



CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 4 OF 2012

GUIDELINES FOR SALARY PACKAGING IN THE WA PUBLIC SECTOR 2012 – AMENDMENTS TO SUPPORT THE INTRODUCTION OF CHOICE OF SUPERANNUATION FUND (SUPER CHOICE)

This Circular replaces Circular to Departments and Authorities No. 7 of 2007 – Guidelines for Salary Packaging in the WA Public Sector 2005 – Amended.

The Department of Commerce Public Sector Labour Relations Directorate (PSD) has reviewed the Guidelines for Salary Packaging in the WA Public Sector. The purpose of this review was to ensure they support the introduction of super Choice, which came into effect for most public sector employees on 30 March 2012.

The attached Guidelines amend:

- Section 6 Superannuation to reflect that super Choice has come into effect.
- Section 9 Salary Packaging Providers (SPPs) to vary the administrative arrangements that apply to employees packaging voluntary contributions to a non-GESB fund.
- Section 10 Financial Advice to provide that employees are not required to obtain financial advice if salary packaging less than 50% of their Total Employment Cost (TEC) to any superannuation fund. Previously, this exemption only applied to employees packaging less than 50% of their TEC to a Government Employees Superannuation Board (GESB) fund.

The amendments to Section 9 will allow employees salary packaging contributions to non-GESB funds to do so via the GESB clearing house, rather than using a SPP. This arrangement will come into effect on 28 September 2012.

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The transition period is, in part, to enable agencies sufficient time to develop the forms and procedures necessary to process these contributions via the GESB clearing house. However, there is capacity for agencies to apply the new arrangement before 28 September 2012 if ready to do so.

Section 9 excludes some agencies from the new arrangement. These agencies should liaise directly with PSD regarding application of the Guidelines to them.

If you have queries regarding the Guidelines, please contact your Labour Relations Advisor.

If you require information regarding the implementation of super Choice by your agency, please contact the Department of Treasury's Choice Helpline on 1300 131 204 or go to www.superchoice.wa.gov.au.



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19 April 2012

GUIDELINES FOR SALARY PACKAGING IN THE WA PUBLIC SECTOR 2012

1. INTRODUCTION

These Guidelines replace the version issued in Circular to Departments and Authorities No. 7 of 2007 – Guidelines for Salary Packaging in the WA Public Sector and apply to all agencies and employees in the Western Australian public sector. The terms “agency”, “employee” and “public sector” are as defined in the *Public Sector Management Act 1994* (PSMA).

Agencies are to comply with the Guidelines and the mandatory Remuneration Packaging Services Contract (RFT 20505). Details of the contract are to be found on the Department of Finance Whole of Government Contracts website at www.contractswa.finance.wa.gov.au/GCD.html

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

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

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

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

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

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

2. TOTAL EMPLOYMENT COST (TEC)

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

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

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

¹ See Section 2 for explanation.

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

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

Employees may package up to 100% of TEC. Employees of agencies who receive concessional FBT treatment² must comply with the ATO's capping thresholds. Information about these thresholds and the definition of a public benevolent institution can be found on the ATO website: www.ato.gov.au

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

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

Motor Vehicles

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

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

3. ITEMS THAT MAY BE PACKAGED

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

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

Some examples of the items that may be salary packaged are to be found in the Remuneration Packaging Services (RPS) contract.

4. SALARY RELATED PAYMENTS

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

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

³ Refer to Section 6.

Compulsory employer Superannuation Guarantee (SG) contributions are to be calculated in accordance with the *State Superannuation Act 2000* and the *State Superannuation Regulations 2001*. These provide for SG contributions to be calculated on the gross (pre packaged) salary amount regardless of whether employees participate in a salary packaging arrangement. Further information is available from the Publications page on the [Department of Treasury's website](#).

5. MOTOR VEHICLES - NOVATED LEASE

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

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

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

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

6. SUPERANNUATION

Prior to 30 March 2012, the *State Superannuation Act 2000* required that a public sector agency's employer SG contributions be made to a Government Employees Superannuation Board (GESB) Scheme, unless an exemption had been granted under that Act. Consequently, at that time most employees were members of a GESB Scheme.

Choice of superannuation fund (Super Choice) became available to public sector employees from 30 March 2012.

With some exceptions (detailed below), new and existing employees are now able to choose to have their employer SG contribution paid to a GESB Scheme or to any other complying superannuation fund including a self managed superannuation fund.

The introduction of Super Choice may result in voluntary superannuation contributions being salary packaged to a wider variety of funds than occurred previously. The following details the availability of salary packaging according to the type of fund. In all cases, employer contributions cannot be converted to cash or other benefits.

- (a) Packaging voluntary contributions to self managed superannuation funds

Voluntary superannuation contributions may be salary packaged to complying self managed funds.

- (b) Packaging voluntary contributions to other non-GESB complying superannuation funds

Voluntary superannuation contributions may be salary packaged to other non-GESB complying superannuation funds provided that the rules of the fund allow it. Employees should consult with their chosen fund regarding the ability to salary package voluntary contributions.

- (c) Packaging employee and/or voluntary contributions to a GESB Scheme

The GESB Schemes include:

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

Each Scheme has different rules regarding salary packaging voluntary contributions, some of which are outlined below. An agency and the salary packaging provider (SPP) must also comply with GESB's electronic and magnetic media data collection requirements. For further details regarding Scheme rules, please contact GESB on 13 43 72.

Pension Scheme

- Employee contributions can be salary packaged.
- Employees can make additional contributions, under a salary packaging arrangement or from after tax income, to either West State Super, GESB Super, or to another complying superannuation fund.

Gold State Super

- Employee contributions (generally five percent of an employee's salary) can be paid under salary packaging.
- Employees can make additional contributions under a salary packaging arrangement or from after tax income, to either West State Super, GESB Super, or to another complying superannuation fund.

West State Super

- Employees can make additional contributions, under a salary packaging arrangement or from after tax income, to West State Super, or to another complying superannuation fund.

GESB Super

- Employees can make additional contributions, under a salary packaging arrangement or from after tax income, to GESB Super or to another complying superannuation fund.

Exceptions to the introduction of Super Choice

- (a) Employees whose employer contributions are made to Gold State Super or the Pension Scheme. Employees currently in either of these Schemes may exercise Super Choice. However, they must withdraw from the Gold State Super or the Pension Scheme in order to do so. They will also be unable to transfer their Gold State Super or Pension Scheme benefits to another fund.
- (b) Employees whose employer contributions are made to the Fire and Emergency Services Superannuation Fund. The arrangements applying to members of this Scheme will not change as a result of the introduction of Super Choice.

Further information on the introduction of Super Choice is available at www.superchoice.wa.gov.au.

7. INPUT TAX CREDITS

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

8. INSTRUMENT FOR IMPLEMENTATION

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

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

9. SALARY PACKAGING PROVIDERS (SPPs)

SPPs are available to assist employers to administer their salary packaging arrangements.

The RPS contract is a panel arrangement providing WA Government agencies and other approved users a choice of SPPs. The RPS contract lists the SPPs available, which may vary from time to time during the life of the contract.

There are three categories of services for remuneration packaging:

- full scope of services;

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

For further details, refer to the RPS contract.

When employees are salary packaging voluntary superannuation contributions, packaging can be done directly to GESB without a SPP. For more information contact the GESB Account Manager for your agency on 13 43 72.

Arrangements to support the introduction of Super Choice

From 28 September 2012, where agencies are utilising the GESB clearing house to administer Super Choice, employees should also be offered the ability to package voluntary superannuation contributions to a non-GESB fund via the clearing house without a SPP.

Agencies may offer this arrangement prior to 28 September 2012 if they are ready to process packaged contributions via the clearing house.

Where agencies administer Super Choice without using the GESB clearing house (i.e. sending contributions directly to employees' chosen funds), employees who have exercised Super Choice should be offered the ability to package voluntary contributions directly without a SPP. This should also be made available by 28 September 2012.

Employees that have exercised Super Choice may choose to utilise a SPP to package voluntary superannuation contributions if this is their preference. A SPP may be preferred if making multiple voluntary superannuation contributions or packaging multiple items.

The Fire and Emergency Services Authority and agencies that do not have GESB as their default fund are exempted from the application of this section of the Guidelines. The administrative arrangements for salary packaging voluntary superannuation contributions for employees of these agencies should be discussed with the Department of Commerce Public Sector Labour Relations Directorate. Further information regarding Super Choice and default fund arrangements is available at www.superchoice.wa.gov.au.

10. FINANCIAL ADVICE

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

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

11. APPROVALS

It is the responsibility of public sector employers and relevant Ministers to ensure that salary packaging arrangements are consistent with these Guidelines and ATO requirements. Agencies seeking to introduce salary

packaging arrangements that are inconsistent with these Guidelines will require specific approval from the Minister for Commerce.

12. REPORTING TO THE ATO

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

13. COST NEUTRALITY

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

- Transactions costs or administration fees charged for the arrangement by SPPs or similar, or
- where employees elect to salary package additional contributions into a GESB or other compliant superannuation fund that incurs a cost, such costs are to be declared and passed on to employees.

Agencies must specify, in separate written agreements (see Section 8) that all costs associated with the administration of salary packaging arrangements will be borne by employees. The types and amounts of the costs are to be itemised in these agreements.

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