



Department of Treasury and Finance
Office of State Revenue

REVENUE RULING

PT1

APRIL 2001

PAY-ROLL TAX

SALARIES AND WAGES, OTHER BENEFITS AND SUPERANNUATION CONTRIBUTIONS

IMPORTANT

This ruling is only applicable to wages paid or payable up to and including 30 June 1997.

From 1 July 1997 the definition of wages was amended to include fringe benefits, superannuation and certain prescribed benefits. For further information, please refer to the Pay-roll Tax General Information, Fringe Benefits and Superannuation Pamphlets.

INTRODUCTION

1. The definition of wages in section 3 of the Pay-roll Tax Assessment Act includes not only wages, salaries, commissions, bonuses, allowances, or other benefits which are paid or payable in cash but also those that are paid or payable in kind.
2. Although it has always been clear that liability for pay-roll tax is not confined to gross amounts appearing in salary and wage records or to amounts paid in cash, some uncertainty on the question of liability appears to have emerged with the proliferation of remuneration packages.
3. The purpose of this ruling therefore, is to inform employers about liability to pay-roll tax in respect of:
 - (a) salaries and wages;
 - (b) other amounts paid direct to employees;
 - (c) payments made on behalf of employees; and
 - (d) non-cash benefits given to employees;and to clarify the position in respect of pay-roll tax on superannuation contributions.

RULING

Salaries and Wages

4. Pay-roll tax is always payable on the amount of gross salary or wages of an employee without any reduction in respect of amounts deducted and paid on behalf of the employee, e.g. income tax, employee superannuation contributions, hospital benefit fund contributions.

Other Amounts Paid Direct to Employees

5. In addition to salaries and wages, pay-roll tax is payable on other amounts paid to employees as remuneration, e.g. commission, bonuses, travelling allowances and other allowances.
6. The reimbursement of an employee for actual expenses incurred by him on behalf of his employer does not constitute part of the remuneration liable to pay-roll tax.

Payments Made on Behalf of Employees

7. Pay-roll tax is payable on any other cash amounts which are paid on behalf of an employee as remuneration, being liabilities of a private nature which the employee has incurred e.g. credit card payments, school fees, club fees. Pay-roll tax is not, however, payable on an employee's superannuation contributions which an employer has undertaken to pay (see paragraph 13).

Non-Cash Benefits Given to Employees

8. Pay-roll tax is also payable on any non-cash benefit representing remuneration paid or payable in kind, which is included in a written record of a remuneration package which ascribes a monetary value to the benefit or which sets down how the value is to be determined, e.g. private use of company car.
9. Pay-roll tax IS NOT payable in respect of any amounts which are specifically included in a remuneration package which represent Commonwealth fringe benefits tax or the related income tax "gross-up" (i.e. the amount which reflects the fact that fringe benefits tax cannot be claimed as a deduction for income tax purposes).
10. Thus, if an employee's remuneration package is \$100,000 consisting of salary of \$80,000, the use of a car \$6,500, fringe benefits tax \$4,000, income tax gross-up \$1,500 and employer superannuation contributions of \$8,000 (see paragraph 13) only \$86,500 is liable to pay-roll tax. By contrast, if an employee is employed at a salary of \$60,000 per annum and is given the use of a car, otherwise than as part of a remuneration package, the only amount liable to pay-roll tax is the employee's salary of \$60,000.

Inclusion of Benefits in Pay-roll Tax Returns

11. Generally, an employer should include non-cash benefits, as well as cash benefits, which are liable to pay-roll tax, in the pay-roll tax return covering the month in which the benefits are paid or given.
12. Where a non-cash benefit is given over a period of greater than one month and the value of the benefit is not readily ascertainable for each month, then the value of the benefit should be apportioned over the period that the benefit is given. Thus, if an employee's remuneration package is valued at \$96,000 per year, comprising a salary of \$84,000 and the use of a car to which a value of \$12,000 is given, the amount of salary paid for the month plus \$1,000 in respect of the car should be included in each month's pay-roll tax return. For this purpose, the value of a non-cash benefit is the value given to it in the written remuneration package referred to in paragraph 7.

Records to be Maintained

13. Proper records must be kept of all remuneration paid or payable, including the nature and value of cash and non-cash benefits liable to pay-roll tax.

Superannuation Contributions

14. Pay-roll tax IS NOT payable in respect of:-
 - (i) an employer's contributions to a superannuation fund as defined in section 3(1) of the Occupational Superannuation Standards Act 1987 (or as similarly defined in any Act which may be enacted in substitution for that Act) even where the employer's contributions are in excess of the requirements of the Superannuation Guarantee Scheme;
 - (ii) an employee's contributions to such a fund which the employer has undertaken to pay whether as a component of a remuneration package, by way of salary sacrifice, as a bonus, or as any other form of reward for services.
15. Pay-roll tax is, however, payable in respect of any amount paid to such a superannuation fund by the employer which represents deductions from an employee's gross salary or wages (see paragraph 4).

APPLICATION OF THIS RULING

16. Although non-cash benefits and payments made on behalf of employees have always been liable to pay-roll tax, the Office of State Revenue will not seek from an employer, details of any such benefits or payments which were given or made to employees prior to 1 July 1992.

ADMINISTRATIVE ARRANGEMENTS

Amounts Already Assessed by the Office of State Revenue

17. Where an employer has been assessed by the Office of State Revenue in respect of undeclared wages and the assessment covers amounts that would not be taxable under this ruling, an objection lodged against the assessment under section 32 of the Pay-roll Tax Assessment Act, will be determined by applying the provisions of this ruling.

Where the time-limit of 42 days has expired for the lodgement of an objection, such extension of time will be allowed as may be necessary to permit the review of any assessment issued within the two calendar years immediately preceding the date of lodgement.

Amounts Already Declared by an Employer in Returns

18. Where an employer has declared in pay-roll tax returns, and has paid tax on, amounts which would not have to be included under the provisions of this ruling, application may be made for a credit for any overpayment of pay-roll tax which may have thus occurred during 1990/91, 1991/92 or 1992/93.

PENALTIES

Amounts Already Assessed by the Office of State Revenue

19. On application being made or an objection being lodged, a penalty that has been included in an assessment issued by the Office of State Revenue between 1 July 1991 and 31 December 1992, in respect of pay-roll tax assessed on non-cash benefits or payments made on behalf of an employee, will be fully remitted.

Amounts Not Declared by an Employer in Returns

20. Where an employer has failed to include in a pay-roll tax return, non-cash benefits or payments made on behalf of an employee which are liable to pay-roll tax under this ruling, no penalty will be applied if details of any such benefits or payments given or made since 1 July 1992 are provided to the Office of State Revenue by 30 April 1993.

During this grace period, penalties will likewise not be included in any assessments that may be issued by the Office of State Revenue in respect of these benefits and payments.

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