

TD 93/240 - Fringe benefits tax: can the lowest all-day parking fee charged by the operator of a commercial parking station for the purposes of section 39C of the Fringe Benefits Tax Assessment Act 1936 include a fee charged for parking at night?

⚠ This cover sheet is provided for information only. It does not form part of *TD 93/240 - Fringe benefits tax: can the lowest all-day parking fee charged by the operator of a commercial parking station for the purposes of section 39C of the Fringe Benefits Tax Assessment Act 1936 include a fee charged for parking at night?*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *16 December 1993*



This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Fringe benefits tax: can the lowest all-day parking fee charged by the operator of a commercial parking station for the purposes of section 39C of the Fringe Benefits Tax Assessment Act 1936 include a fee charged for parking at night?

1. Yes. The 'daylight period' test of section 39A (ie. the period after 7.00am and before 7.00pm) is used only in determining whether a benefit exists. The 'daylight period' test has no relevance in determining the value of a benefit under section 39C.

2. By definition in subsection 136(1), 'all-day parking' means parking of a single car for a continuous period of 6 hours or more. Section 39C refers to the lowest fee charged by the operator of a commercial parking station in the ordinary course of business to members of the public for all-day parking *on that day*. Accordingly, the lowest fee charged for any 6 hours of continuous parking on a particular day will be acceptable (a nil amount is not a 'fee charged'). It should be noted that the 6 hour period cannot extend beyond midnight as the fee must relate to a particular day.

[The Assistant Treasurer announced on 28 October 1993 that the Government intends to introduce legislation to extend, from 1 April 1994, the 'daylight period' test to the valuation of a benefit under section 39C. That is, from 1 April 1994, only the lowest fee charged for 6 hours of continuous parking during the period between 7.00am and 7.00pm will be acceptable.]

Examples:

1. ABC Parking is a 24 hour parking station. Its lowest rate for parking 6 hours continuously is \$2 being for the period from 12.00am to 6.00am. \$2 is an acceptable fee for the purposes of section 39C.

2. XYZ Parking is open from 6.00am to 11.00pm each day. The cost of parking at XYZ Parking is cheaper after 5.00pm. The rate charged from 5.00pm to closing time (11.00pm) is an acceptable fee for the purposes of section 39C.

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Related Determinations: TD 93/71; TD 93/72; TD 93/106; TD 93/107; TD 93/198; TD 93/199

Related Rulings: TR 93/18

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