

Payroll Tax Ruling PTA025

Motor Vehicle Allowances Paid to Real Estate Salespersons

Version	Issued	Dates of Effect	
1	1 July 2009	From: 1 July 2009	To: Current

PREAMBLE

The *Payroll Tax Act* (the Act), which commenced on 1 July 2009, rewrites the *Pay-roll Tax Act* to largely harmonise it with the legislation of other states.

Section 13 of the Act defines wages to include allowances paid or payable to an employee. Generally, all allowances are taxable for payroll tax purposes. However, motor vehicle allowances that do not exceed the exempt component are not subject to payroll tax (section 29 of the Act).

According to section 29(4) of the Act, the exempt component is calculated using the formula: business kilometres x exempt rate. The exempt rate is the rate prescribed by the regulations under the *Income Tax Assessment Act 1997* (Cth) for calculating a deduction for car expenses for a large car using the cents per kilometre method in the financial year immediately preceding the financial year in which the allowance is paid or payable. If no such rate is prescribed, the exempt rate is the rate prescribed under the Payroll Tax Regulations.

If has been recognised that real estate salespersons travel extensively to carry out their duties and it is difficult for them maintain records. As a consequence, a real estate salesperson may be paid a motor vehicle allowance of a fixed amount (also known as the locomotion allowance).

If an employer in the real estate industry pays motor vehicle allowances on a per kilometre basis, please refer to Payroll Tax Ruling PTA005. Payroll Tax Ruling PTA005 provides general guidance on the calculation of the exempt component for motor vehicle allowances and explains the criteria that must be satisfied for the amount to be exempt.

The purpose of this Payroll Tax Ruling is to explain the payroll tax treatment of a motor vehicle allowance paid as a fixed amount to a real estate salesperson (also known as a locomotion allowance).

RULING

The Commissioner of Territory Revenue (the Commissioner) considers 250 kilometres per week to be a reasonable amount of business travel by a real estate salesperson. This means that the exempt component for a motor vehicle allowance paid to a real estate agent salesperson is 250 kms x exempt rate.

Employers in the real estate industry who do not have records of business kilometres travelled by their salesperson may use 250 kms to calculate the exempt component provided all the following conditions are satisfied:

1. the real estate salesperson is engaged predominantly for the purpose of selling or renting properties and is required to travel regularly in order to perform this function;
2. the real estate salesperson uses a motor vehicle for the above purposes which he/she owns or leases; and
3. the employer does not meet any of the capital or running costs of the motor vehicle (e.g. lease payments of petrol).

If the motor vehicle allowance paid or payable to a real estate salesperson exceeds the exempt component and the above conditions are satisfied, the following will apply:

1. where no records are maintained by the employer to substantiate the business kilometres travelled, the amount in excess of the exempt component calculated according to this Payroll Tax Ruling is taxable; and
2. where records are maintained by the employer to substantiate the business kilometre travelled, the employer can use the exact business kilometres to calculate the exempt component as explained in Payroll Tax Ruling PTA005.

Example 1

Motor vehicle allowance paid to a real estate salesperson during 2008/09 year is \$300 per week. No records have been maintained by the employer to substantiate the business kilometres travelled.

The rate prescribed under the Income Tax Assessment Act 1997 (Cth) in 2007/08 for calculating a deduction for car expenses for a large car using the cents per kilometre method is 70 cents. Therefore, the exempt component is \$175 per week (250 kms x 70 cents).

The taxable portion of the allowance is \$125 (\$300 minus \$175).

Example 2

Motor vehicle allowance paid to a real estate salesperson during 2008/09 year is \$150 per week.

The entire amount of \$150 per week is exempt because it is less than the exempt component of \$175 per week (250 kms x 70 cents).

Please note that rulings do not have the force of law. Each decision made by the Territory Revenue Office is made on the merits of each individual case, having regard to any relevant ruling. Commissioner's Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Ruling. All Circulars, Guidelines and Rulings are available from www.revenue.nt.gov.au.



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