Agenda

- Where are wages taxable
- Thresholds and rates
- Liable and exempt wages
- Contractors and employment agents
- Grouping provisions
- What’s new across the States/Territories
Payroll tax – Administration

What is payroll tax?
- State tax on wages paid by employers
- Self-assessing tax

Objections and Reviews
- Lodge an objection if you disagree with the decision or assessment (60 days)
- If disallowed, next step is the ADT or Supreme Court

Reassessments
- 5 years
- Refunds or offset
Thresholds and Rates for 2012-13

- The threshold is reduced by:
  - Part-year employment
  - Interstate wages
    - It is possible for a multi-state employer to be liable for payroll tax in some states and not others
  - Group membership (1 threshold per group)

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Threshold ($)</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>689,000</td>
<td>5.45%</td>
</tr>
<tr>
<td>Vic</td>
<td>550,000</td>
<td>4.90%</td>
</tr>
<tr>
<td>WA</td>
<td>750,000</td>
<td>5.50%</td>
</tr>
<tr>
<td>Qld</td>
<td>1.1 Million</td>
<td>4.75%</td>
</tr>
<tr>
<td>SA</td>
<td>600,000</td>
<td>4.95%</td>
</tr>
<tr>
<td>NT</td>
<td>1.5 Million</td>
<td>5.50%</td>
</tr>
<tr>
<td>ACT</td>
<td>1.75 Million</td>
<td>6.85%</td>
</tr>
<tr>
<td>TAS</td>
<td>1.01 Million</td>
<td>6.1%</td>
</tr>
</tbody>
</table>
What is a ‘wage’ for payroll tax

- Gross salaries & wages
- Allowances
- Bonuses and commission
- Leave payments
- Directors remuneration
- Fringe benefits
- Superannuation
- Termination payments
- Shares & options
- Liable contractor payments
Wages – Fringe benefits

- Fringe Benefits are included as wages
- Exempt and nil value fringe benefits are not liable for payroll tax
- Taxable value for payroll tax:
  \[= (\text{Type 1} + \text{Type 2 benefits}) \times 1.8692\]
- Declaring your fringe benefits – Actual or Estimated?

**Actual method**
Calculate the grossed up fringe benefits each calendar month and declare that amount in each monthly return
FBT return figures

Estimate method

Taxable value for payroll tax = (A+B) x 1.8692
Declaring FBT by Estimate

Step 1: Declare 1/12 of previous year’s payroll taxable amount each monthly return July–May
Step 2: Balance payments against current payroll taxable amount in June Annual Reconciliation

Example
- March 2012 FBT return = $120 000
- June 2012 Annual Reconciliation = $120 000
- 2012-13 is $10,000/month
- March 2013 FBT return = $150 000
- June 2013 Annual Reconciliation = $150 000
- 2013-14 is $12 500/month
Nathan receives $200/week car allowance & his logbook shows he travelled 100 business kms.

Exempt component = 100 x 75c ($75)
Liable amount = $125  (Note: if no logbook, all $200 would be liable).
Allowances - Accommodation

- $248.25 per night is exempt in 2012-13
- Keep records

$116.25 is exempt if employer pays for accommodation and provides a daily allowance for other expenses

- Living Away From Home Allowance (LAFHA)
  - This a fringe benefit

Room – $132
Food – $98.40
Inc – $17.85
Superannuation

All pre-tax superannuation contributions are taxable

- Employees
- Deemed employees
- Company Directors

- SGC Amounts
- >9% amounts
- Salary sacrifice
- Top-up contributions
Termination payments

- Taxable
  - Employee Termination Payments (ETP)
    - Pay in lieu
    - Contract payouts
    - Golden handshakes
    - Severance payments

- Income tax free components of an ETP (genuine redundancy, early retirement)
Leave and Directors’ Fees

Leave payments are taxable
- Sick leave
- Leave loading
- Long service leave
- Annual leave

Directors’ fees are taxable
- Non-working Directors
- Working Directors
- Regardless of where paid to
- Profit distribution
Exemptions – employee based

- **Maternity, paternity and adoption leave**
  - Up to 14 weeks full pay
  - Doesn’t include regular leave
  - Proof required

- **Fire and Emergency Services duty**
  - Doesn’t include regular leave
  - Proof required

- **Defence Force personnel**
  - Proof required

- **Workers compensation**
  - Not liable
  - Top payments above the award level only are wages
Exemptions and payments not liable

Exemptions
- Each jurisdiction has various employee and employer based exemptions please refer to their relevant websites or contact centres for further information.

Payments not liable
- Workers compensation up to limit
- Dividends, partnership drawings
- Trust distributions
- GST payments
- Direct reimbursements
- Commonwealth paid parental leave
Where are wages taxable

- **Wholly in one State**: Taxable in the State where the work was performed
- **In two or more States or partly overseas**: Taxable in the State where the:
  - Worker resides
  - Employer is based
- **Wholly overseas**: Taxable in the State where the worker is paid
  - Note: Exempt if overseas >6 months
Employee or contractor?

- A worker can be an employee even if they have an ABN
- Many ‘contractors’ have been found by courts to be employees
Contractor payments

- Contractor payments are liable for payroll tax
- Labour component only so use approved deduction
- GST excluded
- Exemptions:
  - Three specific and six general exemptions
  - You must be able to substantiate any exemption you claim
  - Exemptions are only available for contractors. If a worker is an employee their payments are fully taxable
Three specific exemptions

1. **Owner – drivers** contract for conveyance of goods
   - driver provides the vehicle

2. **Independent insurance agents**
   - Contractors who solely sell insurance on a commission basis for insurance companies
   - Does not apply to commissions from the sale of ‘non-insurance’ products

3. **Door to door selling agents** Sale of domestic goods to end-user
   - Does not apply to commercial or industrial sales
Six general exemptions

1. **Labour ancillary to goods provided**
   
   Exempts contracts where the primary object is the provision of goods and any labour provided is merely ancillary
   
   *e.g. crane with operator, air-conditioner with installer*

2. **Services not ordinarily required and supplied by a person who services the public generally**

   Recognises that businesses require certain services that are not associated with their mainstream activities
   
   *e.g. a bank engages an interior decorator*
3. **Services ordinarily required by the business for a period <180 days**
   - Look at the **type of service** being provided by the contractor
     - How many days of the year does the hiring business need that type of service?
   - Cannot be used to exempt extra labour for peak periods
   - Not necessarily consecutive days

4. **Services provided for 90 days or less**
   Days do not have to be consecutive
   - Total all days worked in the financial year
   - Any amount of service provided on a day counts as a full day
   - Replacement method
5. **Chief Commissioner satisfied the contractor provides services of that type to the general public in that financial year**

   The contractor must:
   - provide the services in the course of conducting a genuine independent business
   - must render like services to a range of clients.

6. **Contractor engages labour to carry out the contract**

   - Exempts contracts where the contractor hires employees or engages other contractors directly to perform the **core work** of the contract.
   - Partnerships - the work must be performed by one/both partners plus another person.
Grouping

- Grouping has two primary effects:
  1. Only one threshold for the group
  2. Each is liable for the tax of the others

- There are three major group types:
  1. Related corporations
  2. Common employees
  3. Common control

- Provisions operate independently

- Smaller groups subsumed
Related corporations

Holding/subsidiary relationship under Section 50 of the *Corporations Act 2001*

- **One Pty Ltd**
  - Controls composition of board of Directors
- **Two Pty Ltd**
  - Controls >50% of votes at a general meeting
  - Holds >50% of issued share capital
- **Three Pty Ltd**
  - No exclusion possible
Example – Related corporations

Red Pty Ltd

- 80% Purple Pty Ltd
- 51% Green Pty Ltd
- 100% Yellow Pty Ltd

- 40% Blue Pty Ltd
Grouping – Common employees

An employee of one employer performs duties for another business.

- Just one common employee is sufficient
- Targets businesses where two or more employers carry on an integrated business activity.
## Grouping – Common Control
Groups are created when two businesses are controlled by the same person or group of people.

<table>
<thead>
<tr>
<th>Business type</th>
<th>Person(s) with control</th>
<th>Control established by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sole trader</td>
<td>One person</td>
<td>Sole owner</td>
</tr>
<tr>
<td>Joint ownership</td>
<td>All persons</td>
<td>Exclusive owners together</td>
</tr>
<tr>
<td>Body Corporate</td>
<td>Board of Management</td>
<td>&gt;50% Board of Management</td>
</tr>
<tr>
<td>Corporation</td>
<td>Director(s) Shareholder/s</td>
<td>&gt;50% Directors voting power &gt;50% Shareholder voting rights</td>
</tr>
<tr>
<td>Partnership</td>
<td>Partner(s)</td>
<td>&gt;50% capital or profits</td>
</tr>
<tr>
<td>Trust</td>
<td>Beneficiaries</td>
<td>&gt;50% beneficial interest</td>
</tr>
</tbody>
</table>
Exclusions

- Grouping provisions are broad and may result in unintended groupings
- Chief Commissioner must be satisfied that:

  ‘a business carried on by the person, is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member of that group’
New South Wales

2013/14 State Budget
- Payroll tax deduction threshold— $750,000 (2013/14)
- Jobs Action Plan rebate has increased to $5000 for all NEW employees that increase your workforce from 1/7/13.
  - $2000 on 1st anniversary of commencement of employment
  - $3000 on 2nd anniversary of commencement of employment

Important to note
- Threshold deduction no longer indexed each year.
- Tax rate for 2013/14 will remain at 5.45%
- NSW has a rebate offset for ALL wages paid to apprentices and new entrant trainees.

For more information see: www.osr.nsw.gov.au
2012—13 Budget

- Payroll tax deduction threshold—remains at $1.1 million for 2013–14
- Parental, adoption and surrogacy leave taken on less than full pay—part-time employees wages align with full-time employees.

Important to note

- Payroll tax rate—remains at 4.75% for 2013–14
- Annual return—due by Sunday 21 July 2013
- UTI rate—decreases to 10.82% from 1 July 2013

For more information see: www.osr.qld.gov.au
South Australia

Small Business Rebate
- Up to 49.5% rebate
- Based on taxable wages for 2012-13 and 2013-14
- Available for business with payrolls between $600 000 and $1.2m
- Revenue Ruling PTASA002

Renewable Energy Rebate
- 100% rebate
- Construction of new, large scale wind and solar energy projects
- Information Circular 9

For more information see: www.revenuesa.sa.gov.au
Pay-roll Tax Small Business Rebate
- one-off rebate for employers with wages up to $3 million

Pay-roll Tax Indigenous Wages Rebate
- rebate for wages paid to Indigenous employees hired on or after 1 July 2012
- available to businesses with wages of up to $15 million
- Employers must be registered with the Western Australian Office of State Revenue for pay-roll tax by 7 July 2013 to receive either of the above rebates

Pay-roll Tax Exemption for wages paid to employees with a disability
- paid in first two years of employment
- commenced employment on or after 1 July 2012

For more information see: [www.osr.wa.gov.au](http://www.osr.wa.gov.au)
2012 – 2013 Threshold
- $1 010 000 (pro-rata for employers in multiple states / territories)
- Monthly Thresholds based on days in the month (Tas employers only)
  - 28 days - $77 479
  - 30 days - $83 013
  - 31 days - $85 780

2013 – 2014 Threshold
- Increases to $1 250 000

Payroll Tax Incentive
- Employment Incentive Scheme (Payroll Tax Rebate) (EISPR3)

For more information see: [www.sro.tas.gov.au](http://www.sro.tas.gov.au)