

Revised July 2003

Pay-roll Tax

Wages Definition



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Office of State Revenue

ABN 66 012 878 629

1 What payments are taxable?

The definition of wages in the Glossary of the *Pay-roll Tax Assessment Act 2002* includes salaries, wages, commissions, bonuses, allowances, director's fees, superannuation contributions, fringe benefits and prescribed benefits paid or payable either to or in relation to an employee.

- **Salaries and wages**

Pay-roll tax is payable on the gross salary or wage of an employee including entitlements and deductions made on behalf of the employee; e.g. income tax, hospital benefit fund contributions, union fees, superannuation, etc.

Holiday pay and termination payments such as accrued leave entitlements or deferred wages are liable to pay-roll tax.

- **Commissions, bonuses and allowances**

Pay-roll tax is payable on the amount of commissions, bonuses and allowances paid to employees. Living away from home allowances are taxable in full, but exemptions are provided for reasonable travel and accommodation allowances (see Item 2).

- **Director's fees**

Payments made to a director, whether as a working director or not, are subject to pay-roll tax.

- **Superannuation contributions**

Employer contributions to an employee's superannuation fund are liable to pay-roll tax. For a detailed explanation of the pay-roll tax liability of contributions to an employee's superannuation fund, please refer to the *Superannuation* brochure.

- **Contracting arrangements**

Payments made to certain workers (often called contractors or subcontractors) will be liable for pay-roll tax if they are engaged under a contract of service (i.e. have a common law employer/employee relationship).

If the worker is a specific individual, is essentially only providing the labour (and in the case of a tradesperson the tools of trade) and is being paid an hourly or piecemeal rate, then there is a strong possibility that they will be considered to be engaged under a **contract of service**, even if the payment for the work performed is being made to the worker's company, partnership or family trust.

The engaging party is deemed to be the employer, and as such is liable for pay-roll tax on those wages. For more information please refer to Revenue Ruling PT6.

- **Employment Agents**

Payments made as remuneration by a person (often an employment agent) directly or indirectly to another person who was engaged to perform services for a client of the first person (deemed the employment agent) are wages for the purposes of pay-roll tax.

The employment agent is deemed to be the employer, and as such is liable for pay-roll tax on those wages. For more information please refer to Revenue Ruling PT6.

- **Fringe benefits**

Fringe benefits, as defined and valued for the purposes of the Commonwealth's *Fringe Benefits Tax Assessment Act 1986*, are generally liable to pay-roll tax. From 1 January 2002, the grossed-up amount is taxable, whereas, prior to that date, it was the pre-grossed-up amount.

For a detailed explanation of the pay-roll tax liability of fringe benefits, please refer to the *Fringe Benefits* brochure.

- **Eligible Termination Payments**

Eligible termination payments are subject to pay-roll tax as per the definition given to them in section 27A of the Commonwealth's *Income Tax Assessment Act 1936* and include:

- unused rostered days off;
- payments in lieu of notice;
- unused sick leave;
- gratuity payments/golden handshakes;
- compensation for loss of job;
- compensation for wrongful dismissal;
- invalidity payments for a permanent disability (other than compensation for personal injury);
- bona fide redundancy and approved early retirement scheme payments in excess of a tax free amount (the tax free amount is indexed annually);
- certain payments after the death of an employee.

- **Prescribed benefits**

A number of benefits that are not fringe benefits under the *Fringe Benefits Tax Assessment Act 1986* are also liable for pay-roll tax.

These benefits are contributions by an employer to:

- an industry redundancy fund;
- a portable long service leave fund; or
- an employee share acquisition scheme.

Industry redundancy fund

Employer contributions to a fund that operates to provide redundancy benefits for employees on their retrenchment, on leaving the industry or on retirement, are liable to pay-roll tax.

Liability for pay-roll tax occurs at the time the contributions are paid or payable by the employer to the fund.

Portable long service leave fund

Employer contributions to a portable long service leave fund are liable for pay-roll tax. Liability for pay-roll tax occurs at the time the contributions are paid or payable by the employer to the fund.

In the circumstances where an employer pays the employee's long service leave wages directly, those wages are exempt from pay-roll tax to the extent of the amount that the employer is entitled to recover from the fund.

Employee share acquisition scheme

Employer contributions to an employee share acquisition scheme are liable to pay-roll tax.

An employee share acquisition scheme means a scheme by which an employer provides shares, rights to acquire shares, units in a unit trust or rights to acquire units in a unit trust, whether directly or indirectly, to or in relation to an employee in respect of services performed or rendered by the employee.

Contributions to employee share acquisition schemes fall within the following categories:

- where an employer contributes a monetary amount to a scheme which results in the issue of a share or unit to an employee;
- where an employer arranges for the issue of shares or units to an employee free of charge or at a discount; or

- where an employer arranges for the grant of the right to acquire shares or units to an employee.

The value of the employee share acquisition benefit to be included in a pay-roll tax return includes:

- where the contribution is money, the amount of money provided;
- where the contribution is shares, units, or rights to acquire shares or units which are listed on the stock exchange, the market value of the shares/units as quoted on the relevant stock exchange, less any consideration paid by the employee;
- where the contribution is shares that are not listed on the stock exchange, the market value of the shares less any consideration paid by the employee. For unlisted shares, the market value is the arms length value of the shares as determined for the employer by a person registered as a company auditor who is not a director, secretary, or employee of the company; or
- where the contribution is a right to acquire shares that are not listed on the stock exchange, the market value of the shares that may be acquired by exercising the right, less the lowest amount that must be paid to exercise the right to acquire the shares.

Specific valuation rules are also provided where contributions comprise units or rights to units in a unit trust, which is not listed.

Liability for pay-roll tax occurs:

- (i) in the case of a monetary contribution, at the time of contribution; or
- (ii) in the case of the provision of shares, units or rights, at the time the shares, units or rights were allocated.

Full details of the liability of Employee Share Acquisition Schemes are contained in the *Pay-roll Tax Assessment Regulations*.

2 What payments are not taxable?

The following payments are not taxable:

- payments to apprentices under the *Industrial Training Act 1975*;
- payments to employees under the provisions of the *Workers Compensation and Rehabilitation Act 1981*;
- payments to employees who are absent in the defence forces;
- payments to trainees employed under a training agreement as part of the Australian traineeship system established by the governments of the Commonwealth and the State; and
- wages paid to an employee in Western Australia are exempt **after six months**, where the wages are paid in respect of services performed by the employee wholly in another country, for a continuous period exceeding six months. For more detailed information, please refer to Revenue Ruling PT4; and
- reasonable travel and accommodation allowances are exempt, provided they do not exceed prescribed levels. The prescribed reasonable levels include any cents per kilometre or dollars per night specified in an award. In the absence of such specification the exempt rates are as follows:

Travel	Accommodation
50 cents per kilometre	<ul style="list-style-type: none">• Within WA – \$110• Interstate – \$145• Overseas – \$200

Amounts paid in excess of the prescribed rate are liable to pay-roll tax.

The exempt per-kilometre rate of travelling allowance is applicable only to business travel and is only applicable where records are maintained throughout the financial year to verify business kilometres travelled.

Full details of the record keeping requirements are contained in the *Pay-roll Tax Assessment Regulations 2002*.

3 Exemptions from pay-roll tax liability

Exemptions are provided for religious organisations, hospitals, schools, government departments, public benevolent and charitable institutions.

Application for exemptions should be accompanied by a copy of the organisation's constitution and details of its nature, aims and objects.

4 Is pay-roll tax payable on any GST component of wages?

Pay-roll tax is not payable on any component of wages that is directly attributed to the GST.

As a general rule, wages are not subject to the GST.

However, under the *Pay-roll Tax Assessment Act 2002*, certain payments such as payments to contractors can be deemed to be wages for the purposes of the Act, and these payments may include a GST component.

Where this occurs, pay-roll tax is not payable on the GST component of the payment.

For example, you make a payment to a contractor for \$2,200 (inclusive of GST) for services performed. This payment is deemed payment for wages under the *Pay-roll Tax Assessment Act*. The GST component of this payment is not included in determining liable wages for pay-roll tax purposes. Therefore, \$2,000 will be included as wages for pay-roll tax purposes from this payment.

Accordingly, all 'wages' subject to pay-roll tax are treated consistently in respect of the GST and the amount of pay-roll tax paid by an employer is not increased by the GST amount.



This pay-roll tax information should be used only as a guide and if you have any questions regarding your liability or require more detailed information, please contact the Office of State Revenue.

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