

Appendix

Australia's Future Tax System review: Recommendations with the potential to impact salary packaging

Recommendation	Salary Packaging Analysis
<p><u>Recommendation 9:</u></p> <p>Easily valued fringe benefits should be taxable to employees at their marginal rate and the scope of benefits subject to tax should be simplified</p>	<p>If adopted this recommendation may restrict some salary packaging options by moving the tax liability directly by employees. It is not clear what benefits the review considers to be 'easily valued' nor whether the tax concessions currently attaching to the relevant fringe benefits would be carried over to the proposed income tax regime.</p> <p>What is clear is that this recommendation <u>is unlikely to</u> cover the following currently packaged benefits:</p> <ul style="list-style-type: none"> • benefits whose value is calculated using complex formulas, such as Cars and Car Parking, and • tax-free threshold benefits for public hospitals and not-for-profit employers. <p>In all other cases where a fringe benefit concession or exemption is currently available there are generally good policy reasons for those concessions, thus even if the 'easily valued' benefits are moved to the income tax regime <u>it seems unlikely that their concessional/exempt tax status would be removed.</u></p> <p>The Government has not commented on this recommendation and thus it is not included in their immediate agenda. It is difficult to see how this reform item could be implemented without retaining most of the concessions already used for salary packaging purposes, and thus this recommendation appears to have only limited application and limited impact to salary packaging going forward.</p>
<p><u>Recommendation 9(a):</u></p> <p>Market value should generally be used to value fringe benefits (with an appropriate adjustment for employee contributions)</p>	<p>Again it is unclear exactly which benefits Henry considers should be covered by this recommendation. Most benefits are already valued using either a market value or a formula approach that attempts to <i>estimate</i> market value.</p> <p>It seems likely that this recommendation is the result of Henry's stated view that there should be only limited FBT reductions, and is in effect a call for a limiting of the range of concessions within the current law. This could include things like:</p> <ul style="list-style-type: none"> • <u>otherwise deductible benefits</u>: Henry's view appears to be that these should be treated as ordinary income but with an effective deduction for work-use, thus resulting in the same or similar overall tax position. • the <u>in-house fringe benefits</u> concession (currently valued at only 75% of market value) • the <u>work-related electronics exemption</u> for items like laptops and mobile phones (currently exempt from FBT if primarily used for employment purposes). <p>If adopted this recommendation would have some impact on salary packaging (i.e. packaging of the items for which concessions are removed) however the Government has not commented on this recommendation and it therefore appears that it is not slated for adoption at the current time.</p>

<p><u>Recommendation 9(b):</u></p> <p>The current formula for valuing car fringe benefits should be replaced with a single statutory rate of 20 per cent, regardless of the kilometres travelled</p>	<p>If adopted in the medium to long term this recommendation will result in:</p> <ul style="list-style-type: none"> • an improved or unchanged salary packaging position for more than 50% of all individuals currently packaging, i.e. those on the 20% or 26% rates, • the loss of some, but not all, of the tax savings for those salary packaging a car and using the 7% and 11% rates, and • potential for significant uptake by those currently not packaging a vehicle and who drive less than 15,000 kilometres per year i.e. those for whom the 26% bracket to date has not been sufficiently attractive to package. <p>The Government has not, however, made any comment or response to this recommendation and it therefore appears that it is not slated for adoption at the current time.</p>
<p><u>Recommendation 9(c):</u></p> <p>All FBT exemptions should be reviewed to determine their continuing appropriateness, the currently broad definition of fringe benefits should be reviewed, and complex but low value benefits should be excluded from FBT.</p>	<p>See comments under Recommendation 9 and 9(a) above.</p> <p>Again it is not entirely clear what benefits would be impacted by this recommendation, however it would appear to fit with Henry's broad goal of reducing the number of FBT concessions in favour of bringing simple benefits into personal income tax returns at a market value.</p> <p>Overall, it seems that Henry believes that FBT has become too complicated for low-value benefits (by which he means benefits that deliver low tax revenue) and that these should be exempted from FBT and brought into personal income tax returns.</p> <p>It seems unlikely that this recommendation, even if implemented, would significantly impact salary packaging programs.</p>
<p><u>Recommendation 9(d):</u></p> <p>A small de minimis threshold should be established, below which benefits would not be taxable.</p>	<p>This recommendation would allow for significant cost of compliance savings for small employers that do not provide a large number of benefits to employees. It seems unlikely, however, that the proposed de minimis exemption would be enacted in a way that enabled salary packaging as this would effectively deliver a second tax-free threshold to all employees.</p> <p>Nonetheless, what is clear is that this recommendation will not adversely impact salary packaging programs if adopted.</p> <p>The Government has not made any comment or response to this recommendation and it therefore appears that it is not slated for adoption at the current time.</p>

<p><u>Recommendation 9(e) & Recommendation 43:</u></p> <p>Not-for-profit entities FBT concessions, i.e. the ‘threshold cap’ benefits, should be abolished and replaced with direct funding to the employer.</p>	<p>While this recommendation has the potential to severely restrict salary packaging at public hospitals, charities and other not-for-profit organisations, the Government’s response has effectively ruled out its adoption. That is, the Government has indicated that it will not implement this policy at any stage.</p> <p>Salary packaging under the tax-free cap for these organisations, together with the benefits this packaging provides in terms of staff attraction and retention, therefore appear to be protected from any change as a result of the Henry review recommendations.</p>
<p><u>Recommendation 101:</u></p> <p>The FBT exemption for child care facilities on business premises should be abolished</p>	<p>The Henry review recommendation for abolition of the exemption for child care centres on-premises is unlikely to have significant salary packaging implications given that very few employees package this item given the current generous child care rebate. That is, because the child care rebates are in most cases more generous than the salary packaging savings available, most employees do not salary package childcare fees.</p> <p>In any event the Government has not made any comment or response to this recommendation and it therefore appears that it is not slated for adoption at the current time.</p>
<p><u>Recommendations 18 to 20:</u></p> <p>Taxation of superannuation contributions should be amended.</p>	<p>The Henry review has recommended the following changes relevant to salary packaging in relation to the taxation of superannuation contributions:</p> <ul style="list-style-type: none"> • abolition of tax payable by superannuation funds on superannuation contributions (i.e. abolition of the current 15% contributions tax) • inclusion of superannuation contributions as taxable income in personal income tax returns with a tax-offset provided to ensure “the majority of taxpayers” do not pay more than 15% on contributions up to \$25,000 (\$50,000 for those 50 or older) • reduction of tax paid by superannuation funds on investment earnings to 7.5% (from current 15% rate), and • removal of contribution restrictions for those aged 75 or over. <p>It is interesting to note that the Government’s response has effectively ignored these recommendations and announced superannuation changes that are fundamentally different to those contained in the review. These changes will increase compulsory employer SGC contributions to 12% over ten years and retain the \$50,000 concessional contributions limit for employees 50 and over.</p> <p>The gradual increase in the SGC will mean that there is proportionately less ‘space’ for packaging extra superannuation (i.e. paying additional pre-tax contributions within the concessional limits) but this is unlikely to have a material impact on salary packaging overall.</p>