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Public Ruling

Pay-roll Tax Act—Harmonised:

QUEENSLAND PAY-ROLL TAX LIABILITY

FOR WAGES PAID BY AN EMPLOYER

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Pay-roll Tax Act 1971* (the Pay-roll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's pay-roll tax system with the systems of other jurisdictions. One of the areas which has been harmonised is liability for wages paid for services performed in another country.
2. Section 9 of the Pay-roll Tax Act specifies the circumstances when wages are subject to Queensland pay-roll tax. Liability depends on two factors: where the wages are paid and where the work is performed.
3. As there are several possible combinations of these factors, employers may experience difficulty in determining their pay-roll tax liability where wages are paid or payable by employers outside Queensland, or where wages are paid in respect of work performed outside Queensland.
4. The purpose of this Public Ruling is to clarify the circumstances when wages must be declared in Queensland for pay-roll tax purposes and to clarify the liability for wages paid for services performed in another country (or countries).

Ruling and explanation

5. Pay-roll tax is payable when an employer's total Australian wages exceed the tax-free threshold. Australian wages comprise Queensland wages and all interstate wages. Queensland wages are the wages subject to tax under the Pay-roll Tax Act. Interstate wages are those wages subject to tax in the other States and Territories under their equivalent pay-roll tax legislation.

6. To determine whether the wages paid or payable in respect of a return period are subject to Queensland pay-roll tax, two factors need to be considered:
- (a) the place where the wages are paid or payable and
 - (b) the place where the services are performed.
7. The following table shows the circumstances in which wages are taxable in Queensland. It is important to note that the liability for Queensland pay-roll tax must be considered separately for each return period.

<i>Place where wages are paid or payable</i>	<i>Place where services are performed</i>
In Queensland	Wholly in Queensland.
In Queensland	In two or more States and/or Territories other than Queensland.
In Queensland	Wholly in another country (or countries) on an assignment of less than six months.
In Queensland	Partly interstate and partly in another country (or countries).
In Queensland	Wholly or partly outside any State or Territory (as defined under the respective pay-roll tax legislation of the relevant State or Territory) but not in another country.
In another State and/or Territory	Wholly in Queensland.
In another country (or countries)	Wholly in Queensland.

8. In circumstances other than those shown above, the wages are not taxable in Queensland but may be taxable in another State or Territory.
9. Where an employee is working outside any State or Territory, but not in another country, the wages are taxable under the Pay-roll Tax Act if they are paid or payable in Queensland. Employees working on an oil rig would not be considered as working in another country unless the oil rig is physically located in another country.

Employees working in another country

10. Where services are performed by an employee in another country whose wages are paid in Queensland, the following points need to be considered:
- (a) wages are exempt if the employee has worked in another country for a period of more than six months (i.e. the exemption from pay-roll tax applies for the whole assignment, including the first six months)
 - (b) the six-month period does not have to be within the one financial year but must be a continuous period

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- (c) where an employee, working in another country, returns to Australia in the following circumstances, it will not be considered to be a break in continuity:

- (i) for a holiday or
- (ii) 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 country to perform further work on the assignment.

Date of effect

11. This Public Ruling takes effect from 1 July 2008.

David Smith
Commissioner of State Revenue
Date of Issue 24 February 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA001.1	24 February 2009	1 July 2008	31 December 2009