



# NSW Payroll Tax Information for Employers

## Is your business liable?

An individual employer or a group of related businesses may be liable for payroll tax if the total liable wages throughout Australia, including NSW, exceeds the payroll tax threshold.

## Payroll tax threshold and rate

- From 1 July 2011 to 30 June 2012 the payroll tax threshold is \$678 000.
- From 1 July 2011 the payroll tax rate is 5.45 per cent. (See table on page 5 for previous rates and thresholds).
- Where a NSW employer pays wages in another Australian State or Territory, the threshold is apportioned based on the ratio of the total NSW wages to the total Australian wages.
- Grouped employers receive one threshold entitlement between them. The threshold is claimed by the Designated Group Employer (DGE). If you are not the DGE, you do not receive any threshold entitlement.
- If none of the members have total Australian wages exceeding the threshold, the group must nominate a Group Single Lodger to be responsible for lodging and paying payroll tax on behalf of all members of the group.

## What is taxed?

Payroll tax is imposed on an employer's liable NSW wages minus any threshold entitlement.

Wages include any remuneration paid by an employer to an employee. Payments made to certain contractors may also be deemed to be wages.

Liable wages include:

- salaries, commissions, bonuses, allowances and any ordinary earnings, penalty rates, overtime and leave payments
- wages, including superannuation, allowances and fringe benefits, paid to apprentices and new entrant trainees
- superannuation contributions
- fringe benefits includes all benefits subject to the Fringe Benefits *Tax Assessment Act 1986*, except tax-exempt body entertainment fringe benefits
- termination payments include the value of:
  - a) an employment termination payment (ETP) declarable as income for the Australian Taxation Office, and
  - b) all paid out annual and long service leave irrespective of when it was accrued

The amount of the ETP or similar payment that is liable is the amount that would be included in the assessable income of an employee, director or deemed employee, if the whole of the ETP had been paid to that employee, director or deemed employee

- shares and options contributions are liable up to their market value when granted or vested
- make-up pay that is additional to a workers' compensation payment specified in an award or agreement
- allowances not subject to fringe benefits tax
- motor vehicle allowances: the exempt rate is 75 cents per business kilometre travelled for the use of an employee's own motor vehicle. The exempt allowance must relate to kilometres travelled for business purposes, which must be calculated using an approved method. Appropriate records must be maintained. Where an allowance is paid on a per kilometre basis a car expense payment will not be subject to payroll tax if it is exempt under Section 22 of the *Fringe Benefits Tax Assessment Act 1986*
- accommodation allowances: the exempt rate will be pegged to the total reasonable amount for daily travel allowance expense as determined by the ATO for the lowest capital city in the lowest salary band. The exempt rate is \$238.10 per night for overnight accommodation. Amounts paid above \$238.10 will be subject to payroll tax. The allowance must be paid for accommodation expenses incurred by an employee in the course of their employment. Appropriate records must be maintained
- contracts, which provide for direct payments to contractors and subcontractors for work they perform, are known as relevant contracts and are liable for payroll tax unless the contract is exempt. An employment agency contract is not a relevant contract and the employment agency is liable for any wages paid under the contract. For more information read the Contractors and Employment Agents factsheet at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

## Third party payments

If an employee or director provides services to an employer, all payments relating to those services are liable wages for the employer regardless of who makes or who receives the payments.

## When are wages liable?

Liability is based primarily on where the services are performed and secondly on where the employee's principal place of residence is located.

When the employee does not have a principal place of residence in Australia, or where it cannot be identified, the employer's ABN registered address will be used. For more information, read Revenue Ruling PTA039 Payroll Tax Nexus Provisions at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

## Fringe Benefits Tax

The records you use for Fringe Benefits Tax (FBT) are acceptable for payroll tax. The Australian Taxation Office guidelines are used in regards to exempt and nil value fringe benefits.

### Return of fringe benefits amounts for payroll tax purposes

The value for payroll tax is the NSW component of the total of type 1 and type 2 aggregate amounts multiplied by 1.8692.

### Monthly

The amount to be declared as your liable wages for July to May is 1/12 of the taxable value from your FBT return for the year ending 31 March (immediately preceding the current financial year).

### Example

A business's 31 March FBT return has:

- type 1 aggregate amounts = \$80,000
- type 2 aggregate amounts = \$150,000

The taxable value is  $\$230\,000 \times 1.8692 = \$429\,916$

The amount to be used for monthly returns is  $\$429\,916 / 12 = \$35\,826$

**Note:** You must have 15 months or more of fringe benefit payments to elect to use this method. If you have less than 15 months of fringe benefit payments, you must provide actual FBT amounts.

### Annually

The amount to be declared in your Annual Reconciliation is the taxable value from your FBT return for the year ending 31 March (immediately preceding the Annual Reconciliation).

#### Example

A business's 31 March FBT return has:

- type 1 aggregate amounts = \$50 000
- type 2 aggregate amounts = \$100 000

The taxable value for the June Annual Reconciliation is  $\$150\,000 \times 1.8692 = \$280\,380$

As a NSW employer, you must return benefits provided to employees whose wages are paid in NSW. If you cannot achieve this, you can submit a reasonable basis for your calculation of benefits to OSR for consideration.

## What is not taxed?

- maternity, paternity or adoption leave (up to 14 weeks) paid in addition to an employee's normal leave entitlements. Annual, sick, recreation, long service leave or any similar leave is not exempt
- workers compensation payments, except for make-up pay
- reimbursement of the exact amount of an employee's receipted or documented business expenses
- GST component of a wage or relevant contract payment

## Payroll tax exemptions

Wages paid by religious institutions, public hospitals and other benevolent or charitable organisations may qualify for exemption. An application must be made to us in writing.

For more information read the NSW Payroll Tax Exemptions factsheet at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

## Grouping provisions

For payroll tax purposes, a group is constituted under the following circumstances:

- related corporations within the meaning of the *Corporations Act 2001*
- use of common employees
- commonly controlled businesses
- groups arising from tracing of interests in corporations
- a larger group can be formed out of smaller groups

Government agencies listed in Schedule 3 of the Public Finance and Audit Act form a group and must pay a flat rate of tax. All other Government authorities are entitled to the threshold.

## Online services

OSR's online payroll tax tools help you:

- calculate and pay your monthly payroll tax
- calculate, lodge and pay your annual reconciliation
- lodge a 'nil return'
- register and pay your payroll tax online

## MORE INFORMATION



[www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)



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OSR offices:  
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### Wollongong

Level 6, 90 Crown Street,  
(counter services only)

Phone enquiries  
8.30 am – 5.00 pm, Mon. to Fri.



Counter services  
8.30 am – 4.30 pm, Mon. to Fri.

\*Interstate clients please call (02) 9689 6200.  
Help in community languages is available.

### Office of State Revenue: A division of the Department of Finance & Services

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- schedule a future dated payment
- update your contact details

For more information, visit [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

## How to calculate your payroll tax

Online payroll tax calculators are available from [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au) to assist you to accurately calculate payroll tax.

### Rates and thresholds

Tax year	Threshold	Tax rate
01/07/2011 – 30/06/2012	\$678 000	5.45%
01/01/2011 – 30/06/2011	\$326 296	5.45%
01/07/2010 – 31/12/2010	\$331 704	5.5%
01/01/2010 – 30/06/2010	\$316 378	5.65%
01/07/2009 – 31/12/2009	\$321 622	5.75%
01/01/2009 – 30/06/2009	\$308 940	5.75%
01/07/2008 – 31/12/2008	\$314 060	6.0%
01/07/2007 – 30/06/2008	\$600 000	6.0%

## Recovery powers

The payroll tax liability of an employer can be collected from:

- directors and former directors of a corporation that fails to pay its payroll tax liability. This action to recover from directors is stopped by paying the tax, entering into an arrangement to pay, appointing an administrator or winding up the company
- any members of a group, because all members of a group are jointly and severally liable for the tax liability of any member of a group
- a principal contractor whose subcontractor has an unpaid payroll tax liability. This action to recover from principal contractors is stopped if the subcontractor provides an approved declaration stating that there is no payroll tax liability or that the liability has been paid. The written statement is not effective to relieve the principal contractor of liability if the principal contractor had, when given the statement, reason to believe it was false. A subcontractor who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

## Penalties

Failure to lodge payments on time will result in the imposition of interest and, in some cases, penalty tax. Interest and penalty tax is charged in accordance with the *Taxation Administration Act 1996*.

OSR conducts random checks to ensure compliance.

## Voluntary disclosure

Voluntary and confidential disclosures can be made during office hours on 1300 139 815.

Please let us know if you have difficulty meeting your obligations. Penalties can be reduced in appropriate circumstances and instalment arrangements made.

## More information on the legislation

Copies of the *Payroll Tax Act 2007*, the *Taxation Administration Act 1996* and their amendments can be viewed at the website of the NSW Parliamentary Council's Office: [www.pco.nsw.gov.au](http://www.pco.nsw.gov.au)