

PAY-ROLL TAX CHANGES
2000-01 Budget Amendments
Pay-roll Tax Act

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TERRITORY REVENUE MANAGEMENT

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Purpose of this Circular

1. This circular provides general information relating to the pay-roll tax measures announced as part of the 2000-01 Northern Territory Budget.
2. The measures commence from 1 July 2000.

Proposed Changes

3. The measures include:
 - reducing the pay-roll tax rate from 6.75% to 6.6%;
 - extending the due date for lodging pay-roll tax returns and paying tax from the 7th to the 21st of each month;
 - allowing an exemption to overseas employees;
 - clarifying that payments to workers under labour hire arrangements are subject to pay-roll tax;
 - extending time for the lodgement of objections; and
 - payment of interest on refunds when an objection is allowed.

Rate Reduction

4. The pay-roll tax rate is to be reduced from 6.75% to 6.6%. The new rate will be effective for wages paid from 1 July 2000.

Extending the Due Date for Payment of Tax and Lodging Monthly Returns

5. For employers lodging monthly returns, the due date for payment of tax and lodgment of the return has been extended under the Act from the 7th to the 21st day after the end of a month. The measure first applies in relation to the **July 2000** monthly return. As such, this means the May 2000 and June 2000 pay-roll tax returns remain due on 7 June 2000 and 7 July 2000 respectively.
6. For many employers, this extended timing will align with the date their Pay-As-You-Go withholding liabilities are due to the Australian Tax Office.
7. Given the extended timeframe for lodgement and payment, this office will be rigidly pursuing payment and lodgement by the due date. Late payment and/or late lodgement may incur penalties.

Overseas Employees Exemption

8. This measure addresses an existing anomaly concerning wages paid to overseas employees.
9. Generally, a liability arises in the Territory where either services are rendered wholly in the Territory (regardless of where the wages are actually paid or payable) or where wages are paid in the Territory in respect of services which are not rendered wholly in another jurisdiction.
10. Where an employer who is liable for pay-roll tax in the Territory has employees working in another country, but those wages are paid to the credit of a bank account in the Territory, the wages of those employees are liable to pay-roll tax.
11. If the wages were paid to those same employees directly to an overseas account, no pay-roll tax liability would arise. As such, the amendment addresses this anomaly by providing an exemption after six months, where wages are paid to a person in the Territory in respect of services performed wholly in another country for a continuous period of six months.
12. The six-month qualifying period is included to ensure that the exemption only applies to genuine overseas employees. Only the wages paid for the period beyond the six-month qualifying period are exempt.

Labour Hire Firms

13. The Act will be amended to ensure that a pay-roll tax liability arises for labour hire firms in respect of remuneration paid to persons engaged to provide services to the firm's client.
14. Generally speaking, a pay-roll tax liability arises where wages are paid in respect of the traditional relationship between an employer and its employee. However, judicial decisions have cast doubt on the existence of this relationship between a labour hire firm and its workers.
15. A labour hire agent enters into arrangements with its clients to engage workers to provide, in whole or in part, services for the client. The labour hire agent receives a fee for these services and in turn it pays the worker for the services provided to its client. The measure confirms that the amount paid or payable by a labour hire agent to its workers is liable to pay-roll tax.
16. For example, Employment Specialist Pty Ltd keeps a database of skilled people willing to provide their services to third parties. ABC Pty Ltd asks Employment Specialist Pty Ltd for a computer programmer. Employment Specialist Pty Ltd contracts with John to do work for ABC Pty Ltd. Employment Specialist Pty Ltd is liable to pay-roll tax in relation to the payments it makes to John.
17. However, pay-roll tax will not arise where a labour hire agent engages the services of a truly independent contractor. As such:
 - where a person is engaged by an labour hire agent on the basis that the performance of services by the person is not, in whole or in part, for the client of the labour hire agent; and

- the person bears all the risk and responsibility for the result required under the arrangement,

the payment made by the labour hire agent to the person under its arrangement will not be liable to pay-roll tax.

18. For example, Cameron is a builder and contracts with Elsa to build her home. He subcontracts Chris for the carpentry work. Under the arrangements, Chris bears all the risk for completion and quality of the result. This arrangement is not a labour hire arrangement as Chris is performing the work directly for Cameron and not performing work directly for Elsa.
19. The measure also includes an anti-avoidance provision to ensure labour hire agents cannot avoid pay-roll tax by disaggregating wages through trust arrangements.
20. Furthermore, the measure ensures that a double incidence of pay-roll tax cannot arise where an entity hires staff to a labour hire agent who then on-hires that worker to a client.
21. These measures apply in respect of wages paid or payable from 1 July 2000. However, where a labour hire firm prepays its workers on or after 16 May 2000, the date of the Budget announcement, in respect of work to be performed on or after 1 July 2000, the provisions will apply from 16 May 2000.
22. The measure also ensures that nothing in the *Pay-roll Tax Act* shall prevent a labour hire firm from recouping a pay-roll tax liability from its clients.

Extending Time for the Lodgement of Objections

23. The *Pay-roll Tax Act* requires an objection to be lodged within 60 days after the date of assessment. Currently, the legislation provides no means to allow the Commissioner to extend the 60-day period.
24. This measure provides greater flexibility to taxpayers in that it permits the 60-day period to be extended where the Commissioner is satisfied that the taxpayer has a reasonable excuse for failing to lodge an objection by the due date.

Payment of Interest on Refunds Arising from Allowing an Objection

25. This measure allows interest to be paid where a taxpayer has paid a pay-roll tax assessment that is subsequently refunded as a consequence of an objection being allowed or an appeal being upheld.
26. Interest is to be paid at the rate prescribed for the purposes of section 214A of the *Income Tax Assessment Act* of the Commonwealth. This measure only applies in relation to objections lodged on or after 1 July 2000.

The above is a general summary of the amendments. Reference should be made to the *Pay-roll Tax Amendment Bill 2000* for precise details. If further assistance is required, please contact the Returns Officer on telephone (08) 8999 7941 or facsimile (08) 8999 5577.

COMMISSIONER OF TAXES