Queensland Government

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Public Ruling
Payroll Tax Act—Harmonised:

EXEMPT ALLOWANCES: MOTOR VEHICLE AND ACCOMMODATION

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Payroll Tax Act 1971* (the Payroll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of other jurisdictions. One of the areas which has been harmonised is exempt allowances.

2. This Public Ruling explains the position regarding exempt allowances.

Ruling and explanation

3. The Dictionary in the Schedule of the Payroll Tax Act defines ‘wages’ to include allowances paid or payable to an employee. Generally, all allowances paid or payable to an employee are taxable for payroll tax purposes.

4. However, there are specific provisions which apply to motor vehicle allowances and overnight accommodation allowances. Part 2, Division 1D of the Payroll Tax Act provides that motor vehicle allowances and overnight accommodation allowances are not taxable to the extent that each of these allowances does not exceed the exempt component/rate.

Motor vehicle allowance

5. A motor vehicle allowance is paid or payable to an employee to compensate them for any business use of his or her own private vehicle.

6. The exempt component is calculated using the formula:

   $E = K \times R$

   where:

   E is the exempt component

   K is the number of exempt kilometres travelled during the return period[1] and

   R is the prescribed rate.[2]

7. The prescribed rate is the rate prescribed under the income tax legislation for calculating a deduction for car expenses for a large car using the cents per kilometre method for the financial year immediately preceding the financial year in which the allowance is paid or payable. If no such rate is prescribed under the income tax legislation, the prescribed rate is the rate prescribed under a regulation.[3]

8. A motor vehicle allowance can be paid on the basis of an amount per business kilometre travelled by the employee or as a regular flat or fixed amount.

Allowance paid on a per kilometre basis

9. Certain motor vehicle allowances are exempt benefits under s.22 of the *Fringe Benefits Tax Assessment Act 1986* (Cwlth) (the FBT Act) where they are paid according to the distance travelled in the car (i.e. a cents per kilometre basis).

10. Even if a motor vehicle allowance is an exempt benefit under the FBT Act, any amount paid in excess of the exempt component under the Payroll Tax Act is subject to payroll tax.

Allowance not paid on a per kilometre basis

11. If an allowance is paid as a fixed amount, the total payment is subject to payroll tax in the absence of records confirming the business kilometres travelled. For example, a regular travelling allowance of $200 per month, paid to a salesperson who keeps no records of the business use of his or her private motor vehicle, is taxable in full.[4]

12. However, where an employer can produce records to demonstrate the business kilometres travelled in the period covered by the allowance, the exempt component may be calculated. The amount of a motor vehicle allowance paid up to the exempt component is exempt. Where the allowance exceeds the exempt component, only the amount in excess of the exempt component is taxable.

Allowance paid as fixed amount plus a rate per kilometre

13. Where a motor vehicle allowance is paid as a combination of a fixed amount plus a rate per kilometre, the total amount of the allowance that exceeds the exempt component will be taxable.

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1 Calculated in accordance with s.13Z of the Payroll Tax Act
2 Section 13Y(4) of the Payroll Tax Act
3 Section 13Y(4) of the Payroll Tax Act
4 For real estate salespersons, see Public Ruling PTA025—*Motor vehicle allowance paid to real estate salespersons*

Example

Total business kilometres travelled during the 2008–09 year:	*10 000*
Allowance Paid during the year:	
Fixed amount	*$5 000*
Rate per kilometre @ 30 cents	*$3 000*
Total allowance paid	*$8 000*
Exempt component (using the 2007–08 ATO rate of 70 cents per km)	*$7 000*
Taxable portion of allowance	*$1 000*

Overnight accommodation allowance

14. An overnight accommodation allowance is paid to cover temporary accommodation costs incurred as a consequence of employment.

15. An overnight accommodation allowance is distinguished from an accommodation expense payment (or a reimbursement) in that it is a pre-determined amount paid to an employee and the employee is not required to substantiate the costs incurred in securing the accommodation.

16. An overnight accommodation allowance is also distinguished from a living-away-from-home allowance. An overnight accommodation allowance is generally paid where there is no change of employment location whereas a living-away-from-home allowance is generally paid where the employee has moved and taken up temporary residence away from his or her usual place of residence. These allowances are subject to different Commonwealth taxation treatments. An overnight accommodation allowance is treated as assessable income in the hands of the employee whereas a living-away-from-home allowance is a fringe benefit.[5]

17. An overnight accommodation allowance, provided to an employee for temporary accommodation costs, will be taxable only to the extent that it exceeds the exempt rate.[6]

18. The exempt rate for overnight accommodation allowances is the total reasonable amount for daily travel allowance expense using the lowest capital city for the lowest salary band for the financial year determined by the Federal Commissioner of Taxation.[7] These determinations are made by the Federal Commissioner of Taxation in June of each year and set out the amounts that the Federal Commissioner of Taxation considers are reasonable for the following income tax year in relation to claims made for travel allowance expenses.

19. If the Federal Commissioner of Taxation does not make such a determination for a particular year, the exempt rate is the rate prescribed under a regulation.[8]

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[5] See also Public Ruling PTA003—*Fringe benefits*.
[6] Section 13ZH of the Payroll Tax Act
[7] Section 13ZH(3)(a) of the Payroll Tax Act
[8] Section 13ZH(3)(b) of the Payroll Tax Act

Living-away-from-home allowance

20. A living-away-from-home allowance is a fringe benefit and therefore, the value for payroll tax purposes is the value determined in accordance with the FBT Act.[9]

21. If the allowance does not qualify as a living-away-from-home allowance benefit under the FBT Act, and is not otherwise exempt as an accommodation allowance under s.13ZH of the Payroll Tax Act, it will be subject to payroll tax under the general definition of 'wages'.

Date of effect

22. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 3 July 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA005.2	3 July 2009	3 July 2009	17 September 2014
PTA005.1	24 February 2009	1 July 2008	2 July 2009

9 See also Public Ruling PTA003—*Fringe benefits*.