



TD 93/107 - Fringe benefits tax: what is a "commercial parking station" for the purposes of sections 39A, 39B, 39C and 39E of the Fringe Benefits Tax Assessment Act 1986 (the FBTAA)?

 This cover sheet is provided for information only. It does not form part of *TD 93/107 - Fringe benefits tax: what is a "commercial parking station" for the purposes of sections 39A, 39B, 39C and 39E of the Fringe Benefits Tax Assessment Act 1986 (the FBTAA)?*

 This document has changed over time. This is a consolidated version of the ruling which was published on 17 June 1993

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Fringe benefits tax: what is a "commercial parking station" for the purposes of sections 39A, 39B, 39C and 39E of the *Fringe Benefits Tax Assessment Act 1986* (the FBTAA)?

1. Sections 39A, 39B, 39C and 39E of the FBTAA (inserted by the *Taxation Laws Amendment (Car Parking) Act 1992*) refer to car parking facilities provided to employees or associates which are within a 1km radius of a commercial parking station.
 2. A "commercial parking station" is defined in subsection 136(1) to be:

"a permanent commercial car parking facility where any or all of the car parking spaces are available in the ordinary course of business to members of the public for all-day parking on payment of a fee".
- For the purpose of this definition, the words "permanent" and "commercial" have their ordinary dictionary meanings.
3. Specifically, a kerbside parking meter may constitute a "commercial parking station" in circumstances where it is possible to purchase "all-day parking" at the meter in a single transaction. "All-day parking" is defined in section 136(1) as "parking of a single car for a continuous period of six hours or more". Provided that the facility is operated on a commercial basis (see paragraph 5 below), the rate charged for six hours continuous parking at a kerbside parking meter should be utilised for valuation purposes under section 39C.
 4. Some car parking facilities (such as parking provided to short term shoppers, and parking provided for guests at a hotel) have a primary purpose other than the provision of all day parking. A feature of these arrangements is that, whilst all day parking is available in these car parks, the operators of the car park discourage it by charging penalty rates which are significantly higher than the rates that would be charged at other commercial all-day parking facilities. A facility of this sort which charges penalty rates for all day parking will not be treated as a "commercial parking station".
 5. A car park which is not run with a view to making a profit (usually reflected in significantly lower car parking rates charged compared with the normal market value for that facility) would not be considered to be commercial. A parking facility will not be commercial where a nominal fee is charged (ie the fee would not cover expenses associated with the facility).

6. A car park set up for a short period to cater for a special function (like an Easter show) would not be considered to be permanent.

7. A vacant lot which is utilized as a car park could be considered to be a permanent commercial car park even where it is intended that a building will be erected on the site in due course.

Commissioner of Taxation

17/6/93

FOI INDEX DETAIL: Reference No. I 1215217

Previously issued as Draft 93/D96

Related Determinations: 93/71; 93/72

Related Rulings:

Subject Ref: fringe benefits tax; car parking; commercial car parking station

Legislative Ref: FBTAA 39A, 39B, 39C, 39E, 136(1)

Case Ref:

ATO Ref: No 93/2841-6

ISSN 1038 - 8982