deleted.

**10. COUNTERPARTS**

10.1 This Deed may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one Deed.

**EXECUTED AS A DEED**

**SIGNED SEALED AND DELIVERED by)**  
**THE LESSOR by its** )  
**authorised officers as specified** )  
**below:** )

.....

Signature of Director

.....  
Full name of Director

.....  
Signature of Director/Company Secretary

.....  
Full name of Signatory

.....  
Signature of Witness

SIGNED SEALED AND DELIVERED by)  
**THE EMPLOYER by its** )  
**authorised officer as specified** )  
below, for *and on behalf of the Crown in* )  
*right of the State of New South Wales* )  
*~delete as appropriate]* )

.....  
Printed name of Witness

.....  
Signature of Authorised Officer

.....  
Signature of Witness

.....  
Printed name of Authorised Officer

**SIGNED SEALED AND DELIVERED**  
**by)**  
**THE EMPLOYEE** )

.....  
Signature of Employee

.....  
Signature of Witness

.....  
Full name of Witness

.....  
Signature of Witness

.....  
Full name of Witness

## 15.9 NOVATED LEASING STANDARD QUOTE REQUIREMENTS

To facilitate a competitive and a quote that is easily comparable for NSW Health employees, quotes are required to have all of the following standard information:

- Base value (invoice to support the value)
- Residual value (inclusive of GST) and percentages
- Lease term
- Two-month deferral of lease payment
- Payload of vehicle based on the original design
- Number of cylinders
- Manufacturer's specification – model
- Is it greater than 1 tonne?
- Is it designed to carry more than nine passengers?
- Indicate whether new or used
- The amount financed for the vehicle
- Effective interest rate of the vehicle financed
- Novated leases are to be calculated GST exclusive cost, GST payable is to be charged to the LHD/ provider
- 1/11<sup>th</sup> of any after tax employee contributions are to be factored in when calculating the salary packaging pre-tax deductions
- All third party leases (where novated lease provider is not the administrator) – GST is to be charged at 10% of the lease
- Share of Tax Savings using NSW Health calculator
- Indicate whether the novated lease is packaged within the cap or outside the cap
- One fee that covers all administration costs
- A breakdown of all components contained within the finance amount (e.g. stamp duty and discretionary insurances);
- How operating costs have been determined:
  - Fuel rates
  - Kilometer estimates
  - Repairs and maintenance estimates
  - Tyres changed at certain kilometres?
- Split out the different insurance cost (e.g. comprehensive, greenslip and rego)
- Optional extras will only appear on the quote if the employee elects to opt in
- Statement that independent financial advice is strongly recommended

## 15.10 NOVATED LEASING QUOTE CHECKLIST

Important Points To Look For On Your Quote		Yes	No
1.	Is the FBT base value clearly shown on the quote?		
2.	Is the term of lease clearly stated, and have you considered if the term is right for your circumstances (e.g. you are not planning to cease employment within the term of the lease)?		
3.	Do you understand the options available at the end of the lease?		
4.	Is the kilometre estimate on which all running cost budgets are calculated clearly stated?		
5.	Is it clear from the quote how running costs such as maintenance and repairs, tyres and fuels are budgeted for?		
6.	Are all inclusions such as accessories and insurances clearly stated and as agreed to?		
7.	Are you aware that share of savings will be applied to your lease?		
8.	Have any optional insurances been clearly explained and you are aware of the impact on your vehicle finance amount? Have you been provided with the Terms and Conditions and the Product Disclosure statements?		
9.	Are you aware that you can source your own insurance and roadside assistance?		
10.	Is the residual value calculated in accordance with ATO guidelines?		
11.	Are you aware that you can obtain quotes from one of the following panel of approved novated leasing providers? <i>[each Customer to insert their approved panel of minimum of three providers from the NSW Health Novated Leasing Panel]</i>		
12.	Do you understand the financial commitment of the proposed lease? <i>It is strongly recommended to obtain financial advice.</i>		

**Employee's name:**

**Employee's signature:**

**Date:**

*This completed checklist must be included in your submission to obtain approval to enter in a Deed of Novation.*

## 16 GLOSSARY OF TERMS

<i>APPROVED MENU OF BENEFITS</i>	This lists the benefit items, approved by Department of Premier and Cabinet and Treasury, which an employee can salary package.
<i>APPROVED EMPLOYMENT BENEFITS</i>	Approved employment benefits refer to the fringe benefit saving, the administration cost, and the value of packaged benefit(s) which have been approved by Treasury as allowable benefits for superannuation purposes. This approval ensures that an employee's award salary is the 'superable salary' communicated to the Trustees of superannuation schemes.
<i>BENEFIT ITEM</i>	An item of expenditure paid from pre-tax dollars from the approved list of benefits, which an employee may include in their Salary Packaging.
<i>FINANCE LEASE</i>	Refers to a legal document executed between the Financier and the employee participating in the Novated Lease of a Motor Vehicle. The Finance Lease sets out the terms and conditions upon which the finance is being provided for the lease of the motor vehicle.
<i>FRINGE BENEFITS EXEMPTION THRESHOLD</i>	The maximum grossed-up amount of benefits that can be provided to an employee free of FBT as a consequence of the employer having "public hospital" status under the FBT Act.
<i>FRINGE BENEFITS TAX (FBT)</i>	The Fringe Benefits Tax Assessment Act 1986 ('the Act') provides that all benefits which fall within the definition of 'fringe benefits' are subject to FBT. Under the Act the term 'benefit' is defined broadly but generally it applies to a benefit provided at any time during the year of tax in respect of the employment of the employee. A benefit that is considered an exempt benefit under the FBT Act, is not subject to FBT.
<i>GROSSED-UP TAXABLE VALUE OF A FRINGE BENEFIT</i>	The gross value of a benefit item on which the fringe benefit tax rate is applied.
<i>INPUT TAX CREDIT</i>	This applies where GST is charged on an item and the employer is entitled to claim a credit for the GST paid.
<i>IT 2509</i>	Income Tax Ruling IT 2509 relates to the novated leasing of motor vehicles. This ruling along with Taxation Ruling TR 1999/15 sets out the Tax Commissioner's views in relation to the tax treatment of novated lease agreements. <a href="http://law.ato.gov.au/atolaw/view.htm?locid=%27ITR/IT2509/NAT/AT0%27">http://law.ato.gov.au/atolaw/view.htm?locid=%27ITR/IT2509/NAT/AT0%27</a>

<http://law.ato.gov.au/atolaw/view.htm?docid=TXR/TR199915/NAT/A TO/00001>

<i>ITAA</i>	The Income Tax Assessment Acts 1936 and 1997.
<i>LEASE RENTALS</i>	The periodic lease payments made by the employer under the novated lease agreement.
<i>NOVATED LEASE</i>	<p>Under a novated lease, an employee leases a motor vehicle from the financier using a standard Finance Lease Agreement. A Deed of Novation is then entered into between the employee, the employer, and the financier in which the employee's obligation to pay the lease rentals under the Finance Lease is transferred to the employer for the term of the Deed of Novation. The NSW government Deed of Novation must be used (see section 15).</p> <p>The Deed of Novation should be in the name of the Health Service for example the Hunter New England Local Health District is "NSW Health Service – Hunter New England Local Health District".</p>
<i>OTHERWISE DEDUCTIBLE ITEMS</i>	Refers to those benefits for which an employee could otherwise claim a once only income tax deduction through their personal income tax return, e.g. subscriptions to professional associations. If an appropriate declaration is held, these benefits are not subject to FBT nor count towards the exemption threshold. An employee cannot claim a tax deduction in their income tax return for a benefit which has been salary packaged.
<i>PACKAGE YEAR</i>	Employees are required to review their salary packaging agreements at the commencement of each 'packaging year'. Irrespective of when an employee commences packaging, the "package year" commences on 1 April and concludes on 31 March the following year.
<i>PAYG</i>	'pay-as-you-go' withholding tax (income tax) that is withheld from an employee's salary each pay period and paid over to the Australian Taxation Office. The PAYG is offset against the employee's income tax liability via their personal income tax return.
<i>PRE-TAX SALARY</i>	The salary received by the employee before deduction of income tax.
<i>RECONCILIATION OF BENEFITS</i>	A reconciliation of the employee's salary package will take place at the end of each package year or on termination to ensure the amount deducted for payment of benefits has been paid in accordance with the substantiation provided.

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<i>REIMBURSEMENT</i>	Payment of benefit item amount to the employee which was originally paid by the employee. The employer will pay the employee for the benefit item on receipt of original invoices and receipts.
<i>SALARY FOR PACKAGING PURPOSES</i>	An employee's substantive base award salary less pre-tax deductions to superannuation as at the date of commencement of each package year. As a general rule, salary does not include overtime, and higher duties allowances, etc. unless the award specifically prescribes it. Any increment or salary increase occurring during the package year is to be taken as a cash component of salary.
<i>SALARY PACKAGING</i>	Where the employee packages a part or all of pre-tax salary in exchange for one or more benefits. Where not all of salary is packaged, the remaining salary i.e. the non-packaged amount, is paid to the employee in cash (direct deposit to the employee's bank account).
<i>SALARY PACKAGING AGREEMENT</i>	An agreement between the employer and the employee that specifies the terms and conditions upon which salary packaging is offered to the employee. The agreement confirms that the employee has read and understood the terms of the packaging agreement, how it can be terminated by either party, the selection of benefits and the amount packaged, the agreed administration fee, the authority to deduct from the employee's pay, and provision for a yearly review and confirmation of packaging intentions for the following packaging year. A pro-forma Salary Packaging Agreement appears at section 14.
<i>SALARY PACKAGING SCHEME</i>	The scheme being offered by NSW Health for eligible staff as defined in this Policy Document.
<i>SUBSTANTIATION</i>	The documentation required for Australian Taxation Office compliance purposes, which verifies the payment of a benefit item to a third party.

## 17 LIST OF ATTACHMENTS

### 1. Implementation Checklist

#### Attachment 1: Implementation checklist

<b>LHD/Facility:</b>			
<b>Assessed by:</b>		<b>Date of Assessment:</b>	
<b>IMPLEMENTATION REQUIREMENTS</b>	<b>Not commenced</b>	<b>Partial compliance</b>	<b>Full compliance</b>
1.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>Notes:</u>		
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>Notes:</u>		
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>Notes:</u>		
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>Notes:</u>		
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>Notes:</u>		
6.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>Notes:</u>		