

RULINGS > PRODUCT

WorkRide Limited

Issued: 1 December 2023

BR Prd 23/06

The Arrangement is WorkRide's provision of self-powered or low-powered commuting vehicles (Equipment) to the employees of WorkRide's customers, where the employees agree to a temporary reduction in salary in return for the temporary lease of Equipment and the opportunity to own the Equipment at the end of the lease period. Examples of Equipment are bicycles, electric bicycles, scooters and electric scooters.

START DATE – END DATE

1 December 2023 – 30 November 2026

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING.)

Product Ruling – BR Prd 23/06

This is a product ruling made under s 91F of the Tax Administration Act 1994.

Name of person who applied for the Ruling

This Ruling has been applied for by WorkRide Limited (WorkRide).

Taxation Laws

All legislative references are to the Income Tax Act 2007 (ITA) or the Goods and Services Tax Act 1985 (GSTA) unless otherwise stated.

This Ruling applies in respect of ss BG 1, CX 2 and CX 19D of the ITA and ss 6, 8, 10(2), 20 and 76 of the GSTA.

The Arrangement to which this Ruling applies

The Arrangement is WorkRide's provision of self-powered or low-powered commuting vehicles (Equipment) to the employees of WorkRide's customers, where the employees agree to a temporary reduction in salary in return for the temporary lease of Equipment and the opportunity to own the Equipment at the end of the lease period. Examples of Equipment are bicycles, electric bicycles, scooters and electric scooters.

The paragraphs below set out further details of the Arrangement.

The parties to the Arrangement

- 1) The parties to the Arrangement are as follows:
 - WorkRide is a New Zealand resident (by incorporation) that facilitates the provision of the Equipment to the Employee (the Services), in consideration for the payment of a service fee (Service Fee) by the Employer. WorkRide is GST registered.
 - Employer is a New Zealand resident employer that has contracted with WorkRide to facilitate the provision of Equipment to Employees who participate in the Arrangement.

- Employee is a New Zealand resident employee of the Employer who participates in the Arrangement and reduces their gross annual earnings under a Salary Sacrifice Agreement.
- Retail Partner is a GST-registered, third-party retail partner that has contracted with WorkRide to sell Equipment to WorkRide for use in the Arrangement.
- Third-Party Financier is an independent third-party lender that may enter into a financing contract with the Employer to fund the Service Fee payable by the Employer to WorkRide under the terms of the Customer Master Services Agreement.

Relevant agreements

- 2) The following agreements form part of the Arrangement:
 - Customer Master Services Agreement (MSA) is an agreement between WorkRide and the Employer about the Services (version 2.2 provided to Inland Revenue on 16 November 2023).
 - WorkRide Lease Agreement (Lease Agreement) is a service-level lease agreement between WorkRide and the Employee specifying the parties' obligations concerning the lease of the Equipment over the term of the Lease Agreement (version 2.2 provided to Inland Revenue on 16 November 2023).
 - Salary Sacrifice Agreement is an agreement between the Employer and Employee under which the Employee's annualised salary or wages are reduced for the term of the salary sacrifice which is not longer than the period of the Lease Agreement (except in instances where the term is extended due to Employee absence or where an Employee's salary falls below the minimum wage).
 - Next Steps Deed is an agreement between WorkRide and the Employee to transfer the ownership of the Equipment at the end of the Lease Agreement (version 2.2 provided to Inland Revenue on 16 November 2023).

Employee benefit scheme

- 3) WorkRide will contract with Retail Partners to supply Equipment on an 'as required' basis. An Employer will engage with WorkRide by entering into the MSA. In consideration for the Services, the Employer (or a Third-Party Financier on behalf of the Employer) will pay a Service Fee to WorkRide. The Service Fee that the Employer (or Third-Party Financier) pays to WorkRide for the Services is calculated with reference to

the total cost of the Equipment to WorkRide. The Employer will usually inform Employees of the opportunity to participate in the Arrangement.

- 4) An Employee who wishes to participate in the Arrangement will raise a request for WorkRide to provide the Equipment to the Employee. After WorkRide and the Employer approve the Employee's request, the Employee will enter into the Lease Agreement with WorkRide. Under the Lease Agreement, the Employee:
 - a) may not profit from, transfer, sell or otherwise dispose of the Equipment;
 - b) agrees to retain possession of the Equipment for the term of the lease;
 - c) acknowledges to WorkRide that they will use the Equipment mainly for commuting to and from, or between the Employer's workplace; and
 - d) agrees to use the Equipment mainly for commuting to and from, or between the Employer's workplace.
- 5) The Service Fee that the Employer must pay is equivalent to or less than the cost of the Equipment and the Employer pays the entire Service Fee at the outset to WorkRide. Once the Employer pays the entire Service Fee, WorkRide will acquire legal ownership of the Equipment from the Retail Partner and enable the Employee to collect the Equipment.
- 6) To participate in the Arrangement, the Employer and Employee agree to reduce the Employee's annualised gross salary or wages for a period of time under a Salary Sacrifice Agreement. The Employer and the Employee will together agree on the amount of the reduction in the Employee's annualised gross salary or wages. The amount of the salary sacrificed will not exceed the amount of the Service Fee.
- 7) Once the Employee has collected the Equipment from the Retail Partner, the Lease Agreement begins. If the Employee's employment with the Employer ends while the Lease Agreement is in force, the Lease Agreement will terminate with immediate effect when the employment ends.
- 8) Towards the end of the Lease Agreement, WorkRide will contact the Employee to discuss the Employee's options for ownership of the Equipment after the Lease Agreement ends. The Employee may (but is not required to) execute a Next Steps Deed to keep the Equipment for no consideration. Under the Next Steps Deed:
 - a) WorkRide gifts the Equipment to the Employee; and
 - b) the Employee acknowledges, represents and warrants that the gifted Equipment will be used predominantly for the purpose of commuting to and from, or between the Employee's workplace.

Alternatively, the Employee can return the Equipment to WorkRide and then full legal title remains with WorkRide.

- 9) Where the Employee executes the Next Steps Deed, the parties will not enter into the Arrangement more than once over the estimated useful life of the Equipment (as determined by the Commissioner's Table of Depreciation Rates), as measured from the day the Lease Agreement takes effect, unless there are justified reasons for early replacement. Such reasons may include but are not limited to:
- theft or destruction of the Equipment;
 - excessive wear and tear – the Employee has used the Equipment more intensively than typical use, resulting in wear and tear that affects the Equipment's functionality or safety;
 - change in user needs – the Employee's needs change because their commute changes, with the result that they need different Equipment;
 - accidental damage – the Employee damages the Equipment in a way that affects its functionality or safety and repair is impractical;
 - health or physical considerations – the Equipment no longer suits the Employee's physical needs or health conditions; or
 - regulatory compliance – local regulations or laws change with the result that the Employee needs different Equipment to comply with safety or other legal requirements.
- 10) For the avoidance of doubt, this ruling does not consider or rule upon the validity of WorkRide's template Salary Sacrifice Agreement provided to Inland Revenue on 15 August 2023.

Conditions stipulated by the Commissioner

This Ruling is made subject to the following conditions:

- (a) The cost of the Equipment will not exceed the maximum allowable cost specified in any regulations the Governor-General makes under s CX 19D(3) of the ITA.
- (b) The Equipment will meet any requirements for vehicles specified in any regulations the Governor-General makes under s CX 19D(3) of the ITA.
- (c) The Employer is GST registered.
- (d) The Salary Sacrifice Agreement that an Employer and Employee enter into is a valid salary sacrifice under relevant law.

- (e) Any MSA, Lease Agreement and Next Steps Deed (if applicable) entered into by the parties will be materially the same as the versions provided to Inland Revenue on 16 November 2023.

How the Taxation Laws apply to the Arrangement

Subject in all respects to any conditions stated above, the Taxation Laws apply to the Arrangement as follows:

- (a) The provision of the Equipment to the Employee under the Lease Agreement and, if applicable, the Next Steps Deed, is excluded from being a fringe benefit under s CX 19D of the ITA and is therefore not a fringe benefit under s CX 2 of the ITA.
- (b) Section BG 1 of the ITA does not apply to the Arrangement.
- (c) The Employer can claim the GST charged on the supply of the Services by WorkRide (being the facilitation of the Arrangement) as input tax (as defined under s 3A(1)(a) of the GSTA) under s 20(3) and 20(3C) of the GSTA to the extent to which the Services are used for making taxable supplies.
- (d) The sacrifice of salary under a Salary Sacrifice Agreement is consideration for a taxable supply by the Employer to the Employee under s 8 of the GSTA of procuring the provision of the Equipment to the Employee. The value of the supply for the purposes of s 10(2) of the GSTA is the amount of the salary sacrificed.
- (e) Section 76 of the GSTA does not apply to the Arrangement.

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 December 2023 and ending on 30 November 2026.

This Ruling is signed by me on the 1st day of December 2023.

Howard Davis
Tax Counsel Office

About this document

Product Rulings are issued by the Tax Counsel Office and Customer and Compliance Services. Product Rulings set out the Commissioner's view on how tax laws apply to a particular "product" – which is an arrangement that a specified taxpayer is likely to enter into with a number of people on identical terms. Taxpayers who enter into the arrangement described in a Product Ruling may apply the ruling but are not obliged to do so. Product Rulings are binding on the Commissioner. This means that if you are entitled to apply a Product Ruling and you have calculated your tax liability in accordance with the ruling, the Commissioner must accept that assessment. A Product Ruling applies only to the taxation laws and arrangement set out in the ruling, and only for the period specified in the ruling. It is important to note that a general similarity to an arrangement covered by a Product Ruling will not necessarily lead to the same tax result.