



REVENUE RULING HARMONISED PAY-ROLL TAX – 002

EXPATRIATE EMPLOYEES

RULING HISTORY

Ruling	Issued	Dates of Effect	
		From	To
PTA 002	2 July 2008	1 July 2008	23 February 2009

BACKGROUND

- A. The *Pay-roll Tax Act 1971* (“the Pay-roll Tax Act”) was amended with effect from 1 July 2008 to harmonise certain aspects of the pay-roll tax regimes of Queensland, New South Wales and Victoria. One of the areas which has been harmonised is liability for wages paid for services performed in another country.
- B. Whether wages of an employer are subject to the payment of pay-roll tax in Queensland will depend upon where the work is performed by an employee and where the wages are paid.
- C. Employers who have expatriate employees should be aware that wages (which include a wide variety of payments made to these employees) may be subject to pay-roll tax where payments are paid in Queensland in relation to employees working overseas or payments are paid overseas to employees working in Queensland.
- D. The purpose of this Revenue Ruling is to clarify an employer’s liability under s.9 of the Pay-roll Tax Act in respect of wages paid to expatriate employees.

RULING

Expatriate employees working overseas

Assignment for less than six months

1. Wages paid or payable in Queensland to an expatriate employee who is working in another country, or countries, are taxable where the assignment in another country, or countries, is no more than six continuous months.
2. If only part of the wages earned by an expatriate employee working in another country or countries are paid or payable in Queensland, then such wages must be declared for pay-roll tax.

Assignment for greater than six months

3. Where services are performed by an employee on a continuous assignment in another country or countries for greater than six months, any wages paid or payable in Queensland are not subject to pay-roll tax (i.e. the exemption from pay-roll tax on such wages applies for the whole assignment, including the first six months).

4. The six month period does not have to be within the one financial year but must be a continuous period. Where an employee, working in another country, returns to Australia, it will not be considered to be a break in continuity in the following circumstances:
 - (a) the employee returns for a holiday; or
 - (b) the employee returns to perform work exclusively related to the overseas assignment for a period of less than one month;

and in either case, the employee immediately returns to that overseas country to perform further work on the assignment.

Services performed offshore

5. Any wages that relate to services performed offshore and beyond the limits of any Australian State or Territory, but not in another country, are taxable if they are paid or payable in Queensland, irrespective of the duration of the assignment. As such, the exemption that applies to wages paid or payable in Queensland for work performed in another country is not applicable.

Expatriate employees working within Queensland or paid in Queensland

6. It is common practice for overseas parent companies to send employees to work for their Queensland subsidiaries or branches on a permanent or temporary basis.
7. Wages paid or payable to such persons in Queensland are subject to pay-roll tax in Queensland, where those wages are attributable to work performed by the employee wholly in Queensland.
8. Wages paid or payable in another State or Territory are subject to pay-roll tax in Queensland where those wages are attributable to work performed by the employee wholly in Queensland.
9. Wages paid outside Australia are subject to pay-roll tax in Queensland where those wages are attributable to work performed by the employee wholly in Queensland.
10. Wages paid in Queensland are subject to pay-roll tax in Queensland where those wages are attributable to work performed in two or more States or Territories other than Queensland.
11. Although the basis for determining whether payments made, or benefits provided, to expatriates are subject to pay-roll tax is essentially the same as applies to other wage payments, the following clarification is provided.

Wages paid in a foreign currency

12. When calculating the value of the payment, the Commissioner of State Revenue will accept an exchange rate conversion, based upon the Reserve Bank of Australia's daily rate published for the day of payment. If this creates difficulties, the employer may use, as an alternative, the yearly average rate for the financial year, as published by the Australian Taxation Office. The previous year's figure may be applied for the purpose of making periodic returns, provided that the current year's rate is used to make an appropriate adjustment in the annual return.

Bonuses paid overseas to expatriates relating to employer/group performance

13. The value of bonuses paid overseas as a result of an employer's, or employer group's, performance are subject to pay-roll tax and should be declared in Queensland to the extent that they relate to work performed by the expatriate in Queensland.

Fringe benefits

14. Benefits provided to expatriate employees which fall within the provisions of the *Fringe Benefits Tax Assessment Act 1986* (Cwlth) are subject to pay-roll tax based on the taxable value of the fringe benefit grossed up using the Type 2 factor only.

Employer contribution to superannuation funds

15. The definition of "wages" includes employer contributions to superannuation funds. The superannuation contributions of expatriate employees are taxable if paid or payable for or in relation to a person whose wages, or other remuneration, are subject to pay-roll tax.

DATE OF EFFECT

16. This Revenue Ruling takes effect from 1 July 2008.

David Smith
Commissioner of State Revenue
Date of Issue: 2 July 2008