

## EMPLOYMENT TAXES UPDATE

### Annual Declarations – Payroll Tax (‘PRT’) & WorkCover (‘WC’)

At this time of year employers are preparing their annual declarations for PRT and WC. It is critical that employers understand the differences between the definitions of remuneration that exist, both as between PRT and WC, and also between those obligations in each jurisdiction.

A common trap is to merely declare the same remuneration for both PRT and WC. However, in virtually every jurisdiction this could result in discrepancies for either PRT or WC. Equally common, is for a business to apply the definition of remuneration that exists in its ‘home’ jurisdiction for PRT and WC, to its obligations in all other jurisdictions. Again, this would almost certainly result in the business incorrectly declaring its remuneration in those other jurisdictions.

<b>As an example, the following is a comparison of the main differences between taxable wages for PRT in Victoria and rateable remuneration for Victorian WC purposes.</b>		
<b>Fringe Benefits</b>	PRT	Grossed up taxable value (Type 2 rate)
	WC	Non grossed up value
<b>Termination Payments</b>	PRT	Taxable except tax free portion of a genuine redundancy payment
	WC	Exempt
<b>Apprentice’s Wages</b>	PRT	Generally taxable
	WC	Generally exempt up to a specified maximum wage
<b>Contractors</b>		WorkCover contains a potentially broader definition and payroll tax has specific industry based exemptions

In the current economic climate, many businesses have experienced recent staff terminations. It is important to recognise that for Victorian WC purposes all accrued leave paid on termination, genuine redundancy payments and employment termination payments are exempt. However, this is not the case for Victorian PRT purposes.

## Superannuation Guarantee – Ordinary Time Earnings ('OTE')

The ATO has released SGR 2009/2 which details its position on what constitutes OTE. A number of changes have been made from prior rulings. Whilst the ruling is extensive, one of the key changes is the inclusion of Xmas bonuses in OTE (previously excluded). Generally, most bonuses now constitute OTE, except where they represent a bonus exclusively for additional hours worked. All employers should review this ruling to ensure that their payroll systems are appropriately identifying all OTE components.

## 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.

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.

## Payroll Tax Harmonisation

All States and Territories previously announced an intention to harmonise their respective PRT legislation in relation to certain specific areas. The key areas include the grouping of businesses, the treatment of fringe benefits and the taxation of employee share scheme arrangements. All jurisdictions, with the exception of Western Australia, have now enacted legislation to provide consistency in these areas, most with effect from 1 July 2008.

All jurisdictions also recently announced an intention to amend the provisions within their respective PRT legislation which determines in which state the tax is to be paid in relation to each employee. Whilst the new legislation has not yet been enacted in all jurisdictions it is intended to have effect from 1 July 2009.

The key difference between the existing law and the proposed changes is that where an employee renders services within a given month in more than one jurisdiction, instead of the PRT liability being determined on the basis of where the employee is paid, it will be determined by their place of residence.

Where the employee ordinarily resides overseas, the liability will arise in the state in which the employer's business is registered as per their ABN. The new provisions will not affect situations where an employee works the whole month in the one jurisdiction (always taxable in that one state).

**DISCLAIMER: This bulletin is intended to provide a general summary only and should not be relied on as a substitute for professional advice.**