

### Principal Registrar and Chief Executive Officer

Ms Sandra Lambert AM  
 Chair  
 ACT Remuneration Tribunal  
 By email: [remtrib@act.gov.au](mailto:remtrib@act.gov.au)

Dear Ms Lambert

#### ACT Remuneration Tribunal 2019 Spring Review

I refer to your letter dated 23 August 2019.

Subject to one matter, I do not seek a review of the determination made in relation to the Principal Registrar Courts and Tribunal other than to note the Government's commitment to ensure public officials see their wages increase at a rate equivalent to the Consumer Price Index. Nor do I propose to make a submission on the other determinations under review.

The matter I would like to raise relates to an inconsistency in the provisions for the Fringe Benefit Tax (FBT) allowance as between different statutory office holders. The following table sets out the two types of FBT provisions used by the Tribunal.

<b>Determinations</b>	Determination 2 of 2019: Head of Service, Directors-General and Executives; Determination 3 of 2019: Full-time Statutory Office Holders: Auditor-General, Clerk of the Legislative Assembly, Electoral Commissioner; Determination 4 of 2019: Full-time Statutory Office Holders Determination; Determination 6 of 2019: Full-time Statutory Office Holder: Chief Executive Officer, ACT Integrity Commission	Determination 13 of 2018: Principal Registrar and Chief Executive Officer, ACT Courts and Tribunal; Determination 14 of 2018: Director of Public Prosecutions
<b>Provision (subject to minor variations between Determinations and not the actual numbering)</b>	<b>1 Fringe benefit tax – vehicle</b> 1.1 The employer incurs fringe benefits tax liabilities for vehicles provided to their employees. Fringe benefits tax is determined and calculated under the Fringe Benefits Tax Assessment Act 1986. For the purposes of this section, the fringe benefits tax year commences 1 April 2019 and ending on 31 March 2020.	<b>2 Fringe benefit tax</b> 2.1 The fringe benefits tax payable by the employer to the Australian Taxation Office is the amount remaining after the employer's liability for fringe benefits tax is calculated, as required under the <i>Fringe Benefits Tax Assessment Act 1986</i> . 2.2 The executive vehicle and employer's superannuation contribution set out in the <i>Public</i>

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	<p>1.2 During the fringe benefits tax year, where the office holder elects to receive an employer-provided vehicle instead of a payment, if the employer's liability in relation to the office holder's vehicle provided by the employer for the fringe benefits tax year is less than \$7,500, the difference is payable to the office holder as an allowance at the end of the fringe benefits tax year.</p> <p>1.3 To avoid doubt, if the assessed liability for fringe benefits tax exceeds the \$7,500 threshold, the office holder will not be required to pay any component in excess of the \$7,500.</p> <p>1.4 During the fringe benefits tax year, where the office holder elects to receive a payment instead of an employer provided vehicle, the amount of \$7,500 per annum is paid as an allowance to the office holder on a fortnightly basis.</p> <p>1.5 The fringe benefits tax allowance of \$7,500 under clause 1.4 is reduced proportionally where the officer holder is engaged for less than a full fringe benefits tax year.</p>	<p><i>Sector Management Standards 2016</i> are considered for calculating fringe benefits tax.</p> <p>2.3 A provisional amount of \$7,000 is available to cover the cost of any fringe benefit tax for a vehicle or parking space. If the liability for fringe benefits tax is less than \$7,000, the excess is payable to the person appointed to an office in clause X.1 of this Determination. If the liability for fringe benefits tax exceeds \$7,000, the person appointed to an office in clause X.1 of this Determination will not be required to pay the excess to the employer. Any unused fringe benefit tax allowance paid to a person appointed to an office in clause X.1 of this Determination will be subject to tax, if paid as remuneration.</p> <p>2.4 The provisional amount of \$7,000 in fringe benefits tax is reduced proportionally if the person appointed to an office in clause X.1 of this Determination is appointed for less than a fringe benefit tax year.</p>
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The key difference is that the FBT allowance for the Principal Registrar and the Director of Public Prosecutions covers a vehicle and/or a parking space whereas the FBT allowance for all other office holders and senior public servants only covers a vehicle. This means FBT on a parking space is taken into account when calculating the amount of unused FBT allowance to be paid to the Principal Registrar and the Director of Public Prosecutions but is not taken into account for the other office holders and senior public servants. The reason for this difference is not clear.

I would ask that the Tribunal review the FBT provisions to ensure there is a consistent approach for all officer holders and senior public servants. I do not have a view as to what that approach should be.

Please contact me on 6205 9772 if you require further information.

Yours sincerely



Philip Kellow  
Principal Registrar and Chief Executive Officer  
30 August 2019