



Office of State Revenue
NSW TREASURY

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Payroll Tax Act 2007

Revenue Ruling No. PTA001

NSW payroll tax liability for wages paid by an employer

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
PTA001	12 July 2007	1 July 2007	30 June 2009	See Payroll Tax Nexus Provisions Factsheet

Preamble

The *Payroll Tax Act 2007* (the Act), which commenced on 1 July 2007, rewrites the *Pay-roll Tax Act 1971* and harmonises the payroll tax legislation in Victoria and NSW. One of the areas which has been harmonised is liability for wages paid for services performed in another country.

Section 10 of the Act specifies the circumstances when wages are subject to NSW payroll tax. Liability depends on two factors: where the wages are paid and where the work is performed.

As there are several possible combinations of these factors, employers may experience difficulty in determining their payroll tax liability where wages are paid or payable by employers outside NSW, or where wages are paid in respect of work performed outside NSW.

The purpose of this revenue ruling is to clarify the circumstances when wages must be declared in NSW for payroll tax purposes and to clarify the liability for wages paid for services performed in another country (or countries).

Ruling

Payroll tax is payable when an employer's total Australian wages exceed the tax-free threshold (deduction amount). Australian wages comprise NSW wages and all interstate wages. NSW wages are the wages subject to tax under the Act. Interstate wages are those wages subject to tax in the other States and Territories under their equivalent payroll tax legislation.

To determine whether the wages paid or payable in respect of each monthly return period are subject to NSW payroll tax, two factors need to be considered:

- the place where the wages are paid or payable; and
- the place where the services are performed.

Wages are deemed to be paid at the place of receipt by the employee.

The following table shows the circumstances in which wages are taxable in NSW. It is important to note that the liability for NSW payroll tax must be considered separately for each calendar month.

<i>Place where wages are paid or payable</i>	<i>Place where services are performed during the calendar month</i>
In NSW	Wholly or partly in NSW
In NSW	In two or more States and/or Territories other than NSW
In NSW	Wholly in another country (or countries) on an assignment of less than six continuous months.
In NSW	Partly interstate & partly in another country (or countries)
In NSW	Wholly or partly outside any State or Territory (as defined under the respective payroll tax legislation of the relevant State or Territory) but not in another country
In another State and/or Territory	Wholly in NSW
Outside Australia	More than 50 per cent performed in NSW

In circumstances other than those shown above, the wages are not taxable in NSW but may be taxable in another State or Territory.

Where an employee is working outside any State or Territory, but not in another country, the wages are taxable under the Act if they are paid in NSW. 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

Where services are performed by an employee in another country whose wages are paid in NSW, the following points need to be considered:

- Wages are exempt if the employee has worked in another country for a continuous period of more than six months (i.e. the exemption from payroll tax applies for the whole assignment, including the first six months);
- 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 in the following circumstances, it will not be considered to be a break in continuity;
 - for a holiday; or
 - 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.

Please note that rulings do not have the force of law. Each decision made by the Office of State Revenue is made on the merits of each individual case having regard to any relevant ruling.

Tony Newbury
Chief Commissioner of State Revenue
12 July 2007