


TD 93/D234 - Fringe benefits tax: when are car parks operated by city or local government councils considered to be "commercial parking stations" for the purposes of section 39A, 39B, 39C and 39E of the Fringe Benefits Tax Assessment Act 1986?

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Draft Taxation Determination

Fringe benefits tax: when are car parks operated by city or local government councils considered to be "commercial parking stations" for the purposes of section 39A, 39B, 39C and 39E of the *Fringe Benefits Tax Assessment Act 1986*?

1. A car parking facility run by a local council will generally be considered to be 'commercial' where the fees are set on the basis of expenses incurred in operating that facility. Where the fees have been set at a rate to recoup capital expenditure and/or to at least cover the day-to-day running costs of the facility or to recover a reasonable part of these costs then the car parking facility will be considered to be commercial.

2. In ascertaining whether or not a car parking facility run by a council is commercial it is not necessary that the car parking facility actually make a profit. As indicated above, all that is necessary is that it be the council's intention to recover a reasonable part of the day-to-day expenses of operating the car parking facility. The intention of the council may be able to be ascertained from the financial records of the council or other sources of information such as minutes of council meetings.

3. Where a council has the intention to recover the running expenses in operating a car parking facility the fees charged cannot be described as 'nominal'. As indicated in paragraph 5 of TD93/107 a fee is nominal where it is not set at a rate aimed at recovering expenses associated with the provision of the car parking facility.

Examples:

The City of Pinkerton operates several car parks with all-day rates ranging from \$3.30 to \$1.20. The City also provides free car parking in and around the CBD for all-day parking. It has been ascertained that the City has set the fees of the car parking facilities at a rate to offset running costs of operating the facilities. However, the facilities still run at a loss. The car parks are considered to be commercial because the fees have been set by reference to the expenses expected to be incurred in operating the car parks.

The local council of Trimboola operates a multi-story car park behind the local supermarket. The expenses incurred in operating the car park are significant. As a token revenue raiser the council decides to charge a flat rate 20c for use of the car park. This fee has not been set by reference to the expected costs of running the car park. The car park is not considered to be commercial.

The City of Bunston operates a number of car parks in and around the CBD and other suburban shopping centres. The car parks have all-day meters which charge at the rate of 20c per hour. An examination of the minutes of meetings of the City indicated that it was decided to charge this amount to substantially defray the costs of providing the car parks. Even though the car parking facilities operate at a loss the City manages to recover a reasonable amount of the costs of operating the car parks. The car parks are considered to be commercial.

Commissioner of Taxation

16/9/93

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Related Rulings:

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