

Contents	Page
What this ruling is about	1
Ruling and explanation	1
Date of effect	5
References	5

Public Ruling

Payroll Tax Act—Harmonised:
EXEMPT ALLOWANCES: MOTOR VEHICLE
AND ACCOMMODATION

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 Commissioner's position regarding exempt allowances.
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 which has been harmonised is exempt allowances.

Ruling and explanation

3. The Dictionary in the Schedule of the Payroll Tax 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.
4. However, there are specific provisions that apply to motor vehicle allowances and overnight accommodation allowances. Part 2, Division 1D of the Payroll Tax Act provides that motor vehicle allowances and overnight accommodation allowances are not taxable to the extent that each of these allowances does not exceed the exempt component/rate.

Motor vehicle allowance

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

6. The exempt component is calculated using the formula:

$$E = K \times R$$

where:

E is the exempt component

K is the number of exempt kilometres travelled during the return period¹

R is the rate.²

7. The rate referred to in paragraph 6 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 rate is the rate prescribed by the Payroll Tax Regulation.³
8. 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

9. Section 22 of the *Fringe Benefits Tax Assessment Act 1986* (Cwlth) (the FBT Act) generally exempts an expense payment benefit if it reimburses an employee for car expenses for a car they own or lease and the reimbursement is calculated by reference to the distance travelled by the car (i.e. paid on a cents per kilometre basis). There are some circumstances where this fringe benefit exemption does not apply—for example, where the expense payment benefit relates to a holiday taken by the employee or where the travel relates to relocation.
10. Some uncertainty may exist as to whether such exempt expense payment benefits are subject to payroll tax where the benefit also falls within another part of the definition of ‘wages’ under the Payroll Tax Act. The Commissioner is of the view that exempt expense payment benefits are generally not wages for payroll tax purposes even where the exempt benefit may also fall within another part of the definition of ‘wages’ under the Payroll Tax Act. Therefore, a car expense payment benefit paid on a cents per kilometre basis that is exempt from fringe benefits tax under the FBT Act is not subject to payroll tax.

Motor vehicle allowance paid as a flat or fixed amount (i.e. not paid on a per kilometre basis)

11. An allowance that is paid as a flat or fixed amount is not an exempt car expense payment benefit under the FBT Act. In the absence of records confirming the business kilometres travelled, the total of the motor vehicle allowances paid or payable to an employee is subject to payroll tax. For example, a regular travelling allowance of \$200 per month, paid to a salesperson who keeps no records of the business use of his or her private motor vehicle, is taxable in full.

¹ Calculated in accordance with s.13Z of the Payroll Tax Act

² Section 13Y(4) of the Payroll Tax Act

³ Section 13Y(4) of the Payroll Tax Act

12. However, where an employer maintains records to substantiate 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.
13. For motor vehicle allowances paid to real estate salespersons, please refer to Public Ruling PTA025—*Motor vehicle allowance paid to real estate salespersons*.

Allowance paid as fixed amount plus a rate per kilometre

14. Where a motor vehicle allowance is paid as a combination of a fixed amount plus a rate per kilometre, the taxable portion of the allowance is the amount the allowance exceeds the total of the exempt car expense payment under the FBT Act and the exempt component using the rate per kilometre outlined in paragraphs 6–7.

Example

Total business kilometres travelled during the 2017–18 year: 10,000 km

Allowance paid during the year:

Negotiated fixed amount	\$8,000
Negotiated rate per kilometre @ 30 cents	<u>\$3,000</u> *
Total allowance paid	\$11,000
Less exempt fringe benefit:	\$3,000 *
Subtotal:	\$8,000
Less exempt component (using the 2016–17 ATO rate of 66 cents per km)	<u>\$6,600</u>
Taxable portion of allowance	\$1,400

* Where the negotiated rate is less than the exempt fringe benefit the values are negated

Overnight accommodation allowance

15. An overnight accommodation allowance is paid to cover temporary accommodation costs for a night’s absence from the employee’s usual place of residence as a consequence of employment.
16. Temporary accommodation in this context generally means:
- (a) accommodation for a continuous period of no more than 21 days, or
 - (b) accommodation for a continuous period of more than 21 days where the employee continues to maintain a domestic dwelling for the purpose of accommodating the employee and/or his or her family.
17. All allowances paid or payable for accommodation that is not of a temporary nature are fully taxable.

18. An overnight accommodation allowance is distinguished from an accommodation expense payment (or a reimbursement) in that the accommodation allowance is a pre-determined amount paid to an employee, and the employee is not required to substantiate the costs incurred in securing the accommodation.
19. An overnight accommodation allowance is also distinguished from a living away from home allowance. An overnight accommodation allowance is generally paid where the employment requires a temporary absence from the employee's usual place of residence whereas a living away from home allowance is paid where the employee is temporarily required to relocate their 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.⁴
20. An overnight accommodation allowance provided to an employee for temporary accommodation costs is subject to payroll tax to the extent that it exceeds the exempt rate.⁵
21. 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 (the Federal Commissioner).⁶ These determinations are made in June of each year and set out the amounts that the Federal Commissioner considers are reasonable for the following income tax year in relation to claims made for travel allowance expenses.
22. If the Federal Commissioner does not make such a determination for a particular year, the exempt rate is the rate prescribed by the Payroll Tax Regulation.⁷
23. The Federal Commissioner's determination of reasonable amounts for travel allowance expenses includes components for meals and incidental expenses. These components are also exempt when paid as part of the overnight accommodation allowance to the extent that they do not exceed the respective ATO limits, whether or not the employer separately identifies these payments made to an employee.
24. In some instances, the accommodation is paid by the employer directly to the hotel, motel or serviced apartment, and the employee is only paid an allowance for meals and incidentals in respect of the period of absence from the employee's usual place of residence. The allowances for meals and incidentals are exempt from payroll tax up to the respective ATO limits for these payments.
25. For overnight accommodation allowances paid to truck drivers, refer to Public Ruling PTA024—*Overnight accommodation allowances paid to truck drivers*.

⁴ See also Public Ruling PTA003—*Fringe benefits*.

⁵ Section 13ZH of the Payroll Tax Act

⁶ Section 13ZH(3)(a) of the Payroll Tax Act

⁷ Section 13ZH(3)(b) of the Payroll Tax Act

Living away from home allowance

26. A living away from home allowance is a fringe benefit and therefore, the amount of the allowance for payroll tax purposes is the value determined in accordance with the FBT Act.⁸
27. If the allowance does not qualify as a living away from home allowance benefit under the FBT Act, and is not otherwise exempt as an accommodation allowance under s.13ZH of the Payroll Tax Act, it will be subject to payroll tax under the general definition of 'wages'.

Date of effect

28. This public ruling takes effect from 1 July 2016.⁹

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

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA005.4	15 April 2019	1 July 2016	Current
PTA005.3	18 September 2014	18 September 2014	30 June 2016
PTA005.2	3 July 2009	3 July 2009	17 September 2014
PTA005.1	24 February 2009	1 July 2008	2 July 2009

⁸ See also Public Ruling PTA003—*Fringe benefits*.

⁹ Section 146 of the Payroll Tax Act