

TAX BULLETIN

 AN UPDATE PUBLICATION
FOR OUR CLIENTS

11 June 2010

EMPLOYMENT TAXES UPDATE

With the year end fast approaching, your attention will turn to a number of employment related taxes and obligations such as PAYG, Payroll Tax, WorkCover and Superannuation Guarantee. Unfortunately, in our experience, employment taxes and obligations sometimes take a back seat to other issues and errors or omissions can arise. Often these errors and omissions perpetuate year on year and can result in significant issues over time.

This bulletin will provide some information and tips around completing year end returns and declarations, as well as an update of some recent developments.

Payroll Tax ('PRT') & WorkCover ('WC')

Annual declarations

Whilst there are many similarities between PRT and WC, it is critical is to understand the differences between the definitions of wages and remuneration that exist when completing your annual returns.

The following is a comparison of the main differences between taxable wages for PRT in Victoria and rateable remuneration for Victorian WC purposes.

Fringe Benefits	PRT	Grossed up taxable value (Type 2 rate)
	WC	Non grossed up value
Termination Payments	PRT	Taxable except tax free portion of a genuine redundancy payment
	WC	Exempt
Maternity Leave	PRT	Exempt for first 14 weeks
	WC	Rateable
Apprentices' Wages	PRT	Generally taxable
	WC	Generally exempt up to a specified maximum wage
Contractors' Payments	PRT	Contains some specific industry based exemptions
	WC	Has a potentially broader application to contractors than PRT
Employee Share Schemes	PRT	Taxable
	WC	Exempt

Interstate Comparisons

Although the States and Territories are reasonably consistent in terms of what is subject to PRT, the same cannot be said for WC between the States and Territories. If you have employees in a number of States or Territories, we recommended that you seek confirmation that you are declaring your wages and remuneration correctly.



Common Issues

The following are based on some of the more common issues and problem areas encountered by our clients.

Do you need to register for PRT and in what States?

The liability to register for payroll tax in any State is based on the aggregate Australia-wide wages. As such, if your total Australian wages exceed the threshold in a particular State, and any wages are paid in that State, you are required to register in that State.

The thresholds vary considerably from State to State (see the [attached table](#)) so be careful to ensure that you have considered each State correctly.

WorkCover Industry Classifications (Victoria)

The WorkCover Industry Classification ('WIC') is a major variable in determining how much WorkCover premium you must pay. Generally, the WIC is based on the predominant activity at a workplace, taking into account such matters as the cost of labour, cost of sales and profits. As a rule, predominant activities with a higher risk profile will be assigned a higher industry premium rate.

Have you reviewed the WIC assigned to each of your workplaces? If there has been any change in the activities undertaken at a particular workplace, you should review the WIC to ensure it is still appropriate. We have encountered many situations where employers' failure to regularly review their WICs has meant a sizeable premium adjustment.

Contractors

Have you reviewed your contractors for PRT and WC? Don't be misled in assuming that because they are contractors you have no PRT and WC obligations.

Both WC and PRT have provisions which can deem payments to contractors as if they are wages. Generally, this will be the case where a contractor works a significant proportion of the year for the one principal. WC and PRT can even apply where the contractor quotes an ABN on an invoice or works through their own company structure.

Grouping

In certain circumstances, provisions in WC and PRT can group two or more employers (i.e. treat them as if they are one employer). For PRT this can mean effectively losing a tax free threshold and for WC, employers at the same location will be assigned the same WIC.

Grouping can occur where there is common ownership or control, or where employees of one business perform services for the other business (e.g. service companies). Businesses which together have a high degree of dependence and connection are particularly at risk of grouping.

Current Compliance Activity – Payroll Tax (Victoria)

WorkCover Data Match: Due to considerable commonality between PRT and WC, many SRO's regularly obtain reports from the WC Authorities which show businesses that are paying wages in excess of the relevant PRT threshold; these are matched against the PRT database to identify unregistered businesses.



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The reports are also used to identify cases where the wages declared for PRT are substantially less than those declared for WC. Reports are also obtained showing workplace addresses where multiple businesses are registered. These are used to identify potential PRT groups.

SRO Data Match: Since harmonisation of PRT that has been a greater level of co-operation between the states.

BAS Data Match: SROs are sourcing PAYGW data from the BAS's lodged with the ATO and using this to identifying businesses that are unregistered for PRT or possible understatements of wages.

FBT Data Match: SROs are sourcing data from FBT returns lodged with the ATO and identifying variances from the FBT figures lodged for PRT. They are also obtaining details of amended FBT assessments to ensure that these are followed by amended PRT assessments.

ASIC Director/Shareholder Search: SROs obtain reports from ASIC of all entities that have common directors and/or shareholders. These are used to identify potential PRT groups.

Defaulters: Businesses that fail to lodge their Annual PRT return or regularly fail to pay their PRT liabilities are targeted for audit.

Industry Based: Certain industries are targeted from time to time based on previous audit results or industry issues. Current industries under review include the building, IT and transport industries.

Current Compliance Activity – WorkCover (Victoria)

Industry Based: Certain industries are targeted from time to time based on previous audit results or industry issues. Current industries under review include employment agencies and industries with high contractor use (e.g. building, IT, transport). **Workplace Classifications:** All workplaces are assigned a classification based on the nature of the main business conducted at the workplace. This is the prime determinate of the WC premium rate. A program is conducted, using various information sources, to identify workplaces that are incorrectly classified (e.g. wholesaler v manufacturer).

Grouping: The concept of grouping is still relatively new to WC. Where 'related' entities operate from the same or neighbouring premises, these entities can be grouped whereby the industry classification is determined based on the group's activity rather than the activity of each individual entity. Previously, the use of multiple entities was an effective means of minimising WC premiums.

Succession: The claims history of a business can 'follow' the relevant business even where it is sold or otherwise ceased and recommenced either by a new entity or at a new location. As a bad claims history results in a higher WC premium, WC is aware that some businesses stop and restart (either at new location or in a new entity) in an effort to avoid their claims history and reduce WC premiums. This program focuses on matching data between ceased businesses/workplaces and newly registered businesses/workplaces to identify cases where succession should apply.

Reportable Employer Superannuation Contributions

With effect from 1 July 2009, employers are required to report certain employer funded superannuation contributions on the Payment Summaries of employees, as is currently the case with the reporting of fringe benefits. As with the value of reportable fringe benefits, reportable employer superannuation contributions are to be included in determining an employee's 'notional income' for a range of government obligations and concessions.



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Broadly, reportable employer superannuation contributions are contributions that an employer makes on behalf of an employee where the employee has influenced the rate or amount of the contribution and the contributions are additional to the compulsory contributions which must be made under the superannuation guarantee law, an industrial agreement, the governing rules of the super fund or a federal, state or territory law.

Reporting of Employee Share Scheme Interests

The income legislation dealing with Employee Share Schemes ('ESS') was amended with effect from 1 July 2009. Broadly, the ESS legislation imposes income tax on an employee where they are provided with shares or rights to acquire shares, and these are provided as a result of the employee's employment. A major change in these provisions is the introduction of an obligation on an employer to provide a report to the ATO and to each employee who received ESS interests during the year. The report to employees must be provided by 14 July and the report to the ATO by 14 August.

In summary, an employer is required to report to each employee who received ESS interests in the year, amongst other things, the number of interests they received, the discount at which the interests were issued, the number of ESS interests that had a taxing point in the year and the discount applicable to those interests. The report to the ATO provides broadly the same information as reported to employees and is provided on a per employee basis.

FURTHER INFORMATION

Please ask your regular Pitcher Partners tax contact for further details on the issues raised in this Tax Bulletin.

DISCLAIMER: Pitcher Partners, including Johnston Rorke, is an association of independent firms. This bulletin is intended to provide a general summary only and should not be relied on as a substitute for professional advice.



APPENDIX - PAYROLL TAX RATES/THRESHOLDS

2009/2010

State	Threshold*	Tax Rate
VIC	\$ 550,000	4.95%
NSW	\$ 638,000	5.75% (Jul – Dec 2009), 5.65% (Jan – Jun 2010)
QLD	\$ 1,000,000	4.75%
ACT	\$ 1,500,000	6.85%
SA	\$ 600,000	4.95%
NT	\$ 1,250,000	5.90%
WA	\$ 750,000	5.50%
TAS	\$ 1,010,000	6.10%

2010/2011

State	Threshold*	Tax Rate
VIC	\$ 550,000	4.90% (minor rate decrease)
NSW	\$ 658,000	5.50% (Jul – Dec 2010), 5.45% (Jan – Jul 2011)
QLD	\$ 1,000,000	4.75% (unchanged from prior year)
ACT	\$ 1,500,000	6.85% (unchanged from prior year)
SA	\$ 600,000	4.95% (Budget to be handed down 16 September)
NT	\$ 1,250,000	5.90% (unchanged – rate will reduce in 2012)
WA	\$ 750,000	5.50% (unchanged from prior year)
TAS	\$ 1,010,000	6.10% (Budget to be handed down 17 June)

*Australia wide wages used to determine liability.