


***TD 93/D194 - Fringe benefits tax: can the lowest all-day parking fee charged by the operator of a parking station for the purposes of section 39C of the Fringe Benefits Tax Assessment Act 1936 include a fee charged for parking at night?***

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This document has been finalised by TD 93/240.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Fringe benefits tax: can the lowest all-day parking fee charged by the operator of a parking station for the purposes of section 39C of the *Fringe Benefits Tax Assessment Act 1936* include a fee charged for parking at night?**

1. Yes. The "daylight period" test of section 39A (ie. the period is after 7.00am and before 7.00pm) is used only in determining whether a benefit exists. The "daylight period" test has no relevance in determining the value of a benefit under section 39C.
2. By definition in subsection 136(1), "all-day parking" means parking of a single car for a continuous period of 6 hours or more. Section 39C refers to the lowest fee charged by the operator of a parking station in the ordinary course of business to members of the public for all-day parking *on that day*. Accordingly, the lowest fee charged for any 6 hours of continuous parking on a particular day will be acceptable.

#### *Examples:*

*ABC Parking is a 24 hour parking station. Its lowest rate for parking 6 hours continuously is \$2 being for the period from 12.00am to 6.00am. \$2 is an acceptable fee for the purposes of section 39C.*

*XYZ Parking is open from 6.00am to 11.00pm each day. The cost of parking at XYZ Parking is cheaper after 5.00pm. The rate charged from 5.00pm to closing time (11.00pm) is an acceptable fee for the purposes of section 39C.*

**Commissioner of Taxation**

12/8/93

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FOI INDEX DETAIL: Reference No.

Related Determinations: 93/71; 93/72; 93/106; 93/107

Related Rulings: 93/18

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