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## Electric Bikes NZ Limited

Issued | Tukuna: 3 April 2025

BR Prd 25/02

The Arrangement is Electric Bikes NZ Limited's (trading as The Wheel Deal) provision of self-powered or low-powered commuting vehicles (Equipment) to the Employees of The Wheel Deal's customers, where the Employees agree to a temporary reduction in salary in return for the provision of the Equipment. The Equipment can be a bicycle, electric bicycle, scooter or electric scooter.

**START DATE – END DATE | RĀ TĪMATA – RĀ MUTUNGA**

17 February 2025 – 2 April 2028

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING. | KĀORE TĒNEI WHĀRANGI TAITARA I WHAI WĀHI I TE WHAKATAUNGA.)

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## Product Ruling | Whakataunga Whakaputanga – BR Prd 25/02

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

### Name of person who applied for the Ruling | Ingoa o te tangata i tono i te Whakatau

This Ruling has been applied for by Electric Bikes NZ Limited (trading as The Wheel Deal).

### Taxation Laws | Ture Tāke

This Ruling applies in respect of ss BG 1, CX 2, CX 19D, and RD 3 of the Income Tax Act 2007 (ITA) and ss 3A(1), 8(1), 10(2), 20(3), 20(3C) and 76 of the Goods and Services Tax Act 1985 (GSTA).

### The Arrangement to which this Ruling applies | Te Whakaritenga i pāngia e tēnei Whakataunga

The Arrangement is The Wheel Deal's provision of self-powered or low-powered commuting vehicles (Equipment) to the Employees of The Wheel Deal's customers (Employers), where the Employees agree to a temporary reduction in salary in return for the provision of the Equipment. The Equipment can be a bicycle, electric bicycle, scooter or electric scooter.

Further details of the Arrangement are set out in the paragraphs below.

### Parties to the Arrangement and overview of the Arrangement steps

- 1) The parties to the Arrangement are as follows:
  - a) The Wheel Deal is a New Zealand resident company that facilitates the provision of the Equipment to the Employee.
  - b) The Employer is a New Zealand resident employer who has contracted with The Wheel Deal under a Scheme Participation Agreement (Employer Contract).
  - c) The Employee is a New Zealand resident employee of the Employer.
  - d) The Dealer is a third-party retail supplier or store that has entered into a Scheme Participation Agreement (Dealer Contract) with The Wheel Deal.

- 2) The Arrangement steps are as follows:
  - a) The Employer and Dealer each enter into a Scheme Participation Agreement with The Wheel Deal respectively.
  - b) The Wheel Deal works with the Employer to promote the scheme to Employees.
  - c) The Employee who has entered into a Salary Sacrifice Agreement with their Employer places a product order with the Dealer. The Dealer supplies The Wheel Deal with the order details through a portal, which the Employer then authorises. The Wheel Deal invoices the Employer for the Equipment.
  - d) Ownership of the Equipment is transferred to the Employee once the Employer has paid for it in full and the Dealer has supplied it.
  - e) The Employer pays The Wheel Deal for the Equipment. The Wheel Deal passes the payment (net of fee) to the Dealer within 1 working day after the Equipment has been collected by the Employee.
  - f) The Dealer pays a fee to The Wheel Deal for each item of Equipment sold.

### **Employee benefit scheme**

- 3) The Employer enters into the Scheme Participation Agreement (Employer Contract) with The Wheel Deal for the purpose of offering Employees the ability to enter into a salary sacrifice to obtain the Equipment as a benefit.
- 4) The Wheel Deal supplies the Employer with the necessary intellectual property and documentation for the Employer to provide and help facilitate Equipment being supplied to Employees through one or more local stores.
- 5) Employees who agree to enter into a Salary Sacrifice Agreement with their Employer choose which Equipment is to be purchased from a Dealer. The Dealer enters this order into a Portal. After the Employer authorises the order, The Wheel Deal then arranges to purchase the Equipment at market value from the Dealer.
- 6) The Wheel Deal invoices the Employer for an amount that is no more than the cost of the Equipment to the Wheel Deal (ie, the market value of the Equipment). The scheme includes a free 6-month service package with the Dealer.
- 7) Once the Employer has paid for the Equipment in full, the Employee will take possession of the Equipment.

- 8) To participate in the scheme the Employer and Employee must agree to reduce the Employee's annualised gross salary or wages for a period of 12 months under a Salary Sacrifice Agreement.
- 9) The Employer Bike Purchase Scheme Policy (Scheme Policy) sets out the following conditions:
  - a) The Employer Bike Purchase Scheme (the Scheme) can only be used to obtain a bike, e-bike, scooter or e-scooter that the Employee will use mainly for commuting to and from work.
  - b) The Scheme will comply with any regulations issued under s CX 19D(3) of the ITA.
  - c) The Scheme does not apply to the purchase of any accessories such as helmets, locks or lights.
  - d) With the exception of extraordinary circumstances (eg, theft or destruction) Employees are only entitled to use the Scheme once every 5 years in relation to bikes and e-bikes and once every 4 years in relation to scooters and e-scooters.
  - e) Employees cannot be reimbursed for Equipment they have purchased themselves.
- 10) The Salary Sacrifice Agreement forms part of the Employee's employment agreement and is entered into before the Employer provides the Equipment. The terms and conditions in the Scheme Policy form part of the Salary Sacrifice Agreement. Under the Salary Sacrifice Agreement, the following conditions apply:
  - a) The Employer and Employee agree on the amount of the reduction in the Employee's annualised gross salary and wages over a 12-month period, which will not exceed the cost of the Equipment to the Wheel Deal (ie, the market value of the Equipment). Employees cannot have the cost of the Equipment taken from a single pay or bonus payment.
  - b) The Employee acknowledges that the reduction in salary or wages may affect their KiwiSaver contributions, student loan deductions and other employment benefits, as well as entitlements under the Holidays Act 2003.
  - c) The salary sacrifice will be renegotiated or suspended if the Employee's salary or wages fall below the minimum wage.
  - d) The salary sacrifice will be suspended if the Employee is absent from work for an agreed period, such as for unpaid parental leave or a career break.
  - e) The Employee agrees that they will use the Equipment mainly for commuting to and from work.

- f) The Employee acknowledges that they will not be entitled to any refund of the amount sacrificed under the Salary Sacrifice Agreement for any reason. They also agree that they will not make any claims against the Employer about the Equipment including but not limited to the quality or performance of the Equipment.
  - g) The Employee acknowledges that full ownership of the Equipment will pass to them when they receive it and they will be responsible for any insurance and ongoing maintenance.
- 11) Employees who have obtained Equipment under the Scheme will be bonded to the Employer for 1 year from the date that the Employer purchases the Equipment (the bond period). If the Employee leaves the employment of the Employer within the bond period, they will have to pay the bond amount to the Employer on a pro rata basis. The bond amount can be taken from their final pay. If their final pay does not clear the bond amount, they will pay the remaining amount to the Employer's bank account before their employment ceases. The bond amount is the cost to the Employer of providing the Equipment to the Employee. If the Employee takes a career break, unpaid leave or unpaid parental leave during the bond period, the bond period will restart when they return from their break or leave.

## **Conditions stipulated by the Commissioner | Here i āta whakaritea e te Kaikōmihana**

This Ruling is made subject to the following conditions:

- (a) Any Scheme Participation Agreement (Employer Contract), Scheme Participation Agreement (Dealer Contract) and Salary Sacrifice Agreement entered into by the parties will be materially the same as the versions provided to the Tax Counsel Office on 16 February 2025.
- (b) Any Employer Bike Purchase Scheme Policy entered into by the parties will be materially the same as the second version provided to the Tax Counsel Office on 28 March 2025.
- (c) The Employee enters into a Salary Sacrifice Agreement for the bond period in advance of them earning their income in, or for, the bond period.

## How the Taxation Laws apply to the Arrangement | Ko te pānga o ngā Ture Tāke ki te Whakaritenga

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

### ITA

- (a) The provision of the Equipment by the Employer to an Employee under the Salary Sacrifice Agreement and the Scheme Policy is an excluded fringe benefit under s CX 19D and is therefore not a fringe benefit under s CX 2.
- (b) The provision of the Equipment to an Employee will be an excluded fringe benefit under s CX 19D at the time that the Equipment is provided to the Employee.
- (c) There are no on-going requirements for the Employer to monitor use of the Equipment for the purposes of s CX 19D.
- (d) There is a valid salary sacrifice under the Salary Sacrifice Agreement so the amount of salary sacrificed is not a PAYE income payment under s RD 3.
- (e) The Arrangement is not a tax avoidance arrangement under s BG 1.

### GSTA

- (f) If the Employer is registered for GST, the Employer can claim the GST charged by The Wheel Deal on the purchase of the Equipment under the Scheme as input tax (as defined under s 3A(1)) under ss 20(3) and 20(3C) to the extent to which the Equipment is used for making taxable supplies.
- (g) If the Employer is registered for GST, the sacrifice of salary under a Salary Sacrifice Agreement is consideration for a taxable supply by the Employer to the Employee under s 8(1) of procuring the provision of the Equipment to the Employee. The value of the supply for the purposes of s 10(2) is the amount of the salary sacrificed.
- (h) The Arrangement is not a tax avoidance arrangement under s 76.

## **Period or income year for which this Ruling applies | Te wā, te tau moni whiwhi rānei i pāngia ai e tēnei Whakataunga**

This Ruling will apply for the period beginning on 17 February 2025 and ending on 2 April 2028.

This Ruling is signed by me on the 3<sup>rd</sup> day of April 2025.

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### **Dinesh Gupta**

Tax Counsel Lead | Rōia Kaihautū Tāke

Tax Counsel Office | Te Tari Tohutohu Tāke

## **About this document | Mō tēnei tuhinga**

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.