

Salary Packaging Participation Agreement

State of Queensland

This Agreement is BETWEEN:

The STATE OF QUEENSLAND, through the relevant Queensland Government department or agency (the Employer),

AND _____ (the Employee).

Print Employee name

The Employer offers the Employee the option to participate in salary packaging.

RemServ has been appointed, through the execution of SOA 250, by the Queensland Government to administer the Employer's salary packaging arrangements. The salary packaging will be administered in consultation with your payroll, QGCPO and DEIR.

The Employer and Employee agree on the following terms and conditions:

SALARY PACKAGE TERMS

1. The Employee must make Salary Packaging arrangements only on a prospective basis. This means that before the Employee has earned the entitlement to receive an amount as salary, the Employee agrees to receive part of their salary as a benefit item.
2. Salary Packaging deductions will be deducted fortnightly by the Employer.
3. (a) The Employee must satisfy him or herself as to the benefit and risk associated with salary sacrifice arrangements.
(b) The Employee may elect to avail of one or more of the benefit items approved by the Queensland Government for salary packaging purposes, providing the aggregate gross value of the items (excluding superannuation, for which there is no packaging limit) does not exceed 50% of the total salary payable for the FBT year, payable fortnightly.
4. The participation of the Employee in salary packaging shall be:
 - (a) at no cost to the Employer; and
 - (b) at the sole financial risk of the Employee.

TAXES, COSTS AND OTHER CHARGES

5. (a) All taxes including FBT, charges, fees, or other costs associated with salary packaging shall be the responsibility of the Employee.
(b) (i) The risk of incurring an FBT liability is solely the Employee's, regardless of the circumstances that result in FBT.
(ii) The Employee must make provision for FBT in advance of incurring the liability.
(iii) The Employee acknowledges that access to an FBT exemption cap is not an Employee entitlement. An FBT exemption cap is a tax concession made under the *Fringe Benefits Tax Assessment Act 1986* for limited categories of employers, not employees.
(iv) Eligibility for an FBT exemption cap is determined by the Employer's interpretation of the *Fringe Benefits Tax Assessment Act 1986*, ATO rulings, determinations and interpretative decisions.

- (v) The Employee, whether eligible to an FBT exemption cap or not, is liable for any FBT incurred either through exceeding any FBT exemption cap or by salary packaging a benefit item that attracts FBT.
- (c) (i) Where any FBT liability is identified by RemServ, the FBT will be withheld from the Employee's salary sacrifice trust account with RemServ at the time of the relevant transaction, to be transferred to the Employer.
- (ii) Any outstanding FBT liability has the first call on the Employee's salary sacrifice trust account with RemServ, and as such has priority over any further salary packaging benefit items provided to the Employee.
- (iii) By entering into salary packaging arrangements, the Employee consents to and authorizes RemServ to transfer funds from the Employee's salary sacrifice trust account to the Employer to meet any FBT liability outstanding.
- (iv) Where insufficient funds are held in the Employee's salary sacrifice trust account to meet any FBT liability outstanding, the Employee agrees to make arrangements within a reasonable time with the Employer to repay the FBT liability within an agreed reasonable timeframe. The Employee recognizes that failure to repay any FBT liability may result in withdrawal of the Employee's access to salary packaging arrangements and the recovery of the FBT debt by the Employer in accordance with the Employer's FBT debts and recovery policy.
- (v) Where an FBT liability remains outstanding as at the date of termination of the Employee's employment, the Employee agrees for the Employer to deduct from any monies payable by the Employer to the Employee, the amount necessary to payout the FBT liability, including any relevant penalties imposed by the ATO. If after such deduction there still remains an FBT liability, the Employee agrees to make arrangements with the Employer to repay the FBT liability within an agreed reasonable timeframe. The Employee recognizes that failure to repay any FBT liability will result in the recovery of the FBT debt by the Employer in accordance with the Employer's FBT debts and recovery policy.
- (d) For employees not eligible for an FBT exemption cap, the Employer's FBT liability for taxable non-salary sacrifice fringe benefits, which are exclusive of those provided as part of salary packaging arrangements, remains the responsibility of the Employer.
- (e) For an Employee eligible for an FBT exemption cap, all non-salary sacrifice taxable fringe benefits have first priority in the application of the FBT exemption cap. If this threshold is exceeded by the addition of the GUTV of salary sacrifice fringe benefits, the resultant FBT liability will be deemed to be arising because of salary packaging regardless of the circumstances, and is therefore the responsibility of the Employee.
- (f) For an Employee eligible for an FBT exemption cap and who is salary packaging, where a subsequent change in employment conditions or position incorporates the provision of a non-salary sacrifice taxable fringe benefit which results in the FBT exemption cap being exceeded, the resultant FBT liability will be deemed to be arising because of salary packaging, and is therefore the responsibility of the Employee.
- (g) (i) The Employee must provide reasonable estimates of the GUTV of taxable non-salary sacrifice fringe benefits each FBT year to RemServ for monitoring the Employee's position against the FBT exemption cap.
- (ii) In the absence of more accurate information, RemServ may use the prior FBT year information as an estimate for the purposes of monitoring to ensure the FBT exemption cap is not exceeded. Where

the Employee's circumstances have altered since the prior FBT year, it will be the Employee's responsibility to provide RemServ with a revised estimate and the reason why it is necessary.

- (h) (i) Post-FBT year adjustments in relation to any FBT liability which could occur inadvertently are the responsibility of the Employee, e.g. where the quantum of non-salary sacrifice fringe benefits was higher than estimated and/or factored into the Employee's salary packaging arrangements.
 - (ii) Conversely, where estimates of the GUTV of non-salary sacrifice fringe benefits were factored into RemServ's monitoring of the FBT exemption cap and the actual GUTV calculation was lower than estimated, the residual of the threshold lapses and does not carry over to the next FBT year in accordance with the FBT legislation.
 - (i) (i) Where the Employee's conditions of employment or position changes during the FBT year (temporarily or permanently) altering the FBT status of the Employee, it is the Employee's responsibility to formally advise RemServ of the change within 7 days (failure to do so may result in the withdrawal of access to the salary packaging arrangements).
 - (ii) The FBT exemption cap applies only to benefits provided while the Employee is working in and for the designated eligible business area or agency. Where the Employee is seconded, promoted, transferred to or relieving in an ineligible business area or agency, whether permanently, temporarily or part-time, and whether or not the Employee's payroll processing site changes, regardless of which business area or agency bears the costs, the Employee will cease to be eligible for the relevant FBT exemption cap from the first day of the change.
 - (iii) Where the Employee's official duties, overall employment arrangements and reporting relationships are split between eligible and ineligible business areas or agencies, the Employee may no longer qualify for an FBT exemption cap depending on the specific provision of the FBT legislation applicable as determined by the Employer.
 - (iv) Where the Employee's FBT status alters during an FBT year, the relevant fringe benefits provided in relation to the periods the Employee was eligible and ineligible for the FBT exemption cap, require separate FBT treatment. To remove any doubt this means that all taxable fringe benefits provided while the Employee is ineligible for the FBT exemption cap, will be subject to FBT, and that the FBT exemption cap applies to those taxable fringe benefits provided while the Employee is eligible for the FBT exemption cap.
 - (j) The Employee recognizes that interpretation of the *Fringe Benefits Tax Assessment Act 1986* and its application is at the sole discretion of the Employer.
 - (k) The Employee agrees to obtain and provide to RemServ, the Employer, the ATO and/or any other relevant person or body, all necessary declaration forms, receipts and supporting documentation and information reasonably required of the Employee by the Employer or required to be provided for the purposes of taxation legislation in respect of any benefits provided to the Employee under the salary packaging arrangements ("required information").
 - (l) The Employee is responsible for all costs, losses, outgoings and liabilities of every description including, without limitation, any penalties, or general interest charge payable under any taxation legislation suffered or incurred by the Employer, arising out of any failure on the Employee's part to provide any required information or for any inaccuracies or omissions in any required information provided by the Employee.
6. Any additional costs incurred as a result of termination or cessation of the Employee's salary package shall be the responsibility of the Employee. The Employer may recover such costs from the Employee as a debt due.

7. (a) If any part of the Salary Package has been paid in advance by the Employer or RemServ and this agreement is terminated for whatever reason, the amount which has been paid which is more than the entitlement at the date of termination, including any FBT liability outstanding, shall be deducted from the Employee's termination of employment payment from the Employer in the calculation of all statutory leave entitlements by the Employer.
(b) Where there is a statutory obligation on the Employee to pay entitlements to the Employer, the Employee undertakes to pay immediately the equivalent of such amounts to the Employer in reduction of any amount owing under this agreement.
8. In the event of the Employee's termination of employment with the Employer for any reason whatsoever, the calculation of all statutory leave entitlements such as long service and recreation leave shall be at the rate applicable to the Employee's substantive salary.
9. On completion of the package year any balance in the salary packaging account with RemServ will be rolled over to the next package year.

SALARY PACKAGE COMPONENTS and REVIEW

10. (a) The components of the Salary Package may be changed as near as practical, but prior to, the completion of the package year which shall end on at 31st March of each year, with the consent of the Employer.
(b) However, under any of the following defined circumstances:
 - separation;
 - divorce;
 - ill health;
 - extended leave including parental leave;
 - substantial change to the Employee's salary amount,
 - change of employment location which may affect FBT status,the Employee shall have the right to initiate a review of the components of the Salary Package prior to the completion of the package year.
11. In the event of exceptional or unintended circumstances, the Employer may agree to prospectively vary the components of the Employee's Salary Package. Three changes per FBT year will be permitted without charge. An additional fee of \$50 may, at the discretion of RemServ, be charged for each time a change is made to the package. This fee will be payable by the Employee to RemServ.
12. (a) In the event that there are changes relating to
 - (i) Fringe Benefits Tax (FBT) legislation;
 - (ii) the introduction of any State equivalent to Fringe Benefits Tax legislation; or
 - (iii) the way in which any Fringe Benefits Tax legislation is interpreted and applied;this agreement will be renegotiated in accordance with the provisions of SOA 250.
(b) Until such time as this agreement is renegotiated following changes to the FBT status of the Employer, any FBT liability from this agreement will be the responsibility of the Employee and the Employee indemnifies the Employer in respect of any FBT liability borne by the Employer arising out of this agreement.
(c) The Employee is not and will not be entitled to any compensation for the loss of access to the FBT exemption cap whether permanently or temporarily, and whether fully or partially, howsoever caused. If the Employee relies on any financial benefit from the FBT exemption cap as part of their salary packaging arrangements they do so at their own risk.

FINANCIAL ADVICE

13. The Employee acknowledges that it is a **strong recommendation** of the Employer that independent financial advice is sought prior to participation in salary packaging.
14. (a) The Employee acknowledges that this agreement and all publications relating to salary packaging have been prepared without consideration of the particular investment objectives, financial situation and needs of the Employee. The Employee acknowledges that they should not act on the basis of any matter contained in this agreement without considering and, if necessary, taking appropriate legal, financial or other professional advice based upon the Employee's own particular circumstances;
(b) The Employee acknowledges that it is the responsibility of the Employee to obtain independent legal, financial and other advice to enable the Employee to assess the appropriateness of the salary packaging arrangements constituted under this Participation Agreement for the Employee; and
(c) The Employee acknowledges that the Employee has entered into this Participation Agreement solely in reliance on the independent legal, financial and other advice obtained by the Employee and not in reliance on any information provided by the Employer.
15. The Employee acknowledges that the Employer bears no responsibility in respect of independent financial advice received. The Employee also acknowledges that no financial advice has been given by the Employer in connection with the decision to enter into salary packaging.

ADMINISTRATION

16. The fees to be charged by RemServ for administering salary package payments made under this agreement are payable by the Employee to RemServ. The total fee amount includes government rebates.
17. The Employee must pay the fees for salary packaging in accordance with SOA 250.
18. The Employee acknowledges that if packaging a novated lease of a motor vehicle, a fuel card must be packaged either directly through the motor vehicle financier, or with RemServ.

CONFIDENTIALITY AND ACKNOWLEDGEMENT

19. The terms of this agreement replace all previous agreements between the Employee and the Employer in relation to salary packaging and are to remain confidential between said parties. The terms and conditions agreed between the Employee and the Employer herein relate only to the Employee's salary packaging arrangements.
20. It is acknowledged and accepted by the Employee that the Employer and RemServ are not liable for taxation or any other liabilities, judgments, penalties or outcomes suffered or incurred by the Employee as a result of entering into this salary package arrangement and the Employee indemnifies the Employer and RemServ in respect of any such taxation, liability, judgment, penalty or outcome that the Employer and RemServ may suffer.
21. It is acknowledged and accepted by the Employee that all claims, damages, costs and expenses which may be paid, suffered or incurred by the Employer in respect of the Employee's salary packaging arrangements, will be made good at the Employee's expense and may be deducted from any salary payable by the Employer to the Employee or other monies due or becoming due to the Employee.
22. It is acknowledged and accepted by the Employee that:
 - (a) the Employer does not assume any liability as a result of facilitating a payment to a third party, and is not acting as an agent of the Employee; and

- (b) it is not the Employer's responsibility to inform the Employee regarding the FBT impact of any fringe benefit provided, nor to predict and/or advise Employees of any emerging issues which may give rise to the existence of, or changes in the value of, fringe benefits that may or may not affect the Employee's salary packaging arrangements.
23. In accepting this offer of salary packaging –
- (a) the Employee confirms that the benefit items selected for the package are legitimate expense items; and
 - (b) are to be paid from funds provided by the Employee under the salary package arrangement.
24. In the event of appointment, promotion, assignment, redeployment, transfer or other process to another Government Agency entity, the Employee –
- (a) shall be subject to any salary packaging arrangements applying to the new Government Agency; and
 - (b) undertakes to take all necessary steps to comply with those arrangements;
 - (c) must immediately notify RemServ.
25. In the event of cessation of employment with a Government Agency that participates in SOA 250, the Employee will immediately notify RemServ.

PARTICIPATION OBLIGATION AND CESSATION

26. The Employee is under no obligation to participate in salary packaging, and entered into this agreement of his/her own free will. Where the Employee elects to sacrifice a portion of salary to the agreed benefits, the Employee must submit a signed unamended Participation Agreement to the Employer prior to commencing such arrangements.
- The Employee may submit the Participation Agreement to the Employer by any of the following methods:
- (a) By posting the **original** forms to RemServ, GPO Box 424, Brisbane Qld 4001;
- OR**
- (b) By scanning the forms and emailing them from your Queensland Government email address (not your personal email address) to RemServ at remserv@remserv.com.au;
- OR**
- (c) By faxing the forms to RemServ on 1300 30 18 66.
27. The Employee may elect at any time to cease salary packaging by giving at least twenty-one (21) days notice in writing to RemServ. If cessation occurs within a 12 month period from the Employee's anniversary date, the administration fee payable by the Employee shall be, where the date of cessation is:
- (a) 8 months or less of package year - 75% of annual fee amount; or
 - (b) 9-12 months of package year - 100% of annual fee amount.
28. Any pre-tax funds available on termination or cessation of participation in the Salary Package cannot be taken by the Employee as a cash payment. Funds must be utilized for benefit payments or be returned to payroll as soon as practicable by RemServ to be paid as salary and taxed accordingly.
29. (a) The Employee may recommence salary packaging only with the agreement of the Employer;
- (b) A fee of \$50 may, at the discretion of RemServ apply to the recommencement of salary packaging. This fee will be payable to RemServ by the Employee.
30. The Employer at any time may withdraw agreement for an Employee to continue participation in salary packaging arrangements.
31. The Employer may terminate –
- (a) a novated lease; and

- (b) that part of this agreement which relates to a novated lease, where the Employee –
- (i) ceases employment; or
 - (ii) is not entitled to salary; or
 - (iii) ceases participation in salary packaging arrangements.
32. (a) At the request of the Employer, this agreement may be varied prior to the anniversary of the commencement date.
- (b) Should the parties not agree to a reasonable request by the Employer, this agreement shall terminate on the next anniversary date or three months after the request, whichever is the sooner.

INTERPRETATION

33. In this Agreement, unless the context otherwise indicates –

“**ATO**” means the Australian Taxation Office.

“**Benefit Items**” means payments made by the Employer on behalf of the Employee for benefits in lieu of salary.

“**Certified agreement**” means an agreement made in accordance with Chapter 6 of the *Industrial Relations Act 1999*.

“**DEIR**” means the **Department of Employment and Industrial Relations**.

“**Employer**” means the State of Queensland, through relevant Queensland government departments or agencies.

“**FBT**” means Fringe Benefits Tax.

“**FBT exemption cap**” means a capped FBT exemption which allows for concessional FBT treatment under the respective provisions of the *Fringe Benefits Tax Assessment Act 1986* and includes those FBT exemption caps for public hospitals (currently \$17,000 grossed-up), ambulance services (currently \$17,000 grossed-up), and Legal Aid Queensland (currently \$30,000 grossed-up).

“**GUTV**” means grossed up taxable value.

“**Non-salary sacrifice fringe benefits**” means any fringe benefit that the Employer provides or result from means other than via the salary packaging arrangements administered by RemServ. Non-salary sacrifice fringe benefits may include, but are not limited to, home garaging of a pool car, private use of a work car, housing assistance, remote area holiday travel, living away from home allowances and salary overpayment loan fringe benefits.

“**QGCPO**” means that part of the Department of Public Works known as Queensland Government Chief Procurement Office (previously called Queensland Purchasing).

“**RemServ**” means Remuneration Services (Qld) Pty Ltd, ABN 4609 317 3089 at Level 13, 60 Edward Street, Brisbane.

“**Required information**” has the meaning defined in clause 5(k).

“**Salary Packaging**” means the arrangement which allows salary to be taken as benefits before tax.

“**Salary sacrifice fringe benefits**” means those fringe benefits that are provided via the salary packaging arrangements administered by RemServ.

“**Salary sacrifice trust account**” means the trust account held by RemServ for the purpose of salary packaging for the Employee.

“**SOA 250**” means Standing Offer Arrangement 250 let by QGCPO to RemServ.

“Total salary” ordinarily means the total gross remuneration including salaries, wages and permanent allowances but excluding overtime, however is subject to any provisions to the contrary as contained in a certified agreement or ruling issued under section 34 of the *Public Service Act 1996*.

“Taxation legislation” means the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997, the Taxation Administration Act 1953, the Fringe Benefits Tax Assessment Act 1986 and the A New Tax System (Goods and Services) Act 1998. References to any statute include that statute as amended or substituted from time to time and any regulations made pursuant to that statute.

EMPLOYEE

I have read and understood and accept the offer of salary packaging on the terms and conditions herein.

Name.....
(please print)

Signed..... Date:...../...../.....

AUTHORISED QUEENSLAND GOVERNMENT OFFICER

(RemServ will arrange for this signature.)

Name.....
(please print)

Signed..... Date:...../...../.....

Privacy Policy

RemServ is bound by the National Privacy Principles of the Privacy Amendment (Private Sector) Act 2000 (Cth), and we have procedures in place to ensure the confidentiality of personal client information.

Our Privacy Policy regulates the type of personal information we collect as well as the use of the personal information. Your personal information is required by RemServ in order to provide salary packaging services.

You can obtain a copy of our Privacy Policy by contacting us on 1300 30 40 10 or from our website www.remserv.com.au.

Important information

This document has been prepared without consideration of the particular investment objectives, financial situation and personal needs of individual employees.

RemServ provides administration and referral services on behalf of employers. It does not provide any form of financial, taxation, or financial product advice to employees on the relative merits of package programs or on any other basis.

RemServ may receive commissions or rebates in connection with some services it provides or arranges to be provided by third parties. By appointing RemServ and utilising its services, you consent to the receipt of such commissions and rebates by RemServ and consent that RemServ is not required to make specific disclosure to you of the amount of such receipts or the manner in which those receipts are calculated.