

# Summary : NSW Hire Car Association – Payroll Tax Issue, 12 May 2016

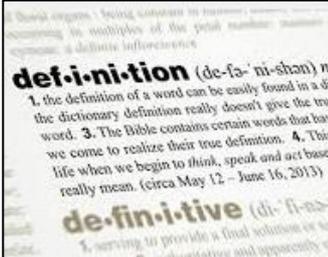
The NSW Hire Car Association (HCA) **supports reform** in the transport industry which **embraces emerging technology**, improves **consumer choice** and creates more **transparency** for operators across our industry.

Following the announced point-to-point reforms in December 2015 we have been working constructively with key stakeholders across government and the wider industry to understand the implications and opportunities for hire car operators across NSW.

The NSW HCA strongly supports **collaborating with OSR** for **increased transparency** and **education** across our industry which would lead to hire car operators being more transparent and accountable for payment of all relevant taxes including payroll tax. To that effect we have had preliminary discussions with Anthony Wing, Executive Director Policy TfNSW, and The Hon Dominic Perrottet, Minister for Finance, Services & Property, regarding using our automated technology platform to collect the \$1 booking levy announced in the P2P reforms and pass it onto OSR on behalf of the hire car industry. They have both voiced encouragement and we understand that discussion will need to expand to include OSR in order to come to explore further and come to an agreement.

We have 4 main concerns regarding the current issues surrounding payroll tax:

**UNCLEAR DEFINITIONS**



Unclear definitions of employee , contractor and relevant exemptions

Their needs to be consistent clear definitions of employee and contractor and the relevant exemptions across all government agencies, which are then applied consistently within and across all industries.

**INCONSISTENT DETERMINATIONS**



Inconsistent determinations across government agencies

Both the ATO and Fair Work have determined there is no employee relationship between the drivers and the operators in the HC industry and that drivers are in fact independent contractors.

**INCONSISTENT EXEMPTIONS**



Inconsistent application within P2P transport & other industries

There appears to be differential treatment of the hire car industry vs other operators within the P2P industry and beyond such as taxi operators and couriers both of whom appear exempt from payroll tax for drivers.

**RETROSPECTIVE PAYMENTS**



Application of retrospective payments & inflated fines

Notwithstanding the previous 3 issues, the application of retrospective payments of up to 7 years in some cases with penalties of up to 25% is unrealistic and unfeasible. Industry operators cannot bare the burden of such costs and operators will become insolvent and declare bankruptcy.

The NSW HCA respectfully but urgently requests the Office State Revenue, under the leadership of Commissioner Johnston, to agree to being part of the process of securing a consistent, documented view of payroll tax , its implications for hire car operators and a forward plan. We believe this could be achieved through the following approach:

1. Clear definition of employee and contractor and relevant exemptions as they relate to the P2P transport industry and other industries with similar dynamics
2. Documentation of outcomes consistently across government bodies in NSW, including but not limited to OSR, ATO and Fair Work
3. Suspension of all Payroll Tax Cases currently being pursued by the OSR until the above determinations are made
4. Ongoing education and training for all operators across the hire car industry around fiduciary responsibilities within the agreed framework.

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