Revenue Ruling

Superseded

Ruling Number	:	PTA025
Title	:	**Motor vehicle allowance paid to real estate salespersons**
Tax Line	:	Payroll Tax
Legislative Reference	:	*Payroll Tax Act 2008*
Previous Ruling	:	-
Date of Ruling	:	1 July 2008 to 14 April 2019
Attachments	:	-

Preamble

The *Payroll Tax Act 2008* (the Act), which commenced on 1 July 2008, rewrote the *Pay-roll Tax Act 1971* and harmonised payroll tax legislation in Tasmania with Victoria and New South Wales. A summary of the jurisdictions that have adopted this Revenue Ruling is available at: http://payrolltax.gov.au/revenue.

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) (ITAA) 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.

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

If an employer in the real estate industry pays motor vehicle allowances on a per kilometre basis, please refer to Revenue Ruling PTA005 - version 2. Revenue Ruling PTA005 version 2 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 Revenue Ruling is to explain the payroll tax treatment of a motor vehicle allowance paid as a fixed amount to a real estate salesperson.

Ruling

The Commissioner of State Revenue considers 250 kms 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 salesperson is 250kms x exempt rate.

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

- 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;
- The real estate salesperson uses a motor vehicle for the above purposes which he/she owns or leases, and
- The employer does not meet any of the capital or running costs of the motor vehicle (e.g. lease payments or 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 Revenue Ruling is taxable;
2. Where records are maintained by the employer to substantiate the business kilometres travelled, the employer can use the exact business kilometres to calculate the exempt component as explained in Revenue 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 ITAA 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 km x 70 cents).

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

Example 2

Motor vehicle allowance paid to a real estate salesperson during 2007-08 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 State Revenue Office is made on the merits of each individual case having regard to any relevant ruling.

More Information

Enquiries about this Revenue Ruling should be directed to the Legislation, Communication and Review Section on telephone 03 6166 4400 or e-mail at revenuereview@treasury.tas.gov.au.

All rulings must be read subject to Revenue Ruling, PUB-GEN-2014-5, 'Explanation and Status of Revenue Rulings'.

JC Root
Commissioner of State Revenue