

Revenue Ruling

Payroll Tax Act 2009

PTA005 [V1]

EXEMPT ALLOWANCES: MOTOR VEHICLE AND ACCOMMODATION

Preamble

The *Payroll Tax Act 2009* (the "Act"), which commenced on 1 July 2009, rewrote and repealed the *Pay-roll Tax Act 1971* and provides fully harmonised legislation with New South Wales, Victoria, Tasmania and Northern Territory.

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, there are specific provisions which apply to motor vehicle allowances and overnight accommodation allowances. **Sections 29** and **30** of the Act provides that motor vehicle allowances and overnight accommodation allowances are not taxable to the extent that each of these allowances do not exceed the exempt component.

Ruling

Motor Vehicle Allowance

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

The exempt component is calculated using the formula:

$$E = K \times R$$

Where:

E is the exempt component

K is the number of business kilometres travelled during the financial year

R is the exempt rate

The exempt 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 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.

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.

Motor vehicle allowance paid on a per kilometre basis

Certain motor vehicle allowances are exempt benefits under Section 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).

The Commissioner of State Taxation (the "Commissioner") is aware that the Australian Taxation Office ("ATO") adopts a 'liberal' interpretation of this section and generally accepts that any amount paid to an employee on a per kilometre travelled basis for the business use of their private motor vehicle is an exempt car expense payment for FBT purposes. To overcome uncertainty as to whether these payments are subject to payroll tax and to ensure maximum consistency with the ATO, the Commissioner has ruled that such payments will be accepted as exempt from payroll tax provided the following conditions are met:

(a) the amount paid per kilometre is reasonable given:

- the type of vehicle concerned;
- the expenses incurred by the employee in relation to the vehicle;
- normal industry or award rates; and
- previous rates of payment in respect of the vehicle.

(b) the vehicle must be owned or leased by the employee.

Where a payment made on a per kilometre basis does not fit within the above conditions, any amount paid in excess of the exempt component is subject to payroll tax.

Allowances not paid on a per kilometre basis

An allowance which is paid as a fixed amount is not an exempt car expense benefit. In the absence of records confirming the business kilometres travelled, the total payments are subject to payroll tax. For example, a regular travelling allowance of \$200 per month, paid to a sales person who keeps no records of the business use of his/her private motor vehicle, is taxable in full.

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

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.

Example 1

Total business kilometres travelled during the 2009-10 year: 10 000km

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 2008-09 ATO rate of 75 cents per km)	\$7 500
Taxable portion of allowance	\$500

Overnight Accommodation Allowance

An overnight accommodation allowance is paid to cover temporary accommodation costs necessarily incurred as a consequence of employment. Temporary accommodation in this context means:

- ▶ accommodation for a continuous period of no more than one month (30 days); or
- ▶ accommodation for a continuous period of more than one month (30 days) where the employee continues to maintain a domestic dwelling for the purpose of accommodating the employee and/or his or her family.

All allowances paid or payable for accommodation that is not of a temporary nature are fully taxable.

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

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 paid where the employee has moved and taken up temporary residence away from his/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.

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.

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. These determinations are made by the Federal Commissioner of Taxation in June of each year and sets out the amounts that the Federal Commissioner of Taxation considers are reasonable for the following income year in relation to claims made for travel allowance expenses.

Living Away From Home Allowance

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. If the allowance does not qualify as a living away from home allowance benefit under the FBT Act, it will be treated in the same manner as an overnight accommodation allowance.

Further Information

Further information can be obtained from RevenueSA.

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History

This Revenue Ruling is effective from 1 July 2009 and replaces:

Document	Issue Date
Circular 298	3 July 2008
Circular 29	11 December 1990

Mike Walker
COMMISSIONER OF STATE TAXATION

1 July 2009