
Compliance Review of Salary Packaging for Graded Officers

Most employees may 'package' their salary and take part of their remuneration as non-cash benefits

The employer becomes liable under Fringe Benefits Tax (FBT) legislation for any tax on the benefits the employees receive in lieu of cash salary. The cash portion is subject to Income Tax.

We reviewed the policy and practices of 19 agencies to verify compliance with Premier's Department requirements.

CONCLUSION

The majority of agencies reviewed have satisfactorily implemented the Premier's Department policy on non-SES salary packaging. However, some departments do have matters to be resolved.

KEY FINDING

Two agencies are using service providers not approved under the Government Contract (Contract 6036).

RECOMMENDATIONS

Public sector agencies not included in this review should ensure that their salary packaging arrangements comply with Premier's Department policy.

DETAILED FINDINGS

Delay in Implementation

The Department of Energy, Utilities and Sustainability commenced salary packaging for non-SES employees in February 2005. This was more than two years after the Premier's Department policy on packaging was announced. The Department explained that the delay was because there was no demand from staff for salary packaging.

A small number of employees have since commenced packaging.

Department of Community Services

At the time of this audit over four hundred non-SES employees of the Department of Community Services had taken the opportunity to package their salaries. The Government contractor (a private sector company) manages all aspects of packaging for the department.

The audit highlighted a number of issues, including:

- some advices of payroll deductions supplied by the contractor were not found. Further, the deduction advices do not tell the Department when deductions from employee salaries are to cease
- some compliance verification documents supplied by managers of private superannuation funds were not found

- there is no process in place to advise the contractor that the employee's pay is to be reduced because of leave without pay, worker's compensation or conversion to part-time work
- the Department's policy on salary packaging does not limit the employee to one motor vehicle (as required by the Premier's Department policy) nor contain guidance on the preparation of reconciliations for Fringe Benefits Tax purposes
- deeds of novation from employees having a packaged motor vehicle have not been retained on file.

Responsibility for Monitoring Packaging Arrangements

The policy contains restrictions on the type of benefits that employees can package. We noted that neither the Premier's Department, nor its corporate service provider, are monitoring the packaging arrangements. Each agency was under the impression that the other was responsible for this.

Fringe Benefit Tax Reconciliations

The Government contract requires that reconciliations be undertaken between the amount of Fringe Benefits Tax provided for by the employee and the amount actually incurred by each employee. Presumably the intention is for the reconciliations to be performed to enable each Department to meet its FBT obligations. At the time of this review in late July at the Department of Commerce, 80 per cent of reconciliations had not been completed.

Use of Non-Approved Contractor

Both the Public Trustee and the South Eastern and Illawarra Area Health Service use a service provider other than the approved contractor. See comments under the following heading in regard to Area Health Services generally.

GENERAL MATTER

Area Health Services

We noted that the salary packaging arrangements at the South Eastern and Illawarra Area Health Service follow guidelines issued by the Department of Health. These guidelines differ from those applicable to other Departments and were agreed with the Premier's Department in October 2001.

BACKGROUND

Salary packaging for non-SES employees came into effect for New South Wales government departments, agencies and other authorised users of Department of Commerce contracts from 1 January 2003.

Benefits that may be packaged are:

- superannuation
- motor vehicle (novated lease for 100% private use only)
- housing - remote areas only
- child care (on employer's premises only)
- priority of access fee for child care
- professional subscriptions
- taxi expenses
- bus/rail ticket loans
- education (self/professional)
- laptops, e-organisers and briefcases

Packaging is eligible to the following employees of the NSW public service:

- permanent officers including permanent part-time officers
- temporary employees where appropriate and subject to department/agency convenience
- employees covered by the *Crown Employees Wages Staff (Rates of Pay) Award 2002*.

Agencies had the choice of either administering salary packaging in-house (provided it is cost-neutral to the agency) or using one of the two successful contractors that had been approved by the State Contracts Control Board. In mid 2003, however, one contractor withdrew from the contract, leaving agencies with only the one contractor to use.

The contract was approved to commence from 1 January 2003 and is operative for a period of three years up to 31 December 2005, with an option to extend for a further twelve-month period.

The agencies in the review were:

Department of Commerce	NSW Maritime Authority
Department of Community Services	NSW Rural Fire Service
Department of Energy, Utilities and Sustainability	NSW Treasury
Department of Gaming and Racing	Premier's Department
Department of Health	Public Trustee
Department of Juvenile Justice	Roads and Traffic Authority
Department of Primary Industries	Royal Botanic Gardens and Domain Trust
Department of State and Regional Development	South Eastern and Illawarra Area Health Service
Ministry of Transport	State Transit Authority
NSW Fire Brigades	

COMPLIANCE REQUIREMENTS

Public Service agencies are required to comply with Premier's Department Circular No. 2002-61 'Salary Packaging for Non-SES Employees' and State Procurement Contract 6036 - Flexible Salary Packaging for non-SES Public Sector Employees.

PREMIER'S DEPARTMENT RESPONSE

The Premier's Department approved the implementation of different salary packaging guidelines for Area Health Services in 2001 because these agencies are entitled to Fringe Benefits Tax (FBT) exemptions given their status as Public Benevolent Institutions.

In relation to comments concerning the Department of Community Services (DOCS), the Premier's Department sought advice from DOCS' corporate services provider. The advice indicates that many of the issues raised have been addressed or will be addressed following the implementation of new payroll software or improved administrative processes. Premier's Department will continue to liaise with the provider to ensure that appropriate administrative procedures are in place.

The Report also raised some broader issues concerning the implementation of the salary packaging policy and guidelines by agencies. The Premier's Department intends to issue a Circular to ensure that all eligible agencies are aware of the principles of the policy including those applying to the packaging of motor vehicles. The Circular will also remind agencies that they must use the approved salary packaging provider if they outsource their salary packaging arrangements.

In relation to FBT reconciliation issues, the contractor has advised that it established a free reconciliation service for employers in 2004. Where employers provide data on the amount of FBT collected, the contractor will reconcile this with the actual FBT liability. It would be appropriate to provide this information in the proposed Circular as the contractor advises that not many employers are using the service.

The Department intends to discuss the comments made about monitoring the policy with the Government contractor, corporate service providers and central agencies.