

What is Payroll Tax and who does it affect?

Payroll tax is a tax assessed by each state and territory levied at employers' annual payroll expenses. A payroll tax liability arises when "taxable wages" exceed the relevant tax-exempt wage level threshold. Each state or territory has its own payroll tax legislation and this fact sheet will concentrate on payroll tax in NSW and Victoria.

The definition of "taxable wages" in NSW and Victoria basically includes any form of remuneration paid or payable to an employee, contractor or director whether it is in cash or kind. The table below summarises the common types of payroll expenses, and whether they constitute "wages" for payroll tax purposes (A= Assessable, E= Exempt):

Description	NSW	Victoria
Salaries & Wages (inc bonuses and overtime)	A	A
Commissions	A	A
Allowances	A	A
Fringe Benefits	A	A
Apprentices' wages	A ^{1,2}	A ¹
Sick and Holiday Pay	A	A
Long Service Leave	A	A
Maternity / Paternity Pay	E ³	E ³
Expense Reimbursements	E	E
Superannuation	A	A
Eligible Termination Payments	A	A
Gifts	A	A
GST component of payments to contractors	E	E

1 Apprentice wages are exempt from payroll tax in non-profit organisations

2 A payroll tax rebate for apprentice wages is available in NSW

3 Exemption applies for the first 14 weeks only. Any fringe benefit component of maternity pay is not exempt from payroll tax

Registration Requirements

Employers must register for payroll tax in NSW and Victoria once taxable wages exceed the applicable monthly threshold. Registration must occur within 7 days after the relevant year-end.

Calculating your Payroll Tax liability

Employers must calculate and remit payroll tax on a monthly basis. The steps involved in calculating your business' monthly payroll tax liability are as follows:

- Determine the value of your taxable wages for the month
- Compare your result with the monthly wages threshold, and:

- If your taxable wages are **less** than the taxable wages threshold, you do not have a payroll tax liability for the month. You therefore lodge a NIL remittance with the respective governing body
- If your taxable wages **exceed** the taxable wages threshold, deduct the threshold from your taxable wages figure to arrive at your taxable wages subject to payroll tax. Multiply this excess by the applicable payroll tax rate to arrive at your payroll tax liability

The following payroll tax rates and thresholds are applicable as of 1 July 2011:

State	Rate	Monthly Wages Threshold	Annual Wages Threshold
NSW	5.45%	29 days = \$53,721 30 days = \$55,574 31 days = \$57,426	\$678,000
Victoria	4.90%	\$45,833	\$550,000

Reporting Requirements

The payroll tax year runs from 1 July to 30 June and you are required to lodge an annual reconciliation notifying your annual taxable wages by 21 July of the year following. The sum of the monthly payroll tax calculations is compared with an annualised calculation and any resulting payment required or refund due is settled. A refund will arise if there are months where taxable wages are less than the applicable threshold. This is because the shortfalls have an offset effect on the annualised calculation.

Grouping Provisions

Legislation provides for the "grouping" of related or associated businesses. Under these provisions, payroll tax liability is determined by the aggregate wages of two or more grouped businesses. Example situations include:

- Related companies per definitions under the Corporations Act 2001
- Employees of one business perform duties solely or mainly for the benefit of another business
- Employer has a controlling interest in another (corporate) employer under tracing provisions
- Same person(s) has / have a controlling interest in two or more businesses

Jurisdiction Issues

Wages are taxable in the state or territory that the services are performed in. Where services are performed in more than one jurisdiction (Australian or otherwise), they are taxable in a particular state or territory if:

- The employee is based in that state or territory. (Domicile of residence or registered business address of employee's service company is relevant here)
- Where the employee is not based in an Australian jurisdiction, the employer is based in that state or territory
- Where both the employee and employer are not based in an Australian jurisdiction:
 - The wages are paid or payable in that state or territory, or
 - The services are performed mainly in that state or territory

What Next?

If you are in business and you have payroll expenses, contact your manager or partner at Isaacs & Cole to discuss how Payroll Tax potentially impacts your business.

Disclaimer: The information contained in this fact sheet is not intended as specific advice. Please contact Isaacs & Cole to discuss your individual situation.