



Status: **legally binding**

Class Ruling

EML Payment Solutions Limited – use of living expenses card facility to acquire a stored value prepaid card

❗ Relying on this Ruling

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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What this Ruling is about

1. This Ruling sets out the fringe benefits tax (FBT) consequences for employers who take part in the scheme by EML Payment Solutions Limited (EML) where participating employees (Cardholders) use the Living Expenses Card facility (Card) to acquire a stored value prepaid card (SVPC).
2. Details of this scheme are set out in paragraphs 9 to 35 of this Ruling.
3. All legislative references in this Ruling are to the *Fringe Benefits Tax Assessment Act 1986*, unless otherwise indicated.

Note: by issuing this Ruling, the ATO is not endorsing this product. Potential users must form their own view about the product.

Who this Ruling applies to

4. This Ruling applies to you if you are an employer who is subject to the provisions of sections 57A or 65J and whose employees are Cardholders who use the Card to acquire an SVPC.

When this Ruling applies

5. This Ruling applies from 1 April 2025 to 31 March 2030.

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Ruling

6. The payment to extinguish the Cardholder's liability in relation to debts arising from the use of the Card to purchase an SVPC for living expenses constitutes an expense payment benefit.

7. Where section 57A applies to a participating employer, the benefits provided to Cardholders using the Card to purchase an SVPC will be exempt benefits where the value of those benefits provided in the FBT year do not exceed the capping threshold specified in subsection 5B(1E).

8. Where section 65J applies to a participating employer, they will receive a rebate of the gross tax that would otherwise be payable in accordance with subsection 65J(2A) where the value of the benefits provided to Cardholders using the Card to purchase an SVPC in the FBT year does not exceed the relevant capping threshold specified in subsection 65J(2B).

Scheme

9. This description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

10. The Salary Packaging Card Terms and Conditions, or relevant parts of these, form part of and are to be read with this Ruling.

Living expenses card facility

11. EML will provide employers that are not-for-profit (NFP) organisations, government entities or other tax-exempt bodies who are subject to the provisions of either sections 57A or 65J with the Card for use by employees of those employers.

12. Salary packaging providers, acting on the employer's behalf, will enter into an arrangement with EML to provide the Card to participating employees of the employer (Cardholders).

13. Cardholders use their Card to pay for living expenses. Expenditure amounts from these transactions are limited to the funds available in the Card account.

Funding

14. Participating employers will enter into valid salary sacrifice arrangements with their participating employees under which the employer will agree to contribute funds to the Cardholder's Card account. Individual salary sacrifice arrangements will be unique to each participating employer. The use of the Card will form an integral part of those arrangements.

15. Funds in the Cardholder's account, while held for expenditure purposes, will remain the legal property of the employer.

Living expenses card facility

16. There is no yearly application process for Cards. Employees issued with a Card are able to use the Card up until its expiry (3 years), after which a replacement Card may be

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provided to the Cardholder, subject to the Card not being cancelled or suspended earlier (for example, because the employee is no longer subject to a salary packaging arrangement).

17. When a Cardholder uses the Card to make an authorised purchase, the EML Card Management System verifies there are sufficient funds against the Cardholder's Card in the participating employer's disbursement account to fund the transaction.

18. The EML system approves and processes the transactions made by the Cardholder against the funds pre-loaded onto the Cardholder's Card.

19. The Cardholder has the primary liability for the expenses incurred on the Card.

20. Any balance remaining will roll over and count towards the new FBT year cap.

21. Cardholders will be provided with disclosures in the product disclosure statement (PDS) given before and at the time a Cardholder signs up for a Card. EML is responsible for the PDS disclosures and EML's salary packaging customer distributes the PDS to prospective Cardholders.

Using the living expenses card facility to pay living expenses

22. When the Cardholder uses the Card to pay for living expenses:

- the participating employee will incur a primary obligation to pay an amount to the merchant equal to the transaction amount
- EML's settlement bank will settle the transaction by paying the transaction amount to the merchant
- the participating employee will incur an obligation to pay EML's settlement bank an amount equal to the transaction amount, as a result of the settlement referred to, and
- EML's settlement bank will apply the funds from the Card account, which remains the property of the participating employer up to the time they are expended, to discharge the participating employee's obligation to EML's settlement bank.

23. The benefit provided to the Cardholder will be the complete extinguishment of the Cardholder's liability to EML's settlement bank using employer funds held in the Card account.

24. The aggregate grossed-up value of salary packaged benefits from the use of the Card will not exceed the relevant grossed-up exemption cap as per the method statement in subsection 5B(1E).

Stored value prepaid card

25. EML and participating employer clients will allow employees, where they are aware of unused funds from the Card, to purchase an SVPC at any time during the year.

26. In the same way as the Card, the SVPC may be used to pay for living expenses.

27. The terms and conditions and salary packaging policies regarding the use of the SVPC are the same as those for the Card.

28. The SVPC will have an expiry date that is set by the issuer. The time that this benefit is provided is the time the Card is used to purchase the SVPC.

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29. Communications are delivered to cardholders with explicit information about the rollover enrolment product and instructions on how to opt out.

30. The SVPC can only be used up to the load cap.

31. The SVPC is not limited to a physical card.

Opt out

32. The opt out default, whereby at a certain date towards the end of each FBT year, the remaining funds on the Card will automatically be used to purchase an SVPC. This is issued to the Cardholder.

33. For existing Cardholders, communications from the salary packaging provider to the Cardholder will inform them about the automated issuance, providing links to the PDS, Terms and Conditions and instructions on how to opt-out.

34. The employee can opt out when issued the SVPC or at any time thereafter by notifying the provider.

35. If an employee opts out and has funds remaining on the Card at the end of the FBT year, depending on the employer's policy:

- the funds would be returned to the employer and paid out as salary and wages with pay as you go withholding deducted, or
- the employee will be able to spend the money in the following FBT year and will have further salary packaging in that year reduced so they do not exceed their cap for concessional treatment.

Commissioner of Taxation

23 September 2026

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Appendix – Explanation

❶ *This Explanation is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

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The payment to extinguish the Cardholder's liability in relation to debts arising from use of the living expenses card facility to purchase a stored value prepaid card for living expenses constitutes an expense payment benefit under section 20

36. Section 20 states:

Where a person (in this section referred to as the **provider**):

- (a) makes a payment in discharge, in whole or in part, of an obligation of another person (in this section referred to as the **recipient**) to pay an amount to a third person in respect of expenditure incurred by the recipient; or
- (b) reimburses another person (in this section also referred to as the **recipient**), in whole or in part, in respect of an amount of expenditure incurred by the recipient;

the making of the payment referred to in paragraph (a), or the reimbursement referred to in paragraph (b), shall be taken to constitute the provision of a benefit by the provider to the recipient.

37. The Cardholder is primarily liable for all expenditure incurred where the benefits being provided to them are the complete extinguishment of their liabilities to EML's settlement bank. The obligation that is discharged is therefore the Cardholder's obligation to EML's settlement bank for any debt incurred using the Card to purchase an SVPC.

38. The provider (participating employer) is making payments in the discharge, in whole or part, of the obligations of the Cardholder to pay amounts to third persons (EML's settlement bank) in respect of amounts of expenditure incurred by the Cardholder.

39. Therefore, the benefit provided is an expense payment benefit.

The time the benefit arises

40. An expense payment benefit under section 20 will arise at the time when unused funds from the Cardholder's account are used to pay EML's settlement bank in respect of the financial obligation incurred by a Cardholder in relation to the use of the Card.

41. In relation to the SVPC, an expense payment benefit under section 20 will arise at the time the SVPC is purchased, as this is the time that the debt is both incurred and then immediately paid via the transfer from the Card account.

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The use of the living expenses card facility and the stored value prepaid card for living expenses gives rise to an exempt benefit for an employer subject to section 57A

42. Section 57A states:

- (1) Where the employer of an employee is a registered public benevolent institution endorsed under section 123C, a benefit provided in respect of the employment of the employee is an exempt benefit.
- (2) Where:
 - (a) the employer of an employee is a government body; and
 - (b) the duties of the employment of the employee are exclusively performed in, or in connection with:
 - (i) a public hospital; or
 - (ii) a hospital carried on by a society or association that is a rebatable employer;

a benefit provided in respect of the employment of the employee is an exempt benefit.
- (3) A benefit provided in respect of the employment of an employee is an exempt benefit if:
 - (a) the employer of the employee is a public hospital; or
 - (b) the employer provides public ambulance services or services that support those services and the employee is predominantly involved in connection with the provision of those services.
- (4) A benefit provided in respect of the employment of an employee is an exempt benefit if the employer of the employee is a hospital carried on by a society or association that:
 - (a) is exempt from income tax under Division 50 of the *Income Tax Assessment Act 1997*; and
 - (b) is not a company referred to in paragraph 65J(5)(a) or (b); and
 - (c) is not a registered public benevolent institution or registered health promotion charity.
- (5) A benefit provided in respect of the employment of an employee is an exempt benefit if:
 - (a) the employer of the employee is a registered health promotion charity; and
 - (b) the registered health promotion charity is endorsed under subsection 123D(1).

43. Section 57A provides that benefits provided to employees by certain employers are generally exempt from FBT. This section applies to employers that are registered as a charity and endorsed as a public benevolent institution or health promotion charity, certain hospitals and employers who provides public ambulance services (or services that support those services) where the employee is predominantly involved in connection with the provision of those services.

44. The exemption in section 57A also applies to benefits provided to an employee of a government body where the duties of employment are exclusively performed in, or in connection with, certain hospitals.

45. However, these exemptions are subject to the capping provisions in section 5B.

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46. Subsection 5B(1E) limits the exemption to a general capping threshold on each employee's individual grossed-up non-exempt amount (that is, the total grossed-up taxable value of benefits not otherwise exempt) for the particular FBT year. For the FBT year commencing on 1 April 2025 and subsequent FBT years, this threshold is \$17,000 for each employee for employers who are public or NFP hospitals, or who provide a public ambulance service. This threshold also applies in respect of employees of a government body whose duties are exclusively performed in, or in connection with, a public or NFP hospital. Such employers are liable for full FBT on the grossed-up taxable value of benefits provided in excess of this threshold.

47. All other employers to which section 57A applies will have a capping threshold of \$30,000 for each employee for the FBT year commencing on 1 April 2025 and subsequent FBT years. These employers are liable for FBT on the grossed-up taxable value of benefits provided in excess of this threshold.

48. Each employee's individual grossed-up non-exempt amount is determined by multiplying the employee's type 2 individual base non-exempt amounts by the applicable gross-up rate.

49. Regarding the use of the Card to purchase an SVPC used for living expenses, where the grossed-up taxable value of the expense payment fringe benefit does not exceed the relevant threshold of either \$17,000 or \$30,000 for the FBT year, the benefit will remain exempt for employees of participating employers subject to section 57A.

The use of the living expenses card facility and the stored value prepaid card for living expenses gives rise to a rebatable benefit for an employer subject to section 65J

50. Section 65J provides that certain non-government and NFP organisations (rebatable employers) are entitled to have their FBT liability reduced by a rebate. This section does not apply to public benevolent institutions or to registered health promotion charities.

51. If an employer is a rebatable employer, they are entitled to a rebate of tax in their assessment for the relevant FBT year equal to the amount worked out using the relevant formula in subsection 65J(2A). If they are a rebatable employer for the full FBT year, the rebate (provided the capping threshold is not exceeded) will be determined by multiplying the FBT rate for the relevant year by the amount of gross tax that would otherwise be paid by them (provided the threshold is not exceeded).

52. If the total grossed-up taxable value of benefits provided to an employee exceeds the relevant threshold, the rebate will not apply to the tax that arises on the excess amount. That is, the rebate will only apply to the tax that would otherwise be paid up to the amount of the threshold. The amount of this threshold depends upon the FBT year in which the benefit is provided. For the FBT year ending 31 March 2027, the threshold is \$30,000.

53. The amount of gross tax is the amount of tax that would be payable on the fringe benefits taxable amount of the rebatable employer, assuming that section 65J had not been enacted.

54. The rebatable employer's aggregate non-rebatable amount is calculated by aggregating the product of each employee's individual grossed-up non-rebatable amount less the relevant capping threshold (as set out in the method statement in subsection 65J(2B)) multiplied by the FBT rate.

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55. Each employee's individual grossed-up non-rebatable amount is determined by multiplying the employee's type 1 and type 2 individual base non-rebatable amounts by the applicable gross-up rate.

56. Where the grossed-up taxable value of benefits provided to Cardholders, who are employees of employers subject to the provisions of section 65J during the FBT year, does not exceed the relevant threshold specified in the method statement in subsection 65J(2B), such benefits will receive a rebate of the gross tax that would otherwise be payable at the rate applicable to that FBT year, as set out in subsection 65J(2A).

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References

Related rulings and determinations:

CR 2021/23; CR 2024/54

Legislative references:

- FBTAA 1986 5B
- FBTAA 1986 5B(1E)

- FBTAA 1986 20
- FBTAA 1986 20(a)
- FBTAA 1986 57A
- FBTAA 1986 65J
- FBTAA 1986 65J(2A)
- FBTAA 1986 65J(2B)

ATO references

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