Charter Partners Tax & Business Tips

Salary Sacrificing

This must relate to future income, and the employment contract should always be documented. Note that if an employment agreement containing noncash benefits breaches industrial awards, relevant law or the workplace agreement, a legal entitlement to salary and wages is retained by the employee.

What is a salary sacrifice arrangement?

A salary sacrifice arrangement is also commonly referred to as salary packaging or total remuneration packaging. It is an arrangement between you and your employer, whereby you agree to forgo part of your future entitlement to salary or wages in return for your employer providing you with benefits of a similar value.

What are the requirements for an effective salary sacrifice arrangement?

The requirements of an effective salary sacrifice arrangement are:

- The arrangement is entered with your employer before you perform the work;
- There is an agreement between you and your employer;
- There should be no access to the sacrificed salary - if a fringe benefit that has not be provided by your employer is cashed out at the end of a salary sacrifice arrangement accounting period, the amount cashed out is your salary and is taxed as normal income.

What types of benefits can be provided?

There is no restriction on the types of benefits that you can sacrifice. The important thing is that these benefits form part of your remuneration, replacing what otherwise could have been paid as salary.
The types of benefits generally provided in a salary sacrifice arrangement by an employer include fringe benefits (commonly includes cars, property and expense payments), exempt benefits and superannuation.

What are the requirements of an expense payment fringe benefit?

Your salary sacrifice arrangement may include the provision of expense payment fringe benefits to you. An expense payment fringe benefit arises where **you incur the expense** and your employer either reimburses you for the expense or pays a third party for the expense on your behalf. For example, your health insurance premiums are reimbursed by your employer.

What are the tax implications if your employer has provided a payment to you for an expense you did not incur?

If, in good faith, you have mistakenly claimed a reimbursement of an expense that you have not incurred and you have received a payment from your employer, the payment should be returned to your employer. They can use the payment to reimburse you for a future expense that you have incurred. If a future benefit has not be provided by your employer before the end of a salary sacrifice arrangement accounting period, the amount can be cashed out and treated as a payment of salary which is taxed to you as normal income.

In other circumstances - for example, you falsely claim for a reimbursement of an expense that you have not incurred - the payment from your employer is not a reimbursement of a fringe benefit expense. The payment forms part of your assessable income and must be returned in your tax return.

If you need to include an amount in the assessable income of a tax return that you have already lodged, you should request an amendment.