



2002-03 Budget Amendment Pay-roll tax changes

This circular provides information on proposed amendments to the Pay-roll Tax Act as part of the 2002-03 Budget. The changes outlined in this circular commence from 1 July 2002.

Summary

1. In summary, the measures:
 - (a) reduce the pay-roll tax rate from 6.5% to 6.3%;
 - (b) impose pay-roll tax on the **grossed-up** value of fringe benefits provided to employees; and
 - (c) impose pay-roll tax on "eligible termination payments" as defined under section 27A of the Commonwealth *Income Tax Assessment Act 1936 (the ITAA)*.

Pay-roll tax rate reduced

2. The pay-roll tax rate is reduced from 6.5% to 6.3%. This new rate applies in respect of wages paid or payable on or after 1 July 2002. The suite of changes covered in this circular are intended to be broadly revenue neutral to Government.

Grossing-up the value of fringe benefits

3. Pay-roll tax is imposed on the value of a fringe benefit provided to or in relation to an employee as valued under the Commonwealth *Fringe Benefits Tax Assessment Act 1986* ("the FBTA Act")
4. Fringe benefits tax is payable on the **grossed-up** value of fringe benefits. However, prior to 1 July 2002, pay-roll tax was levied on the "pre-grossed-up value". The pre-grossed-up amount reflects the cost to the employer of providing the benefit, whereas the grossed-up amount represents the actual value of the benefit in the hands of the employee, as if the benefit were provided as cash wages upon which income tax were payable. This anomaly in the *Pay-roll Tax Act* led to fringe benefits being subject to a lower amount of pay-roll tax than if the benefit was provided as cash wages.
5. Accordingly, the **grossing-up** adjustment recognises the value of a fringe benefit as if it was provided as salary or wages and will ensure consistency in the pay-roll tax treatment of fringe benefits and cash wages.
6. The FBTA Act provides two rates for the **grossing-up** of fringe benefits. These rates rectify a distortion that exists with the fringe benefits tax treatment of input taxed and GST creditable fringe benefits. However, this distortion does not apply to pay-roll tax, so the Northern Territory regime applies a single gross-up rate for **all** taxable fringe benefits. This gross-up rate is equivalent to the lower **Type 2 gross-up** rate used in the FBTA Act, and is currently 1.9417.
7. Accordingly, in furnishing pay-roll tax returns, employers are required to adjust the taxable value of all fringe benefits by applying the single **Type 2 gross-up** rate (and not the two rates as required in the FBTA Act), regardless of the GST treatment of the benefit.

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Pay-roll tax changes cont ...

Estimating fringe benefits

8. The *Pay-roll Tax Regulations* permit an employer to elect prior to 21 August to include an estimate of fringe benefits in the employer's pay-roll tax returns.
9. For the purposes of calculating this estimate, employers are required to gross-up the taxable value of fringe benefits declared in their previous year's fringe benefits tax return using the **Type-2 gross-up** rate. For example, the taxable value of fringe benefits included in the 2001-02 fringe benefits tax return would be used (subject to the **Type-2 gross-up** adjustment) for estimating the fringe benefits in the 2002-03 pay-roll tax year.
10. More detail on estimating fringe benefits is set out in Revenue Circular PRT 003 (Pay-roll Tax Reform Amendments) and the *Employer's Guide to Pay-roll Tax in the Northern Territory*.

Eligible termination payments

11. Payments made on the termination of employment are liable to pay-roll tax where there is a pre-existing enforceable right to the payment. Such payments include accrued or deferred payments of wages or leave entitlements. Prior to 1 July 2002, pay-roll tax was not payable in respect of certain gratuity payments that were not a reward for service.
12. As from 1 July 2002, payments made by an employer that are "eligible termination payments" as defined in the ITAA are now liable to pay-roll tax. This includes payments for termination of office as well as employment, but does not include payments from sources other than an employer, such as from a superannuation fund or approved deposit fund.
13. Payments by an employer that are classified as "eligible termination payments" include (but are not limited to) payments that are:
 - for unused rostered days off;
 - in lieu of notice;
 - for unused sick leave;
 - gratuities or "golden handshakes";
 - compensation for the loss of a job or for wrongful dismissal;
 - a result of an employee's invalidity or permanent disability, other than compensation for personal injury;
 - bona fide redundancy and approved early retirement schemes **in excess of the tax-free amount**; and
 - payments after the death of an employee, where such a payment would have been an eligible termination payment had the employee been alive.
14. This is not an exhaustive list and reference should be made to section 27A of the ITAA to determine what constitutes an "eligible termination payment".
15. Whilst payments in respect of such rights as accrued annual leave and long service leave are not "eligible termination payments", they continue to be liable to pay-roll tax as taxable wages in their own right.

Revenue Circular RA001, which sets out information on the revenue circular system, is incorporated into and is to be read as one with this Circular.

Refer to the *Pay-roll Tax Amendment Bill 2002* for precise details of the changes. For general information, please contact TRM on 1300 305 353.