

# TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

*The following information is only of a general nature and should not be taken as professional advice.*

## 1 | Payroll Tax

Payroll tax is usually not at the forefront of our minds. It is a state tax after all. So feels provincial and less important than the “big” federal taxes.

### Payroll Tax

Payroll tax is usually not taught at uni, so we tend to know little about it as we start out. And it has a relatively high threshold, so it might not affect many of our clients anyway.

But forgetting payroll tax can cost dearly and hence deserves our attention and understanding.

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### Harmonisation

Even though payroll tax is a state tax, most of the payroll tax legislation has been harmonised across Australia and it is these harmonised provisions this episode will focus on.

So even if you are not in NSW, this episode with Andrew Fricot and Ankur Dhar of [Revenue NSW](#) will still apply to you. Andrew and Ankur will focus on the part of the payroll tax legislation that has been harmonised across Australia.

### Threshold and Rate

Australian employers pay payroll tax on annual wages exceeding a certain threshold.

In NSW for the 2021/22 tax year this is currently \$1.2m with a tax rate of 4.85 per cent applied to the portion exceeding that threshold.

The threshold and rate are adjusted each year. The threshold is much higher and the rate much lower at the moment to help you through COVID and lockdowns.

Once we are well and truly out of the pandemic, the rate will probably increase and the threshold come down again.

### Payment

The payment is on a monthly basis with an annual reconciliation (including June) at the end.

There is an adjustment to the threshold for each state or territory when an employer pays wages in more than one state or territory.

## **Wages**

Employers only pay payroll tax on taxable wages. But what is a 'wage'?

The definition is quite wide and covers nine forms of payments. It includes all forms of direct and indirect reward for work from 'normal' wages and salaries to other forms of rewards such as fringe benefits and share schemes.

### **Wages – Division 1**

Wages paid or payable to employees make up almost all wages liable for payroll tax. Payments are a wage if they are 'normal' wages, remuneration, salary, commissions, bonuses or allowances.

### **Fringe benefits – Division 2**

The definition of wages includes a fringe benefit. Exempt fringe benefits are not liable for payroll tax. Use the taxable value of fringe benefits and not the 'reportable' value. Group certificates show the reportable value and not the full value of benefits.

### **Superannuation contributions – Division 3**

All employer superannuation contributions in respect of any employee, director, relevant contract worker or agency contract worker are a wage.

### **Shares or options – Division 4**

Wages include the value of shares and options acquired by or granted to employees and directors less the value of any payment the employee or director makes in order to have that share or option.

### **Employment Termination Payments – Division 5**

Wages include Employment Termination Payments (ETP) paid by an employer as a result of an employee's termination less any component which is exempt income when received by the employee, as well as all paid annual and long service leave.

### **Allowances – Division 6**

All allowances other than motor vehicle and accommodation allowances are a wage under Division 1. Division 6 defines as a wage amounts paid as motor vehicle allowances or accommodation allowances that exceed limits set with reference to Commonwealth taxation limits. Only the value of the excess payments is a wage under Division 6.

### **Contractor provisions – Division 7**

Employers may use contractors to perform services for their businesses. These might include contractors, subcontractors, agents, consultants or any other title and can be a natural persons or corporate entity. All payments made to these persons are a wage if paid under a 'relevant contract'.

### **Employment Agents – Division 8**

If an agency client does not hire or pay an employee or contractor directly, but the agency does and offers its client an on-hire arrangement, then the agency makes Division 8 payments potentially subject to payroll tax. If an agency however finds a worker but the client directly hires and pays the worker as an employee or contractor,

then these payments are “normal’ wage payments under Division 1.

## **Other – Division 9**

This division covers payments to outsourced payroll companies, to an employee’s spouse, superannuation fund or private company upon the employee’s request as well as payments in connection with a company’s director. The GST component of any payment is never a wage.

## **Taxable Wages**

NSW payroll tax only applies to wages taxable in NSW. And wages are taxable in NSW if the relevant work is performed in NSW. To avoid double-taxation a wage is only ever taxable in one jurisdiction.

If an employee works only in NSW, then the wages for that months’ work are taxable in NSW. It gets more complex when an employee works in NSW and another state or outside of Australia. In this case the employer applies a tiered test to work out what is taxable where.

## **Tax Administration**

A taxpayer can apply for the amendment of an assessment within five years. All over-payments are refunded, while any extra tax is subject to interest and penalties.

Interest is around 9%, while penalty tax is 25 % of the shortfall. But an employer can reduce penalty tax to 0% by making a full disclosure of sufficient information before notification of an investigation or to 20% after notification of an investigation. But if there is an attempt to intentionally hide the extent of a tax liability, penalty tax increases to 75% of the shortfall.

To ensure compliance the NSW Office of State Revenue conducts an active investigation program targeting all employers that have taxable wages in NSW.

A tax payer can object within 60 days of the issue of a decision, determination or assessment. The statement must be explicit, stating the full grounds of the objection and be accompanied by relevant supporting evidence.

## **Summary**

The above is just a very short overview of the main points we discuss in this episode. Please listen in since Andrew and Ankur discuss all this in a lot more detail.

To read a more detailed overview of NSW Payroll Tax click [here](#).

For more detailed information, please refer to the website for your state or territory: [NSW](#) – [Victoria](#) – [Queensland](#) – [Tasmania](#) – [South Australia](#) – [ACT](#) – [Northern Territory](#)

## **MORE**

[Payroll Tax Contractor Provisions](#)

[Payroll Tax Grouping Provisions](#)

[Fringe Benefits Tax](#)

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