


CR 2024/59 - Smartgroup Corporation Ltd and subsidiaries - after tax recipient's payments made after 31 March but before lodgment of the FBT return

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Status: **legally binding**

Class Ruling

Smartgroup Corporation Ltd and subsidiaries – after tax recipient's payments made after 31 March but before lodgment of the FBT return

❗ Relying on this Ruling

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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What this Ruling is about

1. This Ruling sets out the fringe benefits tax (FBT) consequences for employer clients of Smartgroup Corporation Ltd, of 'recipient's payments' made after the end of the FBT year, but prior to lodgment of the FBT return.
2. Details of this scheme are set out in paragraphs 20 to 34 of this Ruling.
3. All legislative references in this Ruling are to the *Fringe Benefits Tax Assessment Act 1986*.

Who this Ruling applies to

4. This Ruling applies to you if you are an employer who is a client of Smartgroup Corporation Ltd through its wholly owned subsidiaries (Smartgroup) that provides your employees with a car fringe benefit where the employees make after tax employee contributions (recipient payments) to reduce the taxable value of the benefit to nil.
5. Wholly owned subsidiaries of Smartgroup Corporation Ltd are:
 - Smartsalary Pty Limited
 - Salary Packaging Solutions Pty. Ltd. trading as Advantage Salary Packaging
 - Salary Solutions Australia Pty Ltd
 - Accesspay Pty Ltd
 - Autopia Group Pty Limited

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- Selectus Pty Ltd
- ABM Corporation Pty Limited
- Pay-Plan Pty Ltd.

When this Ruling applies

6. This Ruling applies from 1 April 2024 to 31 March 2028.

Ruling

Background to legislative requirements

7. The Smartsalary Salary Deductions Report lists after-tax payments that an employee is required to make to their employer (as administered by Smartgroup) towards the provision of the car fringe benefit equal to the taxable value.
8. The taxable value of car fringe benefits is determined by Smartgroup using the 20% statutory formula method in section 9. The taxable value of car fringe benefits can also be determined under the cost basis method in section 10.
9. Both methods allow the taxable value of a car fringe benefit to be reduced by the amount of the recipient's payment.
10. The amount of the recipient's payment is defined in both paragraphs 9(2)(e) and 10(3)(c) as follows:
- ...in a case where expenses were incurred to the provider or employer during the holding period by recipients of the car fringe benefits by way of consideration for the provision of the car fringe benefits – the amount of those expenses paid by the recipients less any amount paid or payable to the recipients by way of reimbursement of those expenses ...
11. The definition does not state when the payment is required to be made. However, payment must be made in return for obtaining the car fringe benefit.

Application of legislative requirements

12. The employee has entered into a salary sacrifice arrangement (SSA) to make after-tax recipient's payments equal to the taxable value of the car fringe benefit.
13. Typically, the after-tax deduction amount required to reduce the taxable value to nil aligns with each FBT year; however, occasionally it does not.
14. Where the after-tax deduction amount does not align with an FBT year, it is intended at the time of providing the benefit that future payments will be made to reduce the taxable value of the car fringe benefit to nil.
15. Required future payments will be made over one to four pay runs to ensure extra payments are made by the time of lodgment of the FBT return.
16. Miscellaneous Taxation Ruling MT 2050 *Fringe benefits tax: payment of recipients contribution by journal entry* states at paragraph 3:
- If payment of an employee's contribution is to be by journal entries, those entries may be made at the time the books of account are written up for income tax purposes.

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17. If, at the time the benefit was provided, it was intended that the employee would make a future payment equal to the taxable value of the car fringe benefit, those future payments will be accepted as recipient's payments.

18. The terms and conditions of the Novated Lease and Salary Package Confirmation Report indicate that employees will make after-tax recipient's payments in return for being provided with a car fringe benefit, and payments will be calculated, and varied if required, to reduce the taxable value of the car fringe benefit to nil.

19. It is accepted that at the time the car fringe benefit was provided to an employee, that employee intended to make after-tax recipient's payments to reduce the taxable value of the car fringe benefit to nil, including making future payments.

Scheme

20. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

21. Smartgroup Corporation Ltd (and its subsidiaries) administers car fringe benefits via SSAs on behalf of its employer clients. Such car fringe benefits are normally provided by way of a fully maintained novated lease agreement.

22. Under the SSA, the employee agrees to forgo future salary and wages to receive a fully maintained novated lease.

23. Typically, employees of Smartgroup's employer clients enter into an effective SSA which includes a requirement by the employee to make recipient's payments towards the provision of the car fringe benefit. Under this arrangement, it is agreed that the after-tax contributions will equal the taxable value of the car fringe benefit and thus reduce the taxable value to nil.

24. As part of this agreement, employees also agree for Smartgroup (on behalf of their employer) to alter their salary packaging deductions as required to meet the obligations of the SSA, including ensuring the taxable value is reduced to nil each FBT year.

25. Under this process, known as the employee contribution method (ECM), the employee agrees to make after-tax payments via payroll deductions, in periodic instalments (generally tied to payroll) based on the expected taxable value of the car fringe benefit for the particular FBT year and the number of eligible pay runs through that FBT year.

26. The terms and conditions of the Smartleasing Novated Lease Quote provided to employees include the following:

FBT or employee contributions (ECM) will be deducted based on estimates. (Annual kilometres and the FBT Base value). Where my actual kilometres vary, or deductions are insufficient, I will be required to fund all shortfalls. (As per the employer and Smartsalary terms and conditions).

27. The car fringe benefit is calculated using the 20% statutory formula method enabling the taxable value to be calculated, agreed to, and documented in the offer prior to the commencement of the lease.

28. The standard process is:

- For new novated car leases procured by Smartgroup, the employee is provided a quote from Smartgroup which that employee signs if they wish to proceed.

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- For all employees with new novated car leases procured by Smartgroup, or new employees with existing novated leases or those procured by someone other than Smartgroup, the employee executes a Novated Lease Application Form and a Salary Packaging Agreement and Application Form.
- All employees will be provided with a Salary Package Confirmation Report outlining the proposed salary packaging deductions to be made relating to the novated car lease including the required after-tax contributions to be approved by the employee.

29. An employer's pay cycle, including the pre-tax and after-tax components of the salary sacrificed car fringe benefit (that is, novated lease), may be weekly, fortnightly or monthly.

30. Typically, the after-tax deduction amount required to reduce the taxable value to nil aligns with each FBT year; however, occasionally it does not.

31. Common situations where it does not align include:

- a novated lease is provided close to the end of the FBT year, leaving insufficient time to make the necessary salary packaging adjustments including the deduction of the agreed and required after-tax contribution
- an employee takes unpaid leave close to or over the end of the FBT year, with insufficient time or funds available to make the necessary adjustment.

32. The agreement entered into by the employee with Smartgroup (on behalf of their employer) provides that the employee has an obligation to the employer to make a further after-tax contribution after the FBT year ends to ensure the taxable value of the car fringe benefit is reduced to nil.

33. As a standard policy for Smartgroup, the shortfall after-tax contribution amount is collected from the next available pay run or runs immediately after the conclusion of the FBT year. Any such prior-year shortfall is typically recouped within one to four pay runs and is completed by the end of the first May after the conclusion of the relevant FBT year.

34. The annual after-tax deduction for the new FBT year is increased by the total shortfall amount from the prior year to ensure there is sufficient recipient's payment to reduce the taxable value to nil. This is amortised in equal after-tax deductions across the FBT year.

When this Ruling does not apply

35. This Ruling will not apply to an entity if the scheme is not carried out as described in this Ruling.

Commissioner of Taxation

18 September 2024

Status: **not legally binding**

References

Previous Rulings:

CR 2020/30

Related Rulings/Determinations:

MT 2050

Legislative references:

- FBTAA 1986 9
- FBTAA 1986 9(2)(e)
- FBTAA 1986 10
- FBTAA 1986 10(3)(c)

ATO references

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