

## Can I salary package on Workcover?

The short answer is YES. Under the FBT Assessment Act, payments made under a workers compensation scheme are considered a replacement of salary and wages and therefore subject to PAYG withholding etc.



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## Is an employee eligible to enter into an effective salary sacrifice arrangement, whilst receiving work cover compensation payments?

The short answer is YES.

Under the FBT Assessment Act, payments made under a workers compensation scheme are considered a replacement of salary and wages and therefore subject to PAYG withholding etc. As such, these payments can be salary sacrificed as part of an effective salary sacrifice arrangement.

### Reasons for decision

#### Salary sacrifice arrangements (SSA)

Compensation, sickness or accident payments can be the subject of a SSA. Payments of salary and wages are ordinary income and are included in assessable income under section 6-5 of the Income Tax Assessment Act 1997 (ITAA 1997).

Periodic work cover compensation payments that your employee receives under the policy are to replace lost earnings. The payments are a substitute for the salary and wages income which they would otherwise have earned and they are subject to PAYG withholding. They are therefore salary or wages to be included in assessable income when derived, under section 6-5 of the ITAA 1997.

#### Salary or wages

Under subsection 136(1) of the Fringe Benefits Assessment Act 1986 (FBTAA), the definition of salary or wages states:

[a] a payment from which an amount must be withheld...to the extent the payment is assessable.

Section 12-120 of the Taxation Administration Act 1953 basically states that withholding payments made from compensation, sickness or accident payment, are assessable income. Therefore, for the purposes of the FBTAA salary or wages includes amounts for lost salary or wages paid under -

- an income protection policy
- a sickness or accident insurance policy, or
- a workers compensation scheme
- provided they are assessable and PAYG withholding amounts are withheld.

#### Relevant legislative provisions

Section 6-5 of the Income Tax Assessment Act 1997

Section 12-120 of the Taxation Administration act 1953

Subsection 136(1) of the Fringe Benefits Tax Assessment Act 1986

To ask a question about salary packaging on WorkCover, contact your dedicated Customer Service Officer.

#### Disclaimers:

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