RevenueSA
DEPARTMENT OF TREASURY AND FINANCE

Revenue Ruling

Payroll Tax Act 2009 PTA025 [V2]

MOTOR VEHICLE ALLOWANCE PAID TO REAL ESTATE SALESPERSONS

Preamble

The *Payroll Tax Act 2009* (the "Act"), which commenced on 1 July 2009, harmonises certain payroll tax legislation amongst the states and territories. One of the areas that has been harmonised is exempt allowances.

This Revenue Ruling explains the payroll tax treatment of a motor vehicle allowance paid as a fixed amount to a real estate salesperson.

Section 13 of the 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. However, motor vehicle allowances that do not exceed the exempt component are not subject to payroll tax (section 29 of the Act).

Under 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 determined under section 28-25(4) of the *Income Tax Assessment Act 1997* (Cwlth) (the "ITAA") for calculating a deduction for car expenses for a 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 there is no rate under ITAA the exempt rate is the rate prescribed by 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 salesperson may be paid a motor vehicle allowance of a fixed amount.

If an employer in the real estate industry pays motor vehicle allowances on a per kilometre basis, please refer to Revenue Ruling PTA005. Revenue 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.

Ruling

The Commissioner of State Taxation considers 250kms 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 250kms 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 2017-18 year is $300 per week. No records have been maintained by the employer to substantiate the business kilometres travelled.

The exempt rate is 66 cents per kilometre. Therefore, the exempt component is $165 per week (250kms x 66 cents).

The taxable portion of the allowance is $135 per week ($300 minus $165).

Example 2

Motor vehicle allowance paid to a real estate salesperson during 2017-18 year is $150 per week.

The entire amount of $150 per week is exempt because it is less than the exempt component of $165 per week (250kms x 66 cents).

Further Information

Further information can be obtained from RevenueSA.

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History

This Revenue Ruling is effective from 1 July 2016 and replaces:

Document	Issue Date
PTA025 V1	1 July 2009

Please note: Rulings do not have the force of law. Each decision made by RevenueSA is made on the merits of each individual case having regard to any relevant ruling.

Julie Holmes
COMMISSIONER OF STATE TAXATION

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