



Office of State Revenue
NSW TREASURY

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Revenue Ruling No. PT 35

Non-cash Benefits - Terry Shields Pty. Ltd. Judgement

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
PT 35	1 August 1989	1 August 1989	30 June 2007	Obsolete

Preamble

1. In a decision handed down in the Supreme Court on 17 July, 1989, Lee J ruled that the value of a motor vehicle provided to an employee for private use, in the particular circumstances, was not subject to pay-roll tax.
2. The facts of the case were that the employee had contracted for a specific monetary salary plus, after three Months satisfactory service, the private use of a second hand motor vehicle. A Declaratory Order was sought by the employer to determine whether the value of the motor vehicle for private usage should be assessed as 'wages paid in kind'.
3. It has been decided not to appeal the decision and this Ruling outlines the circumstances in which non-cash components should now be returned for pay-roll tax purposes.

Ruling

4. Non-cash components of remuneration will attract pay-roll tax where they are provided as part of an agreed monetary salary package. Simply put, where an employer and an employee agree to a specified monetary salary and part of the amount is made up by components other than cash, the total monetary figure will be taxable.
5. The judgement reinforces the principle that provision of a motor vehicle for private use or other non-cash components of remuneration are assessable but only where provided **in lieu of cash**. For example, where a salary of \$50,000 is agreed to and the employee accepts \$45,000 in cash and a motor vehicle in lieu of the balance then the total \$50,000 is assessable.
6. This Ruling varies some of the principles outlined in earlier Rulings and, for clarity, the following summary is provided:-
 - (a) Pay-roll tax will continue to be sought on taxable non-cash benefits provided after 1 March, 1989.
 - (b) Employers who have already paid tax on components excluded as a result of the **Terry Shields** decision will be provided with a refund on request (subject to any audit considered appropriate).
 - (c) Employers who lodge June returns by 14 August 1989 will not be penalised for late payment.
 - (d) The option to value non-cash components on a Fringe Benefit Tax basis no longer applies, i.e. the value nominated in the agreed monetary package is the value to be returned. (As many employers have already paid tax using an F.B.T. value for motor vehicles, these values will be accepted for the period to 30 June, 1989).

(e) Ruling PT 34 - Contributions to Superannuation Funds - will not be affected by the **Terry Shields** judgement.

B. Buchanan,
for Chief Commissioner of Pay-Roll Tax.
1st August, 1989.