Queensland Government

Contents **Page**

Public Ruling
Payroll Tax Act—Harmonised:

MOTOR VEHICLE ALLOWANCE PAID TO REAL ESTATE SALESPERSONS

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 purpose of this public ruling is to explain the payroll tax treatment of a motor vehicle allowance paid as a fixed amount to a real estate salesperson where no records of kilometres travelled are kept.

2. 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 that has been harmonised is exempt allowances.

3. The definition of ‘wages’ in the Schedule of the Payroll Tax Act includes 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.[1]

4. Under s.13Y(4) of the Payroll Tax Act, the exempt component is calculated by multiplying the number of exempt kilometres by the exempt rate. The exempt rate is the rate determined under s.28–25(4) of the *Income Tax Assessment Act 1997* (Cwlth) (ITAA) for calculating a deduction for car expenses 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 the ITAA, the exempt rate is the rate prescribed by the Payroll Tax Regulation.

5. The Payroll Tax Act provides that the number of exempt kilometres is to be worked out using either the continuous recording method or the averaging method, unless the Commissioner of State Revenue (the Commissioner) approves the use of another method.[2]

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[1] Section 13Y of the Payroll Tax Act
[2] Sections 13Z(1) and 13Z(2) of the Payroll Tax Act

6. 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.

7. If an employer in the real estate industry pays motor vehicle allowances on a per kilometre basis, Public Ruling PTA005—*Exempt allowances: motor vehicle and accommodation* 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 and explanation

8. The Commissioner considers 250 kilometres per week to be a reasonable amount of business travel by a real estate salesperson. Accordingly, subject to the terms of this public ruling, employers in the real estate industry must work out the number of exempt kilometres for a return period on the basis of 250 kilometres per week if all these conditions are satisfied:

   (a) the employer does not have records of kilometres travelled by the real estate salesperson on business journeys (business kilometres)

   (b) 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

   (c) the real estate salesperson uses a motor vehicle for the above purposes which he/she owns or leases and

   (d) the employer does not meet any of the capital or running costs of the motor vehicle (e.g. lease payments or petrol).

9. If all of the above conditions are satisfied, the employer must work out the number of exempt kilometres by using the above method, and cannot use the continuous recording method or the averaging method.[3]

10. If the motor vehicle allowance paid or payable to a real estate salesperson exceeds the exempt component and all of the above conditions are satisfied, the amount in excess of the exempt component calculated according to this public ruling is taxable.

11. If any of the conditions set out in paragraph 8 are not satisfied (for example, the employer maintains records to substantiate the number of business kilometres), the employer must use either the continuous recording method or the averaging method to calculate the exempt component as explained in Public Ruling PTA005—*Exempt allowances: motor vehicle and accommodation*.

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[3] See s.13Z(1) of the Payroll Tax Act

Example 1

The motor vehicle allowance paid to a real estate salesperson during the 2017–18 year is $300 per week. No records have been maintained by the employer to substantiate the business kilometres travelled.

The exempt rate under the ITAA for 2016–17 for calculating a deduction for car expenses using the cents per kilometre method is $0.66 per kilometre. Therefore, the exempt component is $165 per week (250 kilometres x $0.66). The taxable portion of the allowance is $135 per week ($300 – $165).

Example 2

The motor vehicle allowance paid to a real estate salesperson during the 2017–18 year is $150 per week. No records have been maintained by the employer to substantiate the business kilometres travelled.

The entire amount of $150 per week is exempt because it is less than the exempt component of $165 per week (250 kilometres x $0.66).

Example 3

The motor vehicle allowance paid to a real estate salesperson during the 2017–18 year is $300 per week. The employer has maintained records to substantiate the business kilometres travelled.

The exempt component must be calculated in accordance with the continuous recording method or the averaging method.

Date of effect

12. This public ruling takes effect from 1 July 2016.[4]

Elizabeth Goli
Commissioner of State Revenue
Date of Issue 15 April 2019

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA025.3	15 April 2019	1 July 2016	Current
PTA025.2	3 July 2009	3 July 2009	30 June 2016
PTA025.1	24 February 2009	1 July 2008	2 July 2009

4 Section 146 of the Payroll Tax Act