



NSW Payroll Tax Information for Employers

Is your business liable?

An individual employer or a group of employers may be liable for payroll tax if your total taxable wages throughout Australia, including NSW, exceeds \$638 000 for the 2009–10 payroll tax year.

You may also be liable if you pay wages for only part of the payroll tax year, even if your total Australian wages are less than \$638 000 during that part of the year.

Payroll tax rate

- From 1 July 2009 to 31 December 2009, the payroll tax rate is 5.75 per cent.
- From 1 January 2010, the payroll tax rate is 5.65 per cent. (See table on page 5 for previous rates and thresholds).
- Where a NSW employer pays wages in other states, the \$638 000 threshold is apportioned based on the ratio of the total NSW wages to the total Australian wages.
- If the employer is a member of a group, the \$638 000 threshold is claimed by one member only (Designated Group Employer – DGE) based on that member's portion of the total Australian wages.
- If you are not the DGE, you do not receive any threshold entitlement.
- If none of the members have total Australian wages exceeding \$638 000, the group must nominate a Single Lodger to be responsible for lodging and paying payroll tax on behalf of all members of the group.

What is taxed?

You are liable for payroll tax on wages paid or payable in NSW. Wages includes most payments for services made by an employer to employees, directors and contract workers who are deemed to be employees.

Deemed employees are workers who provide services under a direct relevant contract or an employment agency contract, which is not an exempt contract. For further information on deemed employees, see the Contractors and Employment Agents factsheet available from www.osr.nsw.gov.au

Taxable wage components include:

- salaries, remuneration, commissions, bonuses, allowances and director's fees
- wages and salaries paid to apprentices and new entrant trainees
- fringe benefits, that is any non-cash components of a remuneration package as defined in the *Fringe Benefits Tax Assessment Act 1986*.



The value for payroll tax is the NSW component of the total of type 1 and type 2 aggregate amounts multiplied by 1.8692.

- employment termination payment (ETP) when paid to employees, and former employees and similar payments to directors, former directors, members of a governing body, former members of a governing body or deemed employees under a relevant contract. The amount of the ETP or similar payment that is subject to payroll tax is the amount that would be liable to income tax in the hands of the employee
- employer contributions to shares and options are liable up to their market value when granted or vested
- make-up pay that is additional to a workers' compensation payment specified in the award or agreement
- allowances are fully liable except for the exempt components of motor vehicle allowances and overnight accommodation allowances
- motor vehicle allowances: the exempt rate is 75 cents per business kilometre travelled for the use of an employee's own motor vehicle. Only the amount paid in excess of 75 cents is liable. The exempt allowance must relate to kilometres travelled for business purposes, which must be calculated using an approved method. Appropriate records must be maintained.
- accommodation allowances: the exempt rate will be pegged to the total reasonable amount for daily travel allowance expense as determined by the ATO for the lowest capital city in the lowest salary band. The exempt rate is \$223.80 cents per night for overnight accommodation. Amounts paid above \$223.80 will be subject to payroll tax. The allowance must be paid for accommodation expenses incurred by an employee in the course of their employment. Appropriate records must be maintained.
- superannuation contributions paid or payable by an employer for services rendered by an employee; or paid or payable under a relevant contract for services rendered
- allowances not subject to fringe benefits tax, excluding a direct reimbursement of employee related expenses for which receipts are kept
- payments to contractors may be liable. For details, refer to the NSW Payroll Tax Contractors and Employment Agents factsheet available from www.osr.nsw.gov.au
- wages paid under an employment agency contract are liable to be paid by the employment agency
- wages paid outside NSW for services performed wholly in NSW.

For details, refer to the NSW Payroll Tax Contractors and Employment Agents factsheet available from www.osr.nsw.gov.au

Third party payments

Payments do not need to be made by an employer to an employee to be liable as taxable wages.

Payments that are made by a third party (other than the employer) to or on behalf of an employee, director or relevant contractor for services that have been provided for that employer are liable as taxable wages.

When are wages liable

From 1 July 2009 the process of determining liability for payroll tax has been changed to specify the employee's principal place of residence as the primary nexus where employees perform services in more than one jurisdiction during a month.

When the employee does not have a principal place of residence in Australia, or where it cannot be identified, the employer's ABN registered address will be used.

For more information, visit www.osr.nsw.gov.au

Use values declared for Fringe Benefits Tax

The records you use for Fringe Benefits Tax (FBT) are also acceptable for payroll tax. When lodging returns, you must disclose fringe benefits on the basis of actual benefits provided (grossed up by 1.8692), unless you elect to return the FBT value, as follows:

- **What if you paid FBT for the preceding full FBT year ending 31 March?**

You can choose to adopt an annual payroll tax value identical to the previous returnable FBT annual value (grossed up by 1.8692).

- **What if you decide to do this and remit payroll tax on a monthly basis?**

You must return one twelfth of the returnable FBT annual value for the months July to May the following year. The June return must include a value to reconcile with the latest returnable FBT annual value.

- **What if you pay on an annual basis?**

If you begin or cease trading during the payroll tax year (1 July to 30 June), you must submit a return on the basis of actual benefits provided for the part year, even if you decided earlier, to adopt a payroll tax value equivalent to the FBT value.

When you cease employment/trading, you do not need to make an adjustment for the notional three months time lag.

As a NSW employer, you must return benefits provided to employees whose wages are paid in NSW. If you cannot achieve this through your wage system, you can submit a reasonable basis for your calculation of benefits to OSR for consideration.

What is not taxed?

- maternity or adoption leave (up to 14 weeks) paid in addition to an employee's normal leave entitlements. Annual, sick, recreation, long service leave or any similar leave taken while the employee is absent due to pregnancy is not exempt
- workers' compensation payments, except for make-up pay
- reimbursement of the exact amount of an employee's receipted or documented business expenses
- GST component of a wage or relevant contract payment is not subject to payroll tax
- wages paid to an employee (not including leave) taking part in emergency operations as a member of an emergency service organisation, or involved in military activities as part of the Defence Forces of the Commonwealth

- wages paid by religious institutions and public hospitals. Other benevolent and charitable agencies may also qualify for exemption upon written application
- contributions made by employers to a portable long service leave scheme or fund. The same exemption applies to contributions made by employers to a redundancy or severance scheme (retrospective to 1 July 2006)
- trust distributions that are paid to a beneficiary of a trust who works for the trust or a related business.

Payroll tax exemptions

For information regarding payroll tax exemptions, see the exemption factsheet available from www.osr.nsw.gov.au

Grouping provisions

For payroll tax purposes, a group is constituted under the following circumstances:

- related corporations within the meaning of the *Corporations Act 2001*
- use of common employees
- commonly controlled businesses
- groups arising from tracing of interests in corporations
- smaller groups subsumed by larger groups.

When one of the members of your group is also a member of another group(s), the group(s) will be combined as one group for payroll tax purposes.

Government agencies listed in Schedule 3 of the Public Finance and Audit Act form a group. The Crown Entity is the DGE member of the group, and all other members must pay the flat rate of tax. All other Government authorities are entitled to the threshold.

Online services

OSR's online payroll tax tools help you:

- calculate your monthly and annual payroll tax
- lodge your annual reconciliation
- lodge a 'nil return'
- update your contact details
- register to pay your payroll tax online
- schedule a future dated payment.

For more information, visit www.osr.nsw.gov.au

Recovery powers

The payroll tax liability of an employer can be collected from:

- directors and former directors of a corporation that fails to pay its payroll tax liability. This action to recover from directors is stopped by paying the tax, entering into an arrangement to pay, appointing an administrator or winding up the company
- any members of a group, because all members of a group are jointly and severally liable for the tax liability of any member of a group
- a principal contractor whose subcontractor has an unpaid payroll tax liability. This action to recover from principal contractors is stopped if the subcontractor provides an approved declaration stating that there is no payroll tax liability or that the liability has been paid.

MORE INFORMATION



www.osr.nsw.gov.au



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OSR offices:

Parramatta (Head Office)
Cnr Hunter and Marsden Street,
Parramatta

Newcastle

Level 2, 97 Scott Street,
(counter services only)

Wollongong

Level 6, 90 Crown Street,
(counter services only)



Phone enquiries
8.30 am – 5.00 pm, Mon. to Fri.

Counter services
8.30 am – 4.30 pm, Mon. to Fri.

*Interstate clients please call (02) 9689 6200.
Help in community languages is available.

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How to calculate your payroll tax

Online payroll tax calculators are available from www.osr.nsw.gov.au to assist you to accurately calculate payroll tax.

Rates and thresholds

Tax year	Threshold	Tax rate
01/01/2010 – 30/06/2010	\$316 378	5.65%
01/07/2009 – 31/12/2009	\$321 622	5.75%
01/01/2009 – 30/06/2009	\$308 940	5.75%
01/07/2008 – 31/12/2008	\$314 060	6.0%
01/07/2007 – 30/06/2008	\$600 000	6.0%
01/07/2006 – 30/06/2007	\$600 000	6.0%
01/07/2005 – 30/06/2006	\$600 000	6.0%
01/07/2004 – 30/06/2005	\$600 000	6.0%
01/07/2003 – 30/06/2004	\$600 000	6.0%
01/07/2002 – 30/06/2003	\$600 000	6.0%

Responsibilities of employers

As an employer, you are responsible for registering with OSR within seven days of the week in which your weekly wages first exceed \$12 269. Contact the office and we will tell you if you need to register and, if you do, whether you will be required to pay monthly or annually.

When to send a return

You must lodge monthly returns within seven days of the end of each month, except for your June return. Your June return must be lodged before 21 July each year.

Payment options

We offer a range of payment options for your convenience, including **online payment, future dated payments** and electronic payment. Full details are available at www.osr.nsw.gov.au

Penalties

Failure to lodge payments on time will result in the imposition of interest and, in some cases, penalty tax. Interest and penalty tax is charged in accordance with the *Taxation Administration Act 1996*.

OSR conducts random checks to ensure compliance.

Voluntary disclosure

Voluntary and confidential disclosures can be made during office hours on 1300 139 815.

Please let us know if you have difficulty meeting your obligations. Penalties can be reduced in appropriate circumstances and instalment arrangements made.

More information on the legislation

Copies of the *Payroll Tax Act 2007*, the *Taxation Administration Act 1996* and their amendments can be viewed at the website of the NSW Parliamentary Council's Office: www.pco.nsw.gov.au