



Transport
NSW Trains

NSW Trains

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19 February 2014

Mr Alex Claassens
Branch Secretary
Rail, Tram and Bus Union (RTBU), NSW Branch
By Email – aclaassens@rtbu-nsw.asn.au

Dear Alex,

Re: Novated Lease arrangements impacted by establishment of NSW Trains

I refer to your correspondence dated 20 December 2013 addressed to the Chief Executive, NSW Trains regarding employees whose novated lease arrangements may have been adversely impacted by the establishment of NSW Trains. As indicated in your correspondence, employees having existing novated lease arrangements are required to sign a new Deed of Novation with NSW Trains as the Employer.

On the matter, I am advised that;

- The statutory rates, used to calculate the taxable value of a car fringe benefit, were amended by legislation, namely, the *Tax Laws Amendment (2011 Measures No. 5) Act 2011*.
- The amendment was to be applied to all car fringe benefits (new commitments) after 7.30pm AEST on 10 May 2011 except where there is a 'pre-existing commitment' in place.
- The establishment of NSW Trains as of 1 July 2013 and the transfer/assignment of staff to the 'new employer' may have altered 'pre-existing commitment' to the extent to them being considered a 'new commitment'.

As an Employer, NSW Trains is not responsible for changes to Government policy or Legislation that may impact employees. However, given the above circumstances and its unintended consequence which may have led to some employees being disadvantaged, NSW Trains are prepared, on a without prejudice and without precedent basis, to recompense NSW Trains' employees for any increased fringe benefit tax liability incurred because of the amended statutory rate on novated lease arrangements due to the employee's transfer to NSW Trains. This arrangement will end at the conclusion of their 'pre-existing commitment' that has been in place prior to 10 May 2011.

NSW Trains will communicate directly with employees adversely affected by their transfer/assignment to NSW Trains to advise of this recompense. Should you require further clarification on the above please do not hesitate to contact Vivek Subramanian on 9219 1267.

Sincerely

John Hussey
Director People & Corporate Services