

1996—No. 169

PAY-ROLL TAX ACT 1971—REGULATION

(Relating to the keeping of motor vehicle allowance records)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Pay-roll Tax Act 1971, has been pleased to make the Regulation set forth hereunder.

Michael Egan
Treasurer.

Commencement

1. This Regulation commences on 1 July 1996.

Amendments

2. The Pay-roll Tax Regulation 1993 is amended by omitting clause 5 and by inserting instead the following clauses:

Motor vehicle allowance records to be kept

5. (1) For the purposes of section 44 (1B) (c) of the Act, the prescribed details to be kept of any motor vehicle allowance paid or payable to a person are the details required by clause 5A or clause 5B, whichever the employer prefers.

(2) An employer may choose to adopt the method of recording described in clause 5B in respect of the financial year in which that clause commences, or a later financial year.

Motor vehicle allowances—continuous recording method

5A. The details required by this clause are:

(a) the odometer readings at the beginning and end of each business journey undertaken by the person during a financial year by means of a motor vehicle provided or maintained by the person; and

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- (b) the specific purpose for which each such business journey was taken; and
 - (c) the distance travelled by the person during the financial year in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a).

Motor vehicle allowances—averaging method

5B. (1) The details required by this clause, for the first financial year in which an employer chooses to adopt the method of recording described in this clause, are:

- (a) the odometer readings at the beginning and end of each business journey undertaken by the person during the relevant 12-week period by means of a motor vehicle provided or maintained by the person; and
- (b) the specific purpose for which each such business journey was taken; and
- (c) the distance travelled by the person during the relevant 12-week period in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a); and
- (d) the odometer readings at the beginning and end of the relevant 12-week period for each vehicle provided or maintained by the person for the purpose of undertaking business journeys; and
- (e) the distance travelled by each such vehicle during the relevant 12-week period, calculated on the basis of the odometer readings referred to in paragraph (d); and
- (f) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the relevant 12-week period, calculated as a percentage of the distance travelled by that vehicle during that period; and
- (g) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year, calculated on the basis that the percentage for each such vehicle for the financial year is the same as the percentage for that vehicle for the relevant 12-week period.

(2) After the first financial year in which odometer details are recorded in accordance with subclause (1), the calculation referred to in subclause (1) (g) is to be employed for the purpose of calculating the distance travelled by the person in the course of business journeys undertaken by means of each vehicle referred to in subclause (1) during each of the next succeeding 4 financial years, calculated on the basis that the percentage for each such vehicle for the financial year concerned is the same as the percentage for that vehicle for the relevant 12-week period.

(3) After the first financial year in which odometer details are recorded in accordance with subclause (1), an employer is not required to record the details referred to in that subclause for the person for the next succeeding 4 financial years unless:

- (a) the Chief Commissioner serves a notice on the employer before the commencement of a financial year during that period directing the employer to keep the details referred to in subclause (X) for that financial year; or
- (b) the employer wishes to use the recording method referred to in this clause for one or more additional motor vehicles used by the person in any financial year or for any other reason.

(4) In a situation referred to in subclause (3) (b), an employer may make a new record of odometer readings for a financial year in accordance with subclause (1) to replace the details previously recorded for the person. The provisions of subclause (3) then apply in relation to the new record.

(5) An employer who has adopted and employed the method of recording referred to in this clause for a person for 4 successive financial years must, in the next succeeding financial year, make a fresh recording of the details specified in subclause (1) if the employer intends to continue to use the same method of recording for the person.

(6) If the odometer of a motor vehicle is replaced or recalibrated during any period for which its readings are relevant for the purposes of this clause, the odometer readings immediately before and after the replacement or recalibration are to be recorded.

(7) For the purposes of making the calculation referred to in subclause (1) (g) for the financial year in which this clause commences, an employer may estimate the distance travelled by a motor vehicle during any part of that financial year that occurs before that commencement.

Motor vehicle allowances—meaning of “relevant 12-week period”

5C. (1) In clause 5B, “relevant 12-week period” means a continuous period of at least 12 weeks, selected by the employer, throughout which a motor vehicle is provided or maintained by a person. If the motor vehicle is provided or maintained for less than 12 weeks, the period must be the entire period for which the motor vehicle is provided or maintained.

(2) The period may overlap the start or end of the financial year, so long as it includes part of the year.

(3) If the method referred to in clause 5B is used for 2 or more motor vehicles for the same financial year, the odometer readings for those motor vehicles must cover periods that are concurrent.

Replacing one motor vehicle with another motor vehicle

5D. (1) For the purposes of using the method of recording described in clause 5B, an employer may nominate one motor vehicle as having replaced another motor vehicle with effect from a day specified in the nomination.

(2) After the nomination takes effect, the replacement motor vehicle is treated as the original motor vehicle, and the original motor vehicle is treated as a different motor vehicle. An employer need not repeat for the replacement vehicle the steps already taken for the original motor vehicle under clause 5B.

(3) An employer must record the nomination in writing in the financial year in which the nomination takes effect. However, the Chief Commissioner may allow an employer to record the nomination at a later time.

(4) A nomination made for the purposes of this clause is a prescribed detail to which section 44 (1B) (c) of the Act applies.

EXPLANATORY NOTE

The object of this Regulation is to revise the requirements for the keeping of records in relation to motor vehicle allowances paid or payable to a person by an employer contained in the Pay-roll Tax Regulation 1993.

The amendments enable an employer to adopt one of 2 methods of recording the use of motor vehicles for business journeys.

An employer may keep, as at present, odometer readings on a continuous basis for each financial year.

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Alternatively, the employer may keep a record of odometer readings for a 12-week period, selected by the employer, for one financial year that is then used for the purpose of calculating the business use percentage for a person for that and the next succeeding 4 years. At present, the averaging method based on a 12-week period is restricted to one financial year.

If the second method of recording is adopted, the employer is relieved of the obligation of recording odometer readings in the 4 years following the year in which the initial readings are recorded unless the employer is required to do so by the Chief Commissioner of Pay-roll Tax or the employer wishes to recommence the recording of business journeys because of changed circumstances. Provision is also made for the replacement of one motor vehicle with another motor vehicle during the 4 year period.

The changes to the record keeping requirements are similar to certain changes of procedures for calculating car expense deductions that are included in the Tax Law Improvement (Substantiation) Act 1995 of the Commonwealth.

This Regulation is made under the Pay-roll Tax Act 1971, including section 44 (records to be kept) and section 51 (the general regulation making power).
