

Payroll tax guide

For Northern Territory employers and businesses



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Introduction

This guide is a plain English source of payroll tax information for Northern Territory (NT) employers and businesses based upon legislation, rulings and guidelines in force as at 1 July 2022.

While designed for everyday working use, it should not be considered as a replacement for legislation and official guidelines, rulings and circulars issued by the Commissioner of Territory Revenue. There are references and electronic links throughout the document to relevant publications.

This publication is designed to give the reader detailed guidance on identifying and implementing the components of an employer's payroll tax returns. For those readers seeking a general overview of payroll tax, without policy and operational detail, the sections entitled '[What is payroll tax?](#)', '[How do you know if your business should be registered as an employer for payroll tax?](#)' and '[What is meant by wages?](#)' should be reviewed.

If any uncertainty exists with a particular aspect of the information provided, please seek advice from your professional representative or contact the Territory Revenue Office by telephone on 1300 305 353 or by email at ntrevenue@nt.gov.au.

These contacts can also be used to report any aspect of the guide that users believe could be improved.

The main laws applicable to payroll tax in the NT are the *Payroll Tax Act 2009* (PRTA) and the *Taxation Administration Act 2007* (TAA).

Disclaimer

While the information within this document has been prepared in good faith by the Territory Revenue Office, and all reasonable efforts have been made to ensure the document is accurate and comprehensive, this guide does not constitute a formal ruling.

Abbreviations

AAR	annual adjustment return
ABN	Australian Business Number
ADA	annual deductible amount (taxpayer's annual tax-free entitlement)
ATO	Australian Taxation Office
BAS	business activity statement
Commissioner	Commissioner of Territory Revenue
DGE	designated group employer
EFT	electronic funds transfer
ESS	employee share scheme
FBT	fringe benefits tax
FBTAA	<i>Fringe Benefits Tax Assessment Act 1986 (Commonwealth)</i>
FIFO	fly-in, fly-out
GST	goods and services tax
INTRA	TRO's on-line integrated revenue application
ITAA	<i>Income Tax Assessment Act 1997 (Commonwealth)</i>
LAFHA	living away from home allowance
MDA	monthly deductible amount (taxpayer's monthly tax-free entitlement)
NT	Northern Territory
PRTA	<i>Payroll Tax Act 2009 (NT)</i>
SA	South Australia
states	Includes the Australian Capital Territory and the Northern Territory
TA	travel allowance
TAA	<i>Taxation Administration Act 2007 (NT)</i>
TPAR	Taxable Payments Annual Report
TRO	Territory Revenue Office

Making it easier for businesses and taxpayers

The Territory Revenue Office (TRO) is committed to making it easier for businesses and taxpayers to understand and accurately calculate and pay their payroll tax obligations, regardless of whether they have a Territory-only or multi-state operation.

To achieve this, TRO has:

- provided this plain English language guide designed for an audience of people associated with accounting, payroll and taxation functions in businesses
- along with other states, participated in the payroll tax harmonisation program, to ensure taxable wages are treated consistently in each state
- developed a single on-line contact point for all payroll tax-related information, guidelines, forms, guides and legislation
- provided access to the Integrated Revenue Application (INTRA) on-line returns facility, which automatically calculates a taxpayer's tax-free entitlement, net taxable wages, and payroll tax liability from wages information loaded by the taxpayer from its accounting and tax records.

Links to further information

References are made throughout this guide to various Revenue Circulars, Payroll Tax Rulings, Commissioner's Guidelines, Information Bulletins and forms. These can be accessed from the TRO website at www.revenue.nt.gov.au.

IMPORTANT DISCLOSURE

Sharing of taxpayer, business and employer information with states and Commonwealth

Under agreements between the Commonwealth and states, TRO has access to a wide range of Commonwealth and state information regarding individuals and businesses where this information is relevant to payroll tax.

This information includes income tax and fringe benefits tax returns, business activity statements, real estate holdings, and various NT Government databases.

This information is regularly reviewed, using specific data-matching programs in order to identify any taxpayers that may be inadvertently or otherwise under-declaring (or over-declaring) wages, benefits and other payments subject to payroll tax.

This information forms the basis of the majority of TRO's compliance investigations.

In addition, TRO has access to other publicly available information such as business name, Australian Business Number (ABN) and GST registrations, and company directorships and shareholdings.

What is payroll tax?

- Payroll tax is a state and territory tax, payable by employers (not employees).
- Payroll tax is calculated on the value of **wages** paid by an employer.
- **Wages** include a wide range of payments and benefits for employees and directors, and in many cases, contractors and consultants – see details later in this guide (see [What is meant by wages?](#)).
- Each state and territory government has its own agency or division to administer 'own-source revenue', including payroll tax (usually called the 'State Revenue Office'). In the NT it is **TRO**, which is a division of the Department of Treasury and Finance.
- In the NT, payroll tax is payable monthly by any business that pays **wages** (of any amount) in the NT, where its Australian wages (**comprising wages paid by it, and grouped businesses, anywhere in Australia, including the NT**) is above the tax-free entitlement (threshold) of \$1,500,000 per year or \$125,000 per month (see also [Grouping and payroll tax](#)).
- An employer makes separate monthly payroll tax returns and payments to each state or territory in which taxable wages (in excess of that state or territory's tax-free threshold) have been paid.
- Payroll tax rates and tax-free thresholds vary between states and territories.
- The tax-free threshold in each state or territory is calculated taking into account wages paid in that state and all other states, by both the employer and any business with which it is grouped.
- When the taxpayer is part of a group, one of the group members is nominated as the designated group employer (DGE). The DGE claims all of the tax-free entitlement and other group members pay payroll tax on their total NT wages.

The following payments are exempt from payroll tax:

- workers' compensation payments
- parental or adoption leave
- payments for defence force reserves leave
- income tax exempt bona fide redundancy payments
- wages paid to employees who have worked overseas continuously for your business for more than six months
- wages paid to some Territory residents (see [CG-PRT-008: Hiring resident employees](#)).

The following terminology is frequently used in relation to wages and payroll tax:

- **Australian wages** is the total of NT wages plus all interstate wages paid by the employer and group members.
- **NT wages** are the wages liable to tax in the NT under the PRTA.
- **interstate wages** are the wages liable to tax in another state under that state's payroll tax legislation.

Important: Payroll tax is a self-assessed tax. That is, it is the responsibility of an employer to recognise, calculate, lodge a return and pay payroll tax due by the 21st day of the month immediately following the month in which the liability arose.

A taxpayer is not entitled to wait until TRO calculates and 'invoices' the taxpayer – the responsibility is in the hands of the employer.

What is meant by wages?

Wages, for payroll tax purposes, are cash or non-cash payments and benefits made or provided to employees, directors, and in some cases, to contractors. It also includes payments and benefits for family members of employees and directors.

Wages are **not** simply the gross or take-home value of staff pay.

This broad definition of wages is designed to ensure the integrity of the taxation system is maintained by including in the definition all (with some very specific exceptions) payments and benefits provided to a person, in cash or in kind, for their personal labour or advice provided to a business, whether as a director, employee or contractor.

What wages includes

Wages includes:

- wages and salaries paid to full-time, part-time and casual employees, including overtime, shift allowances, penalties, loadings, termination and redundancy payments, and all leave payments (other than parental or defence force leave)
- commissions, bonuses, allowances and similar payments
- payments made to directors and their associates (family members) (whether in the form of fees, salaries or fringe benefits – such as a privately used or home-garaged passenger vehicle)
- superannuation contributions your business is required to make to a superannuation fund for employees and directors
- any superannuation your business contributes above the minimum rate required by law (9.5% until 30 June 2021, 10% from 1 July 2021 and 10.5% from 1 July 2022)
- additional superannuation contributions made via salary sacrifice by individual employees

- fringe benefits (grossed-up value) whether provided to an employee, director or another party (such as a company vehicle used for private purposes by an employee's spouse)
- shares granted and options for shares granted to employees or their associates
- indirect wages – payments made for work performed by employees but paid to a third party (such as spouse, family trust, family partnership or family company). This would include payments made in cash or in kind.

Payments to contractors may also be taxable wages

In some cases, payments you make to contractors, consultants, advisors and similar classifications may be taxable wages. This includes situations where:

- the contractor provides your business with services required as a normal part of your business's operation for the majority of the year (for example, carpentry services in a home building business)
- the contractor has no employees or subcontractors of its own
- the contractor is paid via a tax invoice
- the contractor invoices you for more than 90 days' work in the financial year
- in those calendar months that the contractor works for you, he or she averages more than 10 days' work (a day is any part of a day, whether one hour or 10 hours)
- the labour component of the contractor's services exceeds 50% of the value of the contract.

It does not matter whether the contractor is a sole trader, partnership, trust or family company.

It does not matter whether the contractor provides his or her own tools and work vehicle.

It does not matter whether the contractor works under a time-based rate, piece rate or under a fixed-price contract.

It does not matter whether the contractor has signed an agreement with your business in which he or she states that no employment relationship exists and denies any rights associated with being an employee (such as superannuation and paid leave).

For more detailed information on payments to contractors see [Contractors, subcontractors, consultants and payroll tax](#).

Employment agents (labour hire businesses)

The correct payroll tax treatment of labour hire arrangements is as follows:

- if your business 'hires inwards' from a labour hire firm, your contract will generally provide for the labour hire firm to pay that person's wages and any on-costs (including payroll tax).
- if your business 'hires outwards', that is, one of your employees is hired from you by another business, you would generally meet the wage and on-costs of that employee (including payroll tax) so that person's wages would be included in your payroll tax returns.

A simple test that can be applied to labour hire arrangements is the business that issues the PAYG payment summary to the worker should be including those wages in its payroll tax returns.

Note: An exemption applies to wages paid by employment agent to an employee in relation to services provided to a client if those wages would have been exempt if the client had directly employed the person (for example, a nurse provided to a public hospital through a labour hire arrangement). In this case, the client would need to make a declaration to that effect, to be retained by the employment agency in case of future investigation.

For further information on labour hire (employment agents) please refer to the following links:

[PTA026 Employment agency contracts – declaration by exempt clients](#)

[F-PRT-006 Employment agency contracts – declaration by client](#)

[PTA028 Employment agency contracts on-hired to government](#)

[PTA029 Recruitment agencies, placement agencies, job placement agencies](#)

Exempt wages

You may be entitled to reduce the value of taxable wages by deducting payments that are exempt from payroll tax. The main exempt wages are:

- workers' compensation payments (but not the 'make-up pay' component)
- payments for parental leave that are fully met by the employer
- payments for defence force leave
- genuine redundancy payments, which are exempt from income tax
- wages paid to employees who have worked overseas continuously for your business for more than six months
- wages paid to some Territory residents (see [CG-PRT-008: Hiring resident employees](#)).

Note: Any other type of paid leave taken to extend parental leave (such as long service leave or annual/recreational leave) is not exempt, only the employer-funded parental leave component is exempt.

For further information on exempt wages please refer to [PTA012 Exemption for maternity, paternity and adoption leave pay](#).

Note: Payments made under the Commonwealth Paid Parental Scheme are not taxable wages as they are not paid by the employer in respect of services provided by the employee.

Employees from overseas

Payments and benefits related to workers recruited from outside of Australia are subject to payroll tax in the same way as workers recruited within Australia.

Payroll tax on unpaid wages and benefits

PRTA provides that payroll tax is payable on wages and benefits paid **or payable**.

This means that if, on investigation, it is found that the employer has provided fringe benefits, but not paid fringe benefits tax to the Australian Taxation Office (ATO), TRO will assess payroll tax on the value of fringe benefits that should have been declared to the ATO.

The same principle would apply if, for example, an employer has not made superannuation contributions that it was required to make on behalf of employees or contractors, in which case TRO would estimate the value of unpaid superannuation and calculate payroll tax due on that amount.

Further information on other types of wages commence on page 23.

There is also a comprehensive alphabetical checklist of all types of taxable wages and benefits commencing on page 75.

Common errors made in payroll tax returns

The following table provides a list of the more common payroll tax errors and oversights made by employers in preparing their returns, and is based on TRO's experience in conducting investigations and answering enquiries from taxpayers.

No.	Error or oversight	For further information click on link below
1	Misunderstanding what is meant by wages – some employers assume incorrectly that wages means either the employee's before or after income tax pay. For payroll tax purposes, wages means all payments and benefits provided to employees, directors and (in some cases) contractors.	Further information is available on page 8 on page 8
2	Contractor payments – in some circumstances, payments to contractors are taxable wages.	Further information is available on page 36
3	Directors' fees and benefits – directors' fees, wages and other benefits (paid to working or non-working directors) are taxable wages.	Further information is available on page 8
4	Not recognising fringe benefits – often employers are providing fringe benefits but do not recognise them as such (for example, home-garaged cars, discounts, family travel).	Further information is available on page 28
5	Declaring fringe benefits to the ATO but not TRO – TRO has found that some employers are correctly declaring fringe benefits to the ATO, but have overlooked declaring these to TRO.	Further information is available on page 28
6	<p>Using the wrong gross-up rate for fringe benefits – the face value of a fringe benefit is grossed up before calculating fringe benefits tax (FBT) or payroll tax.</p> <p>When lodging an FBT return with the ATO, there are two possible gross-up rates – the higher Type 1 rate and the lower Type 2 rate, depending on the GST treatment of the benefit.</p> <p>However, for payroll tax purposes only the lower Type 2 rate is required to be used for any type of fringe benefit.</p> <p>When preparing a payroll tax return for an employer that provides both Type 1 and Type 2 fringe benefits, use only the lower Type 2 rate, otherwise payroll tax will be overpaid.</p>	Further information is available on page 28
7	Using FBT paid as taxable wages – taxpayers sometimes incorrectly use the amount of FBT paid to the ATO as taxable wages for their payroll tax returns rather than the value of the benefit – the value of taxable wages (for calculating payroll tax) should be approximately double the value of FBT actually paid to the ATO.	Further information is available on page 28
8	Providing 'in-kind' benefits but not recognising them as fringe benefits or other taxable wages – an employer may provide an 'in-kind' (non-cash) benefit to an employee, director or a family member (or in some cases even to a contractor) without recognising that this may constitute a fringe benefit or other form of taxable wages (for example, a developer providing staff discounts on its home unit sales).	Further information is available on page 28

No.	Error or oversight	For further information click on link below
9	Not recognising that the taxpayer is part of a group – businesses are grouped when they are subject to common control or have shared employees. Wages paid throughout Australia by all group members must be taken into account to calculate the taxpayer’s NT tax-free entitlement.	Further information is available on page 54
10	Interstate wages reduce NT tax-free entitlement – the calculation of an employer’s tax-free entitlement in the NT must take into account wages paid in other states.	Further information is available on page 46
11	Incorrectly including wages of employees who are now working in another state – if an NT employee permanently (or temporarily, for at least one calendar month) starts to work for you from interstate, his or her wages will need to be declared to the Revenue Office of that other state, not the NT.	Further information is available on page 16
12	Not claiming the tax-free entitlement – on occasions, taxpayers do not claim their tax-free entitlement, leading to an overpayment of payroll tax.	Further information is available on page 46
13	Incorrectly omitting wages paid to employees temporarily working overseas – if you send a worker overseas to perform a job for your business, that person’s wages will continue to be NT wages, and subject to NT payroll tax, for the first six months.	Further information is available on page 18
14	Incorrectly omitting wages paid to ‘workers from overseas’ – employees performing work in the NT who come from overseas are subject to payroll tax in the same manner as a permanent Australian resident.	Further information is available on page 18
15	Not including employer superannuation contributions – taxable wages includes employer superannuation contributions plus any salary sacrifice contributions made from an employee’s before-tax pay.	Further information is available on page 23
16	Not including allowances in taxable wages – some allowances are taxable only if they exceed a certain value. Other allowances may be taxable in full.	Further information is available on page 25
17	Incorrect treatment of living away from home allowance (LAFHA) – in spite of the name including the word ‘allowance’, LAFHA is actually a fringe benefit and needs to be grossed-up before being declared as taxable wages.	Further information is available on page 25
18	‘Double claiming’ of exempt wages – certain payments (such as workers’ compensation, parental leave and defence force leave) are exempt from payroll tax. If the exemption is claimed, but those wages are not firstly included in gross wages, there will have been an underpayment of payroll tax.	Further information is available on page 10
19	Not declaring management fees – if a director of a company performs work for that business and is paid (directly or indirectly) in the form of ‘management fees’ instead of wages, this is still likely to be taxable wages.	Further information is available on page 26

No.	Error or oversight	For further information click on link below
20	<p>Incorrect treatment of labour hire payments ('hiring in' and 'hiring out') – the correct payroll tax treatment of labour hire arrangements is as follows:</p> <ul style="list-style-type: none"> • if your business 'hires inwards' from a labour hire firm, your contract will generally provide for the labour hire firm to pay that person's wages and any on-costs (including payroll tax). • if your business 'hires outwards', that is, one of your employees is hired from you to another business, you will generally meet the wage and on-costs of that employee (including payroll tax) so that person's wages would be included in your payroll tax returns. 	Further information is available on page 10

How do you know if your business should be registered as an employer for payroll tax?

The following simple tests will give you an idea of whether you may need to register.

If in doubt, you are urged to discuss your specific circumstances with your professional representative or contact TRO.

For businesses with employees and or contractors in the NT only

1. Do you have employees and or contractors who work in the NT?
2. What is the total you pay per year to employees and directors in taxable wages?
3. What is the estimated labour component of payments you make to contractors each year? (for example, if you pay \$80,000 in a year to a contract carpenter, normally about 75%, or \$60,000, is likely to be the labour component).
4. If the answer to question 1 is 'YES', and the total dollar value of questions 2 and 3 exceeds \$1,500,000 in the year (or \$125,000 per month), you may need to register and start making returns and payments of payroll tax each month. You can apply for registration online through TRO's [INTRA](#) facility.

For businesses with employees and or contractors both inside and outside the NT

1. Do you have employees and or contractors who work in the NT?
2. What is the total amount you pay per year (**throughout Australia, including the NT**) to employees and directors in taxable wages?
3. What is the labour component of payments you make to contractors each year (**throughout Australia, including the NT**)? For example, if you pay \$80,000 in a year to a contract carpenter, normally about 75%, or \$60,000, would be the labour component.

If the answer to question 1 is YES, and the total dollar value of questions 2 and 3 exceeds \$1,500,000 in the year, you may need to register and start making returns and payments of payroll tax each month.

Payroll tax in the NT will be calculated based on the amount your NT wages exceed the tax-free threshold.

Note: When calculating whether or not your business has exceeded the \$1,500,000 per annum tax-free threshold, you must include wages paid by your business and any other business(es) (anywhere in Australia) with which you are grouped by way of common control and or shared employees. For more information on grouping, see page 54.

If your business's or group's total Australian wages exceed \$1,500,000 per annum, and you pay wages in the NT (of any amount), your business will have an NT payroll tax liability. **There is no minimum threshold in which no NT tax is payable if Australian wages exceed \$1,500,000.**

When does a business need to register and start paying payroll tax?

Any employer liable for NT payroll tax must register for (and commence paying) payroll tax within 21 days of the end of the first month in which it becomes liable for tax.

An employer first becomes liable for payroll tax when, in any month:

- it pays NT wages (of any amount)
- its total Australian taxable wages (including those paid in the NT) exceed \$125,000.

'Total Australian taxable wages' includes wages paid by any group member anywhere in Australia, including the NT (see [Grouping and Payroll Tax](#) section for further detail).

Penalty tax and interest may also apply to employers who do not meet their obligations so timely registration is important.

Example 1: RST Pty Ltd has branches and employees in all states and territories except the NT. Its total Australian wages are currently approximately \$2,500,000 per year.

It opens a branch in Darwin, NT, on 22 March 2022, employing two staff with total wages (including superannuation, fringe benefits, allowances, etc.) of \$12,000 per month.

NT wages for March 2022 were \$3,400, and Australian wages for March 2022 were \$211,000.

Because RST paid NT wages during March 2022 and during that month its Australian wages exceeded \$125,000, it will have an NT payroll tax liability for March 2022, for which an application for registration, return and payment is due by 21 April 2022.

To register as an employer, go to the following link: intra.nt.gov.au

Exempt employers

Wages paid by a 'non-profit' employer may be exempt from payroll tax.

An exemption will generally apply to wages paid by the following types of organisations, where the employee is engaged directly and exclusively in carrying out objects of the organisation that are not commercial or competitive in nature:

- non-profit charities
- public benevolent institutions
- religious institutions
- non-profit non-government schools or colleges (other than technical schools or colleges)
- public hospitals
- non-profit private hospitals
- local governing bodies.

Note: Wages paid to persons engaged in commercial or business activities (including activities in competition with private enterprise) are not exempt even if the proceeds of those activities are used to further the objects of the body.

For further information on exempt employers, please refer to Revenue Circular [RC-PRT-007 2015-16 Budget Measures – Payroll Tax Non-Profit Exemption](#).

Employers who believe they may be exempt from payroll tax should apply to TRO for a determination of their exempt status (this can be done by email or letter – there is no formal application to be completed).

An application must be accompanied by the organisation's constitution and submissions and or documentation outlining the exact objectives and functions of the organisation.

Example 2: The ABC Charity operates a refuge for homeless people. All employees at the refuge are engaged in work of a charitable nature and, given that ABC is a charitable body, the wages paid to them are exempt from payroll tax. If ABC also operates a retail health food store that is open to the general public, even though proceeds from the health food store are used by ABC to fund its charitable activities, wages paid to employees at the store are taxable if the total amount of taxable wages paid throughout Australia exceeds \$125,000 per month (\$1,500,000 per annum).

Which state 'owns' payroll tax when employees work in more than one state or territory?

Background

Payroll tax is a state and territory tax.

The states and territories have put in place rules (the 'nexus rules') to ensure:

- no double tax applies – wages will not be taxed twice where an employee is working away from his or her 'home' state
- it is clear which state or territory payroll tax must be paid to.

The nexus rules

Only one state or territory can claim taxable wages, and therefore payroll tax, on wages paid to an employee by one employer in a given calendar month¹.

This applies even if the employee works for the employer in two or more states within a given calendar month.

The following paragraphs outline the position in most common situations.

During a calendar month, an employee works in one state only

In a given calendar month, provided that an employee only works for the one employer in one state, payroll tax 'belongs' to the state or territory where work is performed.

This applies even if it is not the state where the employee usually performs services (for example, if the employee is assigned temporarily to a project in another state for a month or more).

See examples commencing on page 19 of this guide.

During a calendar month, an employee works for one employer only but works in more than one state

Where an employee provides services for a single employer in two or more states or territories within a given calendar month, the whole of the taxable wages is allocated to the employee's 'home' state or territory, regardless of the period of time worked in each jurisdiction.

In most cases, the employee's 'home state' will be where they normally live.

In unusual circumstances, such as the employee normally living overseas, the examples below provide a general summary of the circumstances when wages are subject to NT payroll tax.

¹ A calendar month is the whole period from the 1st to the 28th, 29th, 30th or 31st of the month, depending on the length of each month. However, the period from (for example) the 15th of one month to the 15th of the next month is not a calendar month – it is two part months.

A flowchart at Appendix 1 provides a step by step diagram to assist employers determine where and if payroll tax is payable.

More detailed information on the nexus rules is contained in [Payroll tax ruling PTA039](#): Payroll tax nexus provisions.

Also see a broad series of examples commencing on page 19 of this guide.

Fly-in fly-out workers

The allocation of payroll tax between states for fly-in fly-out (FIFO) workers follows the above nexus rules:

- where a FIFO worker provides services for one employer in one state or territory only during any calendar month, all taxable wages for the month are subject to payroll tax in the jurisdiction where the work is carried out
- but if the FIFO worker carries out work for one employer in two or more states in a given month, all payroll tax is paid to the jurisdiction where the FIFO worker normally lives.

See examples over the page.

Overseas businesses and overseas employees

Where an employee who provides services in the NT normally lives overseas, is employed by an overseas-based company, and is paid by direct credit to an overseas bank account, the wages will still be taxable wages in the NT, provided the majority (that is, more than 50%) of his or her Australian working time during that month was in the NT.

There is no prescribed minimum time required to be worked in Australia in any month.

Visa holders

Payments made to employees recruited from overseas to work indefinitely or for fixed terms within Australia are subject to payroll tax in the same manner as an Australian resident.

For further information on the nexus rules, please refer to [PTA039 Payroll tax nexus provisions](#).

Examples of application of the nexus rules

Example 1: Full-time employee – works permanently in one state

John is a permanent full-time employee of the Darwin branch of ABC Pty Ltd, which has branches in all Australian states and has total wages throughout Australia of over \$5 million per year. John works at all times in the Darwin branch. Wages and benefits associated with him will be taxable wages in the NT because: (a) the business pays NT wages; (b) John provides services only in the NT; and (c) ABC Pty Ltd has total Australian wages in excess of the NT tax-free threshold.

Outcome: Wages paid to John are to be included as NT wages in each month's payroll tax return.

Example 2: Full-time employee spends part of each month working for one employer, but in two different states

Margaret is promoted to a full-time supervisory role with ABC Pty Ltd. In this role she spends Monday and Tuesday morning working in the Alice Springs branch, flies to Adelaide, South Australia (SA) on Tuesday afternoon, works in the Adelaide branch on Wednesday, Thursday and Friday, and flies home to her house in Alice Springs for the weekend on Friday night. In other words, about 60% of Margaret's working week is spent in Adelaide.

However, under the nexus rules, where an employee works for one employer in two or more states in a single calendar month, the whole of the wages payable will be taxable wages in the state in which the employee has his or her principal place of residence, regardless of how much time is spent in each state. Therefore, all wages payable to Margaret are taxable wages in the NT.

Outcome: All wages paid to Margaret are declared as taxable wages in the NT payroll tax return.

Example 3: Full-time employee spends a whole calendar month working outside the state where she normally lives

Due to issues in the Adelaide branch, Margaret is required to work five days per week in Adelaide for the months of August, September and October 2021, flying down each Sunday night and returning to her home in Alice Springs each Friday night for a two-day break. During this period, 100% of Margaret's working week is spent in SA.

As Margaret only provides services in SA during that three-month period, all taxable wages, and therefore payroll tax, is allocated to SA. The fact that Margaret's principal place of residence is in the NT is over-ridden by the fact that all services have been provided in another state.

Outcome: All wages paid to Margaret are declared as taxable wages in the SA payroll tax return.

Example 4: Employees temporarily relocated to another state

SA Mining Services Pty Ltd is based in Adelaide, SA. All its permanent employees normally live and work in Adelaide (that is, their payroll tax 'home' state is SA). SA Mining Services Pty Ltd has no permanent employees in the NT. The company enters into a contract to provide services to an NT-based business over approximately eight weeks.

Three of its Adelaide-based employees work in the NT from 17 June 2022 to 14 August 2022. They continue to work in Adelaide for the first half of June 2022 and the second half of August 2022. The taxable wages paid over this period would be allocated as follows:

1 June 2022 to 16 June 2022: (working in SA)	SA wages
17 June 2022 to 30 June 2022: (working in the NT)	SA wages
1 July 2022 to 31 July 2022: (working in the NT)	NT wages
1 August 2022 to 14 August 2022: (working in NT)	SA wages
15 August 2022 to 31 August 2022: (working in SA)	SA wages

In this example, for August 2022's wages to be taxable wages in the NT, the employee would have had to work up to and including 31 August 2022 in the NT. That is, an employee's 'home' state is effectively retested on the last day of each calendar month, prior to determining taxable wages for that month.

Outcome: In June and August, wages paid to the employees are declared as taxable wages in SA but in July they are declared in the NT.

Example 5: Fly-in fly-out scenarios

ATT Resources Limited operates a mine in a remote area of the NT and engages FIFO workers on a three-weeks-on, two-weeks-off basis.

ATT Resources Limited FIFO employee Monica lives in SA, the state of her principal place of residence where she rents a home unit.

Scenario 1: On her two weeks off, Monica resides at her normal SA address and does not work for any other employer during that time.

Outcome: All payments to her by ATT Resources would be taxable wages in the NT; because the only place where services were provided to an employer was the NT.

Scenario 2: Monica commenced working part-time for a SA-based wholly-owned subsidiary of ATT Resources Limited (ATT Resources (SA) Pty Ltd) during her 2 week 'fly out' period.

Outcome: Wages paid by ATT Resources (SA) Pty Ltd would be taxable in SA, as ATT Resources (SA) is (even though grouped) a different employer to ATT Resources Limited. Wages payable by ATT Resources Limited would continue to be taxable in the NT.

In both NT and SA, wages paid by both businesses throughout Australia would need to be aggregated to calculate each state's tax-free entitlement available to the businesses.

Scenario 3: Monica commences working part-time for a newly-opened Adelaide branch of ATT Resources Limited (i.e. the same employer as in the NT) during her two week 'fly out' period.

Outcome: All wages (paid in both the NT and in SA) would be taxable in SA because where an employee provides services to a single employer in two jurisdictions in a single calendar month, the wages are taxable in the state where the employee normally lives (even if less than half the work was performed in that state).

Example 6: Overseas-based worker making monthly visits to Darwin

Peter is the Oceania region supervisor for International Resources Limited (IRL), a Singapore-based multinational minerals, oil and gas explorer. He earns a salary package of A\$15,000 per month. His home is in Singapore and he is paid by credit to his Singapore bank account.

IRL has a branch in Darwin (14 employees with taxable wages of \$98,000 per month) and in Broome, Western Australia (six employees with taxable wages of \$45,000 per month). All its other operations are outside of Australia.

Peter spends three days a month in Darwin and two days a month in Broome, the remainder of his time is spent overseas.

Observations: IRL (before taking account of any taxable wages associated with Peter), has a payroll tax liability in the NT because (a) it pays taxable wages in the NT; and (b) its total monthly Australian wages (\$98,000 + \$45,000 = \$143,000) exceed the NT tax-free threshold of \$125,000.

Outcome: Under the nexus rules, all wages earned by Peter in respect of services provided within Australia are taxable within the NT, as more than 50% of his time working in Australia is spent working in the NT. If Peter changed his arrangements so that more than 50% of his time in Australia was spent in Broome rather than Darwin, all taxable wages derived from him would be allocated to Western Australia.

Example 7: NT resident temporarily located overseas

ATTD Developments Pty Ltd is a Darwin-based property developer, with Australian wages of \$600,000 per month, well in excess of the \$125,000 per month tax-free threshold.

ATTD wins a contract to build a hotel in Timor-Leste.

ATTD sends a senior employee, Tony, to live and work in Timor-Leste for three months organising the arrangements, under which ATTD will subcontract the construction to a Timor-Leste firm.

Tony's wages are paid each fortnight by bank transfer to his Darwin account.

Outcome:

Tony's wages are taxable wages in the NT, because while they are for services provided outside of Australia, they are paid in the NT (by credit to a bank account in the NT).

However, if Tony's overseas role was extended to in excess of six months continuity, all wages (including, retrospectively, the first six months') would be exempt under the 'longer than six months overseas' provisions.

Table – guidance for the application of the nexus rules

Where services are performed by the employee in the month	When NT payroll tax is payable
Wholly in the NT	NT payroll tax is payable.
Partly in the NT and another state and or partly outside all Australian states (for example, in another country or offshore outside the territorial limits of any Australian state)	NT payroll tax is payable if: <ul style="list-style-type: none"> • the employee normally lives in the NT • the employee does not normally reside in Australia, but the employer's ABN registered address in the month is located in the NT • the employer's principal place of business is in the NT • neither the employee nor employer are based in an Australian state, but the wages or the highest proportion of wages paid in Australia are paid in the NT • or neither the employee nor employer are based in an Australian state, but the services or the highest proportion of services provided in Australia are provided in the NT.
Wholly outside all Australian states (for example, in another country or offshore outside the territorial limits of any Australian state)	NT payroll tax is payable if the wages or the highest proportion of wages paid in Australia are paid in the NT. <p>Note: wages paid to an employee who performs services wholly in another country or countries for a continuous period of not less than six months are exempt from payroll tax (see Example 7 on page 21 for details).</p>

Other types of taxable wages

GST is not included as wages for contractors

Some payments businesses make to contractors will be taxable wages (see more information on page 36).

Where this occurs, the GST component of the payment to the contractor is not included in taxable wages for your payroll tax return. Only the pre-GST component is treated as taxable wages.

Note: If a worker claims GST when not registered with the ATO for GST purposes, the 'GST' does not have the legal status of GST and forms part of taxable wages for payroll tax purposes. For your protection your business should have in place a system of validating the ABN and GST status of contractors you engage (see the [ABN look-up](#) website).

Superannuation contributions made by employer

The definition of wages includes employer superannuation contributions and before-tax contributions made by the employee through salary sacrifice arrangements. Additional personal employee contributions made from after-tax wages are **not** wages for payroll tax purposes.

Superannuation contributions include amounts paid or payable to superannuation funds, retirement funds, provident funds, retirement savings accounts and to defined benefit funds.

Where an asset other than money (for example, a house and land), is contributed to a fund by the employer, with no or reduced personal contribution by the employee towards those costs, this is called an 'in-kind' contribution.

The value of the in-kind contribution is taken to be a superannuation contribution and is subject to payroll tax.

Example: Johnnie Johnston is the sole director of JJ Builders Pty Ltd, a NT taxpayer with taxable wages of \$3.5 million in 2021-22. The company owns its own business premises in Winnellie; the land and buildings are valued at \$1 million. On 18 June 2022 the property is transferred (without payment) to Johnnie Johnston's superannuation fund – that is, the owner of the land and buildings changes from JJ Builders Pty Ltd (in its own right) to JJ Builders Pty Ltd as trustee for the Johnnie Johnston Superannuation Fund.

This constitutes a \$1 million superannuation contribution in respect of Mr Johnston (a director and therefore employee) and the \$1 million needs to be declared as taxable wages in the June 2022 payroll tax return for JJ Constructions Pty Ltd in the 'Employer Superannuation Contributions' category.

For further information on employer superannuation contributions and payroll tax, please refer to [CG-PRT-001 Payroll tax on superannuation contributions made by an employer](#).

Salary sacrifice arrangements

A salary sacrifice arrangement refers to an arrangement between an employer and employee where the employee agrees to forego part of his or her future salary or wage in return for another form of non-cash benefit.

The non-cash benefits provided may include pre-tax superannuation contributions, provision of a motor vehicle, a laptop computer, car parking fees, rent subsidy, payment of school fees, membership fees or similar items.

Under a salary sacrifice arrangement:

- the employee pays income tax on the reduced salary or wage
- salary sacrificed (pre-tax) superannuation contributions are classified as an employer contribution (not employee contributions)
- the employer may be liable to pay fringe benefits tax on the fringe benefits provided.

The payroll tax treatment under a salary sacrifice arrangement is as follows:

- the reduced salary or wage on which the employee pays income tax is treated as taxable wages
- any pre-tax superannuation contribution classified as the employer contribution is taxable wages
- the taxable value (if any) of the benefit under the *Fringe Benefits Tax Assessment Act 1986* (FBTAA), grossed-up by the Type 2 factor as shown on the FBT return is taxable wages (see on page 28).

If a benefit provided to the employee is exempt from fringe benefits tax, no payroll tax is payable in respect of the amount sacrificed for that benefit and payroll tax is payable only on the reduced salary on which the employee pays income tax.

The following examples outline the payroll tax treatment of various salary sacrifice arrangements:

Example 1: An employee has a current salary of \$70,000 per annum. The employee negotiates with the employer for the provision of a \$30,000 private-use car under a \$7,000 per annum salary sacrifice arrangement. The arrangement reduces the employee's taxable salary by \$7,000 from \$70,000 to \$63,000.

Under the FBT 'statutory' method, taking account of annual kilometres, if the value of the fringe benefit once grossed up by the relevant Type 2 factor is \$11,765, the taxable wages associated with the employee (not taking account of superannuation, allowances and other benefits) comprises:

Salary:	\$63,000
Fringe benefits:	\$11,765
Total:	\$74,765

Example 2: An employee's current salary is \$65,000 per annum. The employee negotiates with the employer for the purchase of a laptop computer (cost of \$3,000) to be used predominantly for work purposes under a salary sacrifice arrangement.

The new salary will be reduced to \$62,000 per annum. The laptop is exempt from FBT. Therefore, payroll tax is payable only on the \$62,000 salary.

Reimbursements made to employees

Reimbursements are not taxable wages unless they are deemed to be fringe benefits under the FBTAA (in which case, the grossed-up value is declared as taxable wages within the 'Fringe Benefits' section of the return).

To qualify as a reimbursement:

- the expense must be work-related; incurred up front by the employee and then reimbursed precisely by the employer
- or if a cash advance was provided, receipts are provided and any excess is refunded to the employer.

Allowances are generally taxable in full

Generally, all allowances are treated as taxable wages, even if paid to compensate an employee for a work expense (for example, a uniform allowance provided under an award).

The exceptions to the general rule follow below.

Motor vehicle allowance

Motor vehicle allowances are only subject to payroll tax if they exceed the exempt rate set each year by the ATO.

From 1 July 2015, the ATO has set one rate for all vehicles (rather than the prior system of a scale of rates according to engine capacity).

The taxable amount is the amount by which the allowance exceeds the ATO rate.

For further information refer to [Appendix 2](#).

Accommodation allowance

Accommodation allowances are only subject to payroll tax if they exceed the exempt rate set each year by the ATO. The rate used by TRO is the ATO rate prescribed for the combination of 'lowest price capital city/lowest salary band'.

The taxable amount is the amount by which the allowance exceeds the ATO rate.

For further information refer to [Appendix 2](#).

Living away from home 'allowance' is a fringe benefit, not an allowance

LAFHA is paid to compensate an employee for additional expenses incurred as a result of being required to temporarily live away from home for work purposes.

LAFHA can be a fringe benefit and is subject to both FBT and payroll tax.

If the LAFHA is subject to FBT, payroll tax is calculated on the LAFHA amount grossed up by the Type 2 rate.

The payroll tax rules for fringe benefits are fully explained in the [Fringe benefits](#) section of this guide.

Travel allowance

A travel allowance (TA) is distinguished from LAFHA. TA compensates an employee for accommodation, meals and incidental expenses while on a short-term assignment not involving a temporary relocation of the place of employment or residence.

TA is to be treated, for payroll tax purposes, as if it were an accommodation allowance (see above).

For further information on allowances, reimbursements and payroll tax, refer to the following publications:

- [PTA005 Exempt allowances – motor vehicles and accommodation](#)
- [PTA011 Allowances and reimbursements](#)
- [PTA024 Overnight accommodation allowances paid to truck drivers](#)
- [PTA025 Motor vehicle allowances paid to real estate salespersons](#)

Termination payments

Subject to one exception (see below, [genuine redundancy payments](#)), all payments made to or on behalf of employees at termination are subject to payroll tax.

This includes payment for time worked, payment in lieu of notice, payment for any type of leave, and redundancy payments.

In relation to genuine redundancy payments, only the amount in excess of the rate published yearly by the ATO (the income tax-free level) is subject to payroll tax.

Refer to section 82-130 of the *Income Tax Assessment Act* (ITAA), and [PTA004 Termination payments](#) for further information.

Management fees

If an individual working as a sole trader (or through a company, partnership or trust that they own or control) receives a payment for services from the same business, or a related or grouped business, and that service relates to the provision of advice, information or labour by the individual, that payment, excluding any GST component, may be taxable wages for payroll tax purposes.

In any case, generally such an arrangement would be a taxable relevant contract.

If in doubt, contact your professional advisor to discuss.

The following examples show circumstances where a management fee is taxable, and where it is not taxable.

Example 1: Taxable management fee

John is the sole director, sole shareholder and managing director of JM Pty Ltd, which has 25 other employees receiving taxable wages of \$1.75 million per year. John spends about 30 hours per week working for JM Pty Ltd. He is also the sole director and sole shareholder of MJ Pty Ltd, which has no other employees and owns the property from which JM Pty Ltd operates.

John does not take a salary or director's fees from JM Pty Ltd. However, JM Pty Ltd pays MJ Pty Ltd \$100,000 per annum as a management fee.

This \$100,000 would be treated as taxable wages paid by JM Pty Ltd, and included in JM Pty Ltd's payroll tax returns.

Example 2: Non-taxable management fee

AAA Pty Ltd and BBB Pty Ltd are grouped businesses with common directors and shareholders. They share office premises and employees. Office accommodation costs and staff wages and on-costs are all paid by AAA Pty Ltd.

Total annual wages paid by AAA Pty Ltd are \$3 million. AAA Pty Ltd lodges payroll tax returns on behalf of the group. BBB Pty Ltd pays AAA Pty Ltd an annual management fee of \$500,000 as a contribution towards staff and office costs.

This is not a taxable management fee, as AAA Pty Ltd has already paid payroll tax on the wages, which are partly reimbursed by BBB Pty Ltd.

Fringe benefits

Introduction

Wages for payroll tax purposes includes the grossed-up value of any fringe benefits as defined in the FBTAA.

Note: The only exception to this general rule is a tax-exempt body entertainment fringe benefit as defined in the FBTAA. Although tax-exempt body fringe benefits are subject to FBT, they are specifically exempt for payroll tax purposes.

If a benefit is exempt under the FBTAA it is also exempt from payroll tax unless it is a deposit under the *Small Superannuation Accounts Act 1995* (Cth). These deposits are an exempt benefit under section 58W of the FBTAA but are subject to payroll tax as a superannuation contribution (refer to [Superannuation Contributions made by Employer](#) for further details).

In addition, if a fringe benefit has a nil taxable value for FBT purposes, it also has a nil value for payroll tax purposes.

For example, when the taxable value is reduced to nil under the 'otherwise deductible' rule, or the employee makes a post-income tax contribution to match the cost of the fringe benefit, the benefit also has a nil taxable value for payroll tax purposes.

An employer may be providing fringe benefits to employees or directors without being aware of the fact, and as a consequence, be underpaying both fringe benefits tax and payroll tax.

As payroll tax is payable on taxable wages that have been paid **or are payable**, an employer will be liable for payment of payroll tax on the taxable value of a fringe benefit, even if they have not lodged fringe benefits tax returns with the ATO and paid the relevant fringe benefits tax.

Example 1: Employee A is provided with a fringe benefit where her employer directly pays her childrens' private school fees of \$5,000 per annum. Once the value of the benefit is grossed-up by the Type 2 FBT factor the full value of the benefit is to be included in the employer's payroll tax return.

A fringe benefit will be taxable whether provided to a future employee, current employee, or former employee. In this context, 'employee' includes a director, or an associate of the employee or director, such as a family member or family-owned company, trust or partnership.

Example 2: Fringe benefit provided to a future employee

John is headhunted by LM Developments. As a sweetener to change jobs, John is provided with a 'golden hello' of a \$10,000 family holiday paid by LM Developments, which he takes before commencing employment. This would be classified as a fringe benefit provided to a future employee and subject to both FBT and payroll tax.

For payroll tax purposes, the \$10,000 would be grossed up by the Type 2 rate (see Appendix 3 for the current rate) in order to calculate taxable wages.

Why are fringe benefits grossed-up?

A fringe benefit provides an employee with a product or service before income tax. That is, the value of the fringe benefit is not taxable income on the employee's PAYG Payment Summary (also called a Group Certificate).

If the employee had purchased the product or service from his or her after-tax income, he or she would have had to earn approximately twice as much as the product's or service's price in order to have the same purchasing power.

The effect of grossing-up is therefore to bring equity to the overall Australian tax system through the amount of tax (income tax and/or fringe benefits tax, as well as payroll tax) generated by an employment relationship, regardless of whether or not an employee is in receipt of fringe benefits.

Record keeping

Records required by the ATO to substantiate FBT claims are also acceptable for payroll tax purposes.

Common types of fringe benefits

While not exhaustive, the following are some examples of the more common types of fringe benefits, the provision of which may result in a payroll tax liability.

- Passenger cars for the whole or partial private use of an employee, director or family member.
- Passenger cars home garaged by an employee, director or family member.
- Use of business property for private purposes (such as free or subsidised family member travel on company-owned aircraft).
- Free or subsidised employee or director accommodation.
- The employer meeting the cost of a spouse or partner accompanying an employee or director to a business conference.
- Payment of employee or director personal expenses from pre-tax income – these could include items such as credit card debts, school fees and family holiday costs.
- Waiving of a debt to the employer incurred by a director or employee.
- Paying certain expenses that are not work related, for example, providing free music concert tickets or club membership to employees and or their family members.

- Providing a loan to an employee or director either interest free or at a lower than market rate.
- Transferring property owned by the employer to an employee or director at less than a fair open market value.
- Providing a fringe benefit to an associate of an employee or director. This could include allowing the managing director's son to purchase a home unit owned by the business at less than market value.
- Granting a share or option to an employee or director that does not qualify as an employee share scheme (ESS) under section 83-10 of the ITAA (if it does qualify as an ESS, it is taxable on its face value, not its grossed-up value). See also [Shares and Options](#).
- The granting to a director or employee (or their associate) of units in a unit trust (or the rights to acquire such units).

Sole trader contractors and fringe benefits

If a sole trader contractor performs significant work for a business during a financial year, it is possible they would be considered an employee.

If the business engaging the sole trader contractor subsequently satisfies all or part of the sole trader contractor's invoices by transferring to them the title to property (such as real estate), this may constitute a fringe benefit.

Example 3: Jack Jackson, sole trader, trading as Jack's Painting Service (JPS) agrees to provide painting services to ATSB Developments Pty Ltd over the next 12 months. ATSB will provide the paint and remunerate JPS \$10,000 per unit painted. During that time, JPS paints 30 home units for ATSB Developments.

Because of cash constraints, ATSB offers to pay JPS through transferring the title to a home unit, which has market value of \$430,000. The offer is accepted by JPS, and the title to the unit is transferred to JPS. Simultaneously, JPS invoices ATSB Developments for \$300,000 for painting services.

What are the payroll tax implications of this transaction?

In the alternative to providing services under a taxable relevant contract as a sole trader working for one business (which supplies the major materials) and being paid at a piece rate (rate per unit of production), Jack Jackson may be an employee at common law. In this case, he would be treated in the same manner as a PAYG employee for payroll tax, superannuation and fringe benefits tax.

From a fringe benefits tax perspective, ATSB Developments has provided an employee with a non-cash benefit with a market value of \$430,000 for no cash contribution by the employee. This equates to a fringe benefit of \$430,000, which is then grossed up by the Type 2 rate to determine the amount to be declared as taxable wages for payroll tax purposes.

If the invoice had been settled in the normal way (by cheque or by transfer to JPS's bank account), the taxable wages value of the transaction would have been the same as the invoice value – that is, \$300,000 (less any GST and contractor deduction).

Calculating fringe benefit value

Under the FBTA, fringe benefits are categorised into two types depending on the GST treatment of the benefit. The Type 1 fringe benefits for which the employer can claim a GST input tax credit are grossed-up by the Type 1 factor, and Type 2 fringe benefits for which the employer cannot claim a GST input tax credit are grossed-up by the Type 2 factor.

For payroll tax purposes, only the lower Type 2 gross-up rate is used, even where the benefit is in the 'Type 1' category.

Example: On 30 June 2022, an employer provides an end-of-year 'bonus' to an employee in the form of \$5,000 worth of pre-paid airline tickets for the private use of the employee and his family. This is a fringe benefit. The taxable wages value for payroll tax purposes is \$5,000 grossed up by the then applicable Type 2 gross-up rate.

The current FBT rate is available at [Appendix 3](#).

Please note that the ATO requires certain fringe benefits, referred to as the 'reportable fringe benefits amount', to be shown on the employee's payment summary if the benefit amount exceeds \$1,000. These reportable fringe benefits may not include the value of all fringe benefits provided to employees and may understate the amount required to be declared for payroll tax and FBT purposes. For that reason, the FBT return, rather than employee payment summaries, should be used when declaring payroll tax taxable wages associated with fringe benefits.

Declaring fringe benefit value

Where the information is available, employers are required to declare in their monthly returns the **actual** value of fringe benefits provided in each month. However, for administrative ease, the PRTA allows employers to formally elect to adopt an alternative method, whereby the amounts declared are based on the immediately preceding FBT annual return submitted to the ATO.

See the relevant election form [F-PRT-004 Fringe benefits estimated basis for election](#).

Where such an election is made, employers must include in each monthly payroll tax return from July to May, one-twelfth of the taxable value (grossed up by the Type 2 factor) of fringe benefits using the FBT return for the year ending 31 March immediately preceding the start of each financial year. The annual adjustment return for each financial year will include the grossed-up value (for payroll tax purposes) of fringe benefits declared in the FBT return ending 31 March immediately before the annual adjustment return.

Once an election is made, an employer may not revert to declaring the actual value of fringe benefits in monthly payroll tax returns, unless cleared with TRO.

An employer must not use a combination of methods in a particular financial year.

Adjustments

Where the ATO has issued an assessment or an amended assessment in respect of fringe benefits, employers should also advise TRO immediately so appropriate adjustments can be made to their payroll tax liability.

In kind benefits provided to deemed employees

If a taxpayer has engaged a worker via a partnership, trust or family company, and the conditions of engagement mean payments are taxable under the relevant contract provisions, any additional non-cash benefit (that would be a fringe benefit if provided to a PAYG employee) will also be taxable wages.

For further information on fringe benefits, refer to [PTA003 Fringe benefits](#).

Shares and options

Principles

The value of an employer's contribution to any grant of a share or option to an employee or deemed employee, a director or former director, member or former member of the governing body of the company, is subject to payroll tax.

The granting of a share or an option occurs if a person acquires a share, or in the case of an option, a right to the share.

From 1 July 2011, the provisions were amended to align the payroll tax laws (insofar as they determine the taxable status of a grant of a share or option) with the ITAA.

From 1 July 2011, the value of the grant of a share or option by an employer to an employee is taxable wages if the share or option is in respect of services performed by the employee, is an ESS interest within the meaning of section 83-10 of the ITAA and is granted to the employee under an employee share scheme within the meaning of that section. Where such a grant is not an ESS interest, it will be treated as a fringe benefit for payroll tax purposes.

Election – date share or option is granted or vested

A value of the share or option becomes liable as taxable wages on the 'relevant day'. The employer can elect to treat the relevant day as either the date the share or option is granted to the employee, or the 'vesting date'.

The vesting date for a share is the earlier of the following two dates:

- the date on which all conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded
- or seven years after the share is granted.

The vesting date for an option is the earlier of the following three dates:

- when the share to which the option relates is granted to the employee
- when the right under the option to have the relevant share transferred, allotted or vested is exercised by the employee
- or seven years after the option is granted.

Where the value of a share or option is not included in the wages of an employer for the financial year in which the shares or options were granted, the employer will be taken to have elected to treat the value of the share or option as taxable wages calculated at the vesting date. Where the share or option has no value at the date it was granted, and therefore would not be liable to payroll tax, the employer is taken to have made an election at that time.

Taxable value of a share or option

With effect from 1 July 2011, if the grant of a share or option constitutes wages, the amount paid or payable as wages is taken to be its value on the relevant day, less any consideration by the employee for the share or option (but not consideration in the form of services provided by the employee to the employer).

Reducing taxable wages due to rescission

An employer may reduce the taxable wages declared by the value of any previously declared share or option if the grant of a share or option was rescinded because the vesting conditions have not been met. However, this reduction does not apply in circumstances where the employee decided not to exercise the option or the grant of the share or option occurred prior to 1 July 2008.

If the grant of a share or option is withdrawn, cancelled or exchanged before the vesting date for some valuable consideration other than a share or option, the date on which that occurs is deemed to be the vesting date and the taxable amount is taken to be the value of the consideration.

Determining the state in which a grant is deemed to have been paid

It is sometimes necessary to determine the correct jurisdiction for payroll tax liability in the case of employment in multiple jurisdictions. In respect of shares or options, the payment is deemed to be made in the state of registration or incorporation of the company in which the share or option is granted.

When is a grant treated as a fringe benefit?

With effect from 1 July 2011, where the grant of a share or option by an employer to an employee is not an ESS interest within the meaning of section 83-10 of the ITAA and is not granted to the employee under an employee share scheme, the value of the grant is to be treated as a fringe benefit.

Grants of units in unit trust schemes are fringe benefits

The granting by an employer to a director or employee (or to an associate of a director or employee) of units in a unit trust (or rights to acquire units) is a fringe benefit and is not taken to be wages in the same manner as a share or option.

See also [Fringe benefits](#).

Determining the value of the grant for payroll tax purposes

Provided the taxable wages value of the grant is included as declared wages in the applicable payroll tax return, the employer may elect to set the value of the grant at either its market value or the value determined under section 83-15 of the ITAA. Notwithstanding any conditions to the contrary, the value of the grant is to be determined as if it were a right to acquire a beneficial interest in a share.

However, where the taxable wages value of the grant has not been included by the employer as declared wages in the applicable payroll tax return, the Commissioner may determine the method of valuation in any subsequent assessment.

Grants of shares and options to directors

The granting of shares and options to directors (regardless of whether or not the director works in the business) constitutes wages.

The same general provisions also apply to persons who are granted shares and options before being appointed as a director, or after they have ceased to be a director.

In other respects, the provisions applying to employees, including method of valuation, apply to future, current and former directors.

Grants of shares and options through interposed entities and to third parties

Where shares or options are not provided directly to the employee or director concerned, but to an entity or person associated with the employee or director (such as a family company, family partnership or family trust, or spouse, parent, child or other relative), the taxable wages value of the shares and options must be declared as if it were provided directly to the employee or director.

Contractors, subcontractors, consultants and payroll tax

Payments that businesses make to contractors, consultants and suppliers may be subject to payroll tax.

Most businesses operate with a mixture of employees and contractors.

The word 'contractor' is used in this guide to describe any person or other business that provides products and or services using an ABN and tax invoice, regardless of how your business refers to them (for example, contractor, subcontractor, consultant, supplier) and the word 'principal' is used to describe the business engaging the contractor.

While it is generally well understood that payments made and benefits provided to employees and directors are subject to payroll tax, not all businesses recognise that in many cases, payments made to contractors (apart from the GST component) are also subject to payroll tax.

Subject to some exceptions (which are outlined later in this guide), contractor payments are likely to be subject to payroll tax where the contractor:

- provides services that are a normal ongoing part of your business for the majority of the year
- has no employees or subcontractors of its own
- invoices you for more than 90 days' work in the year (whether continuous or not does not matter)
- averages more than 10 days' work per month in the months that they work for you
- provides services where the labour component exceeds 50% of the value of the contract.

It does not matter whether the contractor:

- is a sole trader, partnership, company or trustee of a trust
- works at an hourly or daily rate or under a fixed price contract
- or has signed an agreement with the principal specifically denying they are an employee and or specifically excluding any payments subject to payroll tax or similar liabilities.

If your business engages contractors, either permanently or occasionally, you should carefully read this section of this guide and references to the PRTA and Payroll Tax Rulings.

What is a relevant contract?

In practical terms, in almost all circumstances where your business receives products and services that are paid for using a tax invoice, (apart from simple purchases of materials or equipment), the contract is referred to as a 'relevant contract'.

You need to pay payroll tax on payments made to contractors engaged under a relevant contract unless an exclusion applies.

Example 1: Your business is a family company involved in home construction and renovation within the NT only. You have eight part-time and full-time employees including two directors – the husband and wife associated with the family company, two office workers and four tradespeople with a carpentry background, one of whom is known as your building supervisor.

Depending on your workload, you engage various other tradespeople from time to time to help complete your home construction and renovation contracts.

Each of these contracts with tradespeople is a relevant contract.

Whether or not payments to these tradespeople are subject to payroll tax (that is, 'taxable wages' under a 'taxable relevant contract') requires various tests to be applied. These tests are detailed later in this guide, but include factors such as how long they work for you during the financial year, how many days a month, what proportion of their contract value represents their own labour, and whether they work as an individual or engage their own employees or subcontractors.

You also obtain supplies from other businesses, such as timber and paint.

A contract to simply purchase goods or materials is not a relevant contract and no payroll tax will apply.

Your business also uses other services such as earthmovers, transport companies (for delivering materials to the worksite), and concrete pumping services. While these are relevant contracts, they would be likely to be excluded as the labour component is probably 'incidental', that is, less than 50% of the value of the contract.

Calculating the taxable wage value for a contractor

Where payments to a contractor are found to represent taxable wages under a relevant contract, the value of the taxable wages (for payroll tax purposes) consists of:

- the value of tax invoices paid by the principal for work performed; less
- the value of GST included in the tax invoices; less
- the calculated contractor deduction, which generally varies between 5% and 37% depending on the trade (see payroll tax ruling [PTA018 Contractor deductions](#)); plus
- where the contractor is a sole trader, the value of superannuation entitlements (whether paid or not) to which the contractor may be entitled in law (you may wish to refer to the ATO's Contractor Tool); plus
- the taxable value of any other taxable allowances, benefits or fringe benefits that would be taxable if the contractor had been engaged as a PAYG employee.

Note: A labourer engaged as a contractor is not entitled to any 'contractor deduction' – all payments apart from GST will be taxable wages for payroll tax purposes.

Which payments under relevant contracts are taxable, and which are excluded?

Initially, almost all payments made to contractors (except for contracts involving the simple purchase of materials or equipment, such as paint or timber) are listed as relevant contracts.

To determine which payments are not taxable, a series of 'exclusion tests' is carried out.

As a general principle, payments under relevant contracts will be excluded from taxable wages where any one or more of the following conditions apply:

- the contractor has engaged and made payments to others (employees or sub-contractors) to assist in completing the contract
- the services were provided by the contractor for less than 90 days during the financial year
- the services were provided by the contractor for more than 90 days in the year, but the contractor averaged 10 days or less of services in each of the months during which work was performed for your business
- the services provided to the principal were of a type required only on a one-off basis, or on an ongoing or occasional basis but for less than 180 days of the year
- the services provided to the principal were of a type where the labour component of the contract was less than half its total value
- or the contractor is an owner-driver who provides delivery services only (does not apply if the contractor delivers and installs).

The pre-GST labour component of any other contract, less a percentage 'contractor deduction allowance' to compensate for equipment and materials, will generally be subject to payroll tax.

The contractor deduction allowance percentage varies according to the nature of the trade or service provided. Refer to [PTA018 Contractor deductions](#) for details.

[Appendix 4](#) is a schedule that taxpayers may find of assistance in understanding how taxable wages can arise from contractor payments in various circumstances.

Contracts partly for excluded services and partly for non-excluded services

The exclusions under the relevant contract provisions are not available on an apportionment basis, that is, if a contract is partly for excluded services and partly for non-excluded services, the exclusions do not apply and payments under the contract will be taxable wages (unless some other form of exclusion applies).

Contractor payments and payroll tax

Example 2: XYZ Constructions Pty Ltd is a medium-sized building company with 20 permanent PAYG employees, with wage and superannuation costs of \$1.4 million per year (just under the \$1.5 million tax-free threshold, after which payroll tax is payable at 5.5% of wages). XYZ also engages a range of subcontractors who are carpenters, bricklayers, painters, plasterers and concrete finishers. These subcontractors are a mix of sole traders and individuals working through family partnerships. The subcontractors have their own work vehicles and tools, but generally XYZ supplies materials and major equipment. Total payments to these workers are around \$1.2 million per year, excluding GST. XYZ has never been registered as an employer for payroll tax purposes.

TRO became aware of XYZ making large subcontractor payments through its data sharing arrangements with the ATO. TRO conducted a payroll tax investigation of XYZ, going back three years, and found that a significant proportion (around half) of payments to its subcontractors were in fact taxable wages for payroll tax purposes.

XYZ was issued with a payroll tax assessment going back three years, which came to \$140,000. XYZ was also required to register as an employer and start making monthly returns and payments of payroll tax, which included taxable wages arising from both PAYG employees and several of XYZ's contractors.

Had XYZ undertaken its own review of those contractors and made application for registration to TRO before the investigation commenced, the amount of the assessment would have been significantly reduced or eliminated.

Example 3: Your business provides maintenance services to the mining industry and operates in the NT and SA. You are already registered for payroll tax in SA, but not in the NT where you have a small team of employees. You pay \$2,000,000 per year in wages and superannuation to PAYG employees in SA, and \$300,000 in the NT. There are no contractors engaged in SA.

Your business's maintenance work in the NT is done by a group (varying in number between 8 and 10 from time to time) of contractors. Some of those contractors work for other mining maintenance companies as well, and some work for you most of the year. These contractors operate as a variety of sole traders, family partnerships, companies and family trusts.

The individual contractors work for your business for between 120 and 289 days per year. All contractors provide their own labour, tools and vehicles. The total payments you make to these workers for the year is \$900,000 plus GST. Because these contractors:

- provide services that are a fundamental and ongoing part of your business model
- all work for your business for more than 90 days per year
- in the months they do provide services to you, are likely to average more than 10 days' work
- provide services of which the majority (greater than 50%) of the value of the payments to them are for their labour
- work for themselves (and do not have PAYG employees or subcontractors of their own),

it is likely that all or the majority of the \$900,000 paid would be taxable wages subject to payroll tax.

Whether they operate as sole traders, or use another business structure does not matter. The taxable wages may be reduced by a set percentage depending on the nature of the work undertaken.

As your business's total Australian wages exceed \$1,500,000 per year and you pay taxable wages in the NT, you will be liable for NT payroll tax.

Assuming that \$800,000 of the \$900,000 paid to contractors is taxable wages, your NT payroll tax liability would be calculated as follows:

SA wages, superannuation, etc.:	\$2,000,000	
NT wages:		
PAYG employees – wages, superannuation, etc.	\$300,000	
Taxable contractor payments	\$800,000	
NT taxable wages	\$1,100,000	
Total Australian taxable wages	\$3,100,000	
Tax-free entitlement (annual deductible amount (ADA))	\$390,322	(See note below)
NT net taxable wages (\$1,100,000 - \$390,322)	\$709,678	
NT payroll tax liability (\$709,678 x 5.5%)	\$39,032	

Note: The \$390,322 ADA is calculated automatically for you when entering returns through INTRA. It takes into account the following values – Australian wages, NT wages and the relativity between NT wages and total Australian wages.

Contractors and the common law

In common law, the pre-GST value of payments made to a sole trader providing labour-based services to a principal may be subject to payroll tax in the form of 'common law wages'.

The factors that determine whether payments are common law wages have been developed by the courts over the years and were not replaced by the relevant contract provisions when introduced on 1 July 2009.

As the common law has not been replaced by the relevant contract provisions, they both operate with the effect that even if a sole trader contractor is deemed not to be operating under a taxable relevant contract, it is possible the contractor may still be a common law employee, with payments subject to payroll tax.

Contractors paid via interposed entities

An 'interposed entity' situation exists where an individual person provides services under a contract but where the contract is, on paper, performed by a non-natural person associated with the individual – usually a husband and wife partnership, family trust or family company. The company, partnership or trust is said to be 'interposed' between the individual doing the actual work and the principal for whom the work is performed. The invoice is issued in the name of the interposed entity, not the individual.

The PRTA generally treats the payments as having been made to the individual doing the work and are therefore subject to payroll tax, either through the relevant contract provisions or the general anti-avoidance provisions (section 47) of the PRTA.

Commissioner's discretionary power to exclude payments made to some contractors

In addition to the 'automatic' exclusion categories (see excluded payments, page 38), the Commissioner may exercise discretion to exclude a contract in various other circumstances.

It is a fundamental aspect of the relevant contract provisions that the onus is on the principal to provide information and evidence justifying the exclusion of any contract.

To seek the Commissioner's discretion, a taxpayer (that is, the principal) needs to lodge a written request with TRO, following the guidelines in the applicable payroll tax ruling.

The most common reason for seeking the Commissioner's discretion to be exercised is when the taxpayer believes the contractor may satisfy the 'ordinarily renders services to the public' test (refer to [PTA021 Exemption for contractors ordinarily rendering services to the public](#)).

Note: The Commissioner will accept a 'self-declaration' by the taxpayer (without the need to lodge a submission to TRO) that a contractor working for the business for more than 90 days in the year is excluded where the taxpayer holds written evidence that the contractor also works for one or more other businesses during the year **and** works for your business for no more than an average of 10 days in each month in which services are provided to you.

A non-exhaustive list of the types of factors that the Commissioner will consider when exercising discretion can be found on page 2 of [PTA021 Exemption for contractors ordinarily rendering services to the public](#).

The Commissioner will be looking for evidence that:

- the contractor is operating a bona fide independent business
- is remunerated purely for results (and not time worked)
- actively seeks to provide services to the general public
- carries normal commercial risks.

The Commissioner will also consider:

- the extent of the contractor's client list
- the types of services provided by the contractor in relation to the nature of services provided by the principal to the general public or business community.

Monthly and annual payroll tax returns and contractor payments

Because of the basis of classification of relevant contracts into taxable or non-taxable categories, TRO is fully aware that taxpayers will often need to make use of projections and estimates when preparing a monthly return that includes taxable wages generated by a relevant contract.

In some cases, it may only be at the end of a financial year (when lodging the June and Annual Return in July) that a taxpayer will be able to provide definitively accurate taxable wage values resulting from taxable-relevant contracts.

The major reason for this situation is that payments to a contractor will not move from the non-taxable to a taxable status until 90 days of actual services (continuous or non-continuous) have been provided within a single financial year (providing that no other bases for exclusion exist).

For example, Contract Carpenter A commences working for XYZ Builders on 18 July 2021 on a frequent but not continuous basis, averaging around 15 days each month at \$400 per day. It would therefore not be until mid-January 2022 that Contract Carpenter A reached the 'taxable threshold' of 90 days (six months at an average of 15 days), having earned around \$6,000 in each month or a total of around \$36,000 (plus GST) for the 90 days.

For the last five months of the financial year (the 90-day threshold having been reached), assuming that Contractor Carpenter A continues to provide services to XYZ Builders, all pre-GST payments, less any allowable deductions, would be declared in each month's return.

In order to 'even out' the payroll tax associated with this contractor, the taxpayer may wish to project the probability of the contractor continuing to provide services up to and beyond the 90-days threshold, and include an estimated monthly value of taxable wages from July 2022 return onwards, rather than being required to meet a significant accumulated liability at the end of the 90 days.

It should also be considered that the 90-day test 'clock' resets to 'zero days worked' at midnight on 30 June each year. This means that, for example, if a contractor works 40 days in the 2 months leading up to 30 June 2022, and only 60 days during 2022-23, no taxable wages would have been created in either financial year, as the 90-day test has not been satisfied in either financial year.

Myths about contractors

In the business community there are several myths regarding the status of 'contractors' as opposed to 'employees'.

These myths incorrectly suggest that because a worker meets one or more of the listed conditions, payments to them are not subject to payroll tax.

The most common of these myths are as follows:

1. The 80/20 myth

'As long as I don't work more than 80% of my time for one business, I will be regarded as an independent contractor'.

This is incorrect. The 80/20 rule has nothing to do with whether a worker is considered to be an 'employee' or an 'independent contractor'. The 80/20 rule relates to the way in which these workers prepare their income tax returns.

2. The 'I have an ABN' myth

'As long as I have an ABN and get paid using a tax invoice, I will be regarded as an independent contractor'.

This is incorrect. Having an ABN makes no difference if the remainder of the relationship indicates that payments are taxable under the relevant contract provisions.

3. The 'I call myself a contractor, therefore I am one' myth

'As long as I refer to myself as a contractor, I will be regarded as a contractor in law'.

This is incorrect. Calling oneself a contractor is irrelevant if the remainder of the relationship indicates that payments would be taxable under the relevant contract provisions.

4. 'The boss refers to me as a contractor, therefore I am one' myth

'The boss says that I am a contractor, therefore I am not an employee'.

This is incorrect. How the worker is referred to by the principal is irrelevant if the remainder of the relationship indicates that payments would be taxable under the relevant contract provisions.

5. The 'signed agreement' myth

'I have signed an official agreement that says that I am not an employee, therefore I am not an employee'.

This is incorrect. Any clauses in an agreement are irrelevant if the remainder of the relationship indicates that payments would be taxable under the relevant contract provisions.

This includes standard or proforma agreements supplied by business associations to their members.

6. The 'I have a registered business name' myth

'I work through a registered business name, which appears on my invoices, therefore I am an independent contractor and not an employee'.

This is incorrect. Whether or not the worker uses a business name is irrelevant if the remainder of the relationship indicates that payments would be taxable under the relevant contract provisions.

7. The 'I work through a family trust (or family partnership or family company)' myth

'I work through my family trust (or family company or family partnership), which appears on my invoices, therefore I am an independent contractor and not an employee'.

This is incorrect. Whether or not the worker works as a sole trader, or through a family trust, family partnership or family company is irrelevant if the remainder of the relationship indicates that payments would be taxable under the relevant contract provisions.

In fact, under the relevant contract provisions, an individual working in this way is deemed by law to be an employee (and the principal is deemed to be the employer).

8. The 'I work under fixed price contracts' myth

'I work under fixed price contracts only; therefore payments to me cannot be taxable wages'.

This is incorrect.

Firstly, if the labour component of the contract exceeds 50%, the contract is a relevant contract.

Secondly, if the other conditions for qualifying as a taxable relevant contract have been met (more than 90 days, average of more than 10 days per month and service normally required by your business), whether or not payment for labour was based upon time worked, piece rates or a fixed price is not immediately relevant.

However, your business would be entitled to apply for the Commissioner to exercise discretion to exclude payments under the contract from taxable wages.

The process for making such an application is described in [PTA021 Exemption for contractors ordinarily rendering services to the public](#).

Further information

For more information on contractors and payroll tax, refer to the following publications:

[PTA006 Payroll tax exemption for payments to owner-drivers](#)

[PTA013 Fees paid to golf club professionals](#)

[PTA014 What constitutes a day's work?](#)

[PTA018 Contractor deductions](#)

[PTA019 Contractors labour and non-labour components](#)

[PTA020 Contractors 180-day exemption](#)

[PTA021 Exemption for contractors ordinarily rendering services to the public](#)

[PTA022 Services not ordinarily required](#)

[PTA023 Contractors engaging others](#)

[PTA033 Services ancillary to the supply of goods](#)

[PTA035 Contractors 90-day exemption](#)

[PTA038 Determining whether a worker is an employee](#)

Calculating your payroll tax

Introduction

Payroll tax is calculated by applying a percentage (see Appendix 5 for current and historic rates) to your net NT taxable wages.

All the calculations are done automatically when you enter the required wages information in your online monthly return, which is required by the 21st day of the next month (for example, April's return is to be lodged and paid by 21 May).

(See [Lodging and paying your payroll tax returns.](#))

Information you will need before lodging your monthly return

Before accessing your online return, you will need available the following information.

NT wages for the business for which the return is being done, split into the following categories:

- NT gross wages:
 - wages and salaries
 - contractor payments
 - commissions/bonuses/allowances
 - fringe benefits
 - employee share contributions
 - termination payments
 - directors' fees
 - other
- NT exempt wages
 - workers compensation
 - defence force leave
 - overseas employees
 - maternity leave
 - additional resident employees
 - relocated or replacement employees (see [CG-PRT-008: Hiring resident employees](#))
 - other

Note: Because your monthly deductible amount (MDA) is fixed for each month between July and May you do not need to provide when doing each monthly return details of interstate or group wages (this is not required until doing the annual return).

Annual and monthly tax-free entitlements

The tax-free entitlement for each monthly return is known as the MDA, and the annual tax-free entitlement is the ADA, completed in July each year.

How the ADA is calculated – the annual return

When completing the annual return, you will also need details of interstate and group wages, in addition to wages for the taxpayer for whom the return is being done.

The ADA is calculated automatically by INTRA based on data you enter.

The information required to calculate the ADA is as follows:

- wages paid in the NT
- wages paid throughout Australia
- group wages paid in the NT
- group wages paid throughout Australia
- if not for a full year, the dates that the business, including group members, commenced and ceased to pay wages, in both the NT and throughout Australia.

An employer's ADA is calculated taking into account the following:

- the value of net taxable wages paid in the NT by the taxpayer and group members
- the value of net taxable wages paid throughout Australia by the taxpayer and group members
- the proportion of Australian wages paid within the NT, compared to all other states and territories combined.

Specifically:

- when a single (ungrouped) business or group of businesses that pays wages in the NT has net taxable total Australian wages of \$1,500,000 or less, no payroll tax is payable in the NT
- however, when a single (ungrouped) business or group of businesses that pays wages in the NT has net taxable total Australian wages of more than \$1,500,000, payroll tax will be payable in the NT.

The maximum possible tax-free entitlement is \$1,500,000 per annum, or \$125,000 per month.

Once Australian total group wages exceed \$1,500,000, the maximum available tax-free amount reduces by \$1 for every \$4 by which net taxable (Australia-wide) wages exceed \$1,500,000.

Under the \$1 in \$4 rule, when your total Australian wages (or group Australian wages) exceed \$7,500,000 per year (\$625,000 per month), there is no longer any tax-free entitlement in the NT.

How the fixed MDA is calculated

As indicated previously, each employer's ADA for a financial year just completed is calculated on lodgement of the annual adjustment return (due 21 July) and takes into account actual wages paid in and outside the NT, for the financial year just ended, including that paid by group members, and the count of the number of days during the year that each group member paid wages, if less than a year.

As part of these calculations, INTRA divides the final calculated ADA by 12 and allocates this as the MDA to be used each month during the ensuing financial year.

That is, (in the absence of advice from a taxpayer to the contrary) INTRA works on the assumption that taxable wages in one year will be largely unchanged from the previous year, and sets a fixed rate of MDA for each month between July and May.

Where a taxpayer has budgeted for growth or reduction in wages in the following year, the taxpayer can update these figures in INTRA and the MDA will be calculated accordingly.

Note: If your business expects to have a reasonable level of growth or decline in wages in the forthcoming financial year it is recommended that you update your figures so that your MDA is adjusted accordingly. This will minimise the risk of a larger than expected payroll tax payment due in the last month of the financial year when the next annual adjustment return is lodged.

Examples of payroll tax calculations

Note: The calculations in the following examples are for demonstration and information purposes only. You do not have to perform these mathematical calculations – they are performed automatically for you by INTRA when you load your wages data.

Example 1: ABC Sales & Service Pty Ltd is not grouped and only pays wages in the NT. Total NT wages for 2021-22 were \$1,400,000. Because this is less than the \$1,500,000 tax-free threshold, no payroll tax is payable in the NT.

Example 2: DEF Pty Ltd is not grouped and only pays wages in the NT. Total net NT wages for 2021-22 were \$1,900,000. Because this is greater than the \$1,500,000 tax-free threshold, payroll tax will be payable. DEF's tax-free entitlement and liability are calculated in the following steps:

Step 1: Gross wages are \$1,900,000

Step 2: Maximum possible tax-free component is \$1,500,000

Step 3: Gross wages exceed \$1,500,000 by \$400,000

Step 4: The \$1,500,000 maximum possible tax-free component is reduced by \$1 in \$4 of the \$400,000 excess (i.e. reduced by \$100,000 from \$1,500,000 to \$1,400,000)

Step 5: Therefore, DEF's taxable wages are \$1,900,000 less \$1,400,000 tax-free component (ADA) or \$500,000

Step 6: DEF's payroll tax liability is \$500,000 x 5.5%, which equals \$27,500

Example 3: GHI Pty Ltd, JKL Pty Ltd and MNO Pty Ltd are all grouped (they have common directors and shareholders). They each pay wages in the NT, but not in any other state or territory. Their net taxable wages in 2021-22 were as follows:

GHI:	\$2,900,000
JKL:	\$400,000
MNO:	\$600,000
Total	\$3,900,000

GHI has been selected as the designated group employer (DGE). The businesses' payroll tax liability is calculated in the following steps:

Step 1: Gross group wages are \$3,900,000

Step 2: Maximum possible tax-free component is \$1,500,000

Step 3: Gross wages exceed \$1,500,000 by \$2,400,000

Step 4: The \$1,500,000 maximum possible tax-free component is reduced by \$1 in \$4 of the \$2,400,000 excess (i.e. reduced by \$600,000 from \$1,500,000 to \$900,000)

Step 5: The \$900,000 tax-free component (ADA) is allocated in full to GHI as the DGE

Step 6: GHI's taxable wages are therefore: \$2,900,000 - \$900,000 = \$2,000,000

Step 7: GHI's payroll tax liability is \$2,000,000 x 5.5% = \$110,000

Step 8: JKL and MNO are liable for payroll tax at 5.5% on their total gross wages:

JKL: \$400,000 x 5.5% = \$22,000

MNO: \$600,000 x 5.5% = \$33,000

Example 4: GHI Pty Ltd, JKL Pty Ltd and MNO Pty Ltd are all grouped (they have common directors and shareholders). They each pay wages in the NT, but not in any other state or territory. Their net taxable wages in 2021-22 were as follows:

GHI:	\$2,900,000
JKL:	\$400,000
MNO:	\$600,000
Total	\$3,900,000

GHI has been selected as the DGE. On 1 July 2022, GHI acquires control of PQR Pty Ltd, a Perth-based company that pays \$1,800,000 in wages in Western Australia. It has no employees in the NT. As a consequence of the PQR acquisition, the group's Australian wages increase from \$3,900,000 to \$5,700,000. The businesses' payroll tax liability is calculated in the following steps:

Step 1: Gross group wages are \$5,700,000

Step 2: Maximum possible tax-free component is \$1,500,000

Step 3: Gross wages exceed \$1,500,000 by \$4,200,000.

Step 4: The \$1,500,000 maximum possible tax-free component is reduced by \$1 in \$4 of the \$4,200,000 excess (reduced by \$1 050,000 from \$1,500,000 to \$450,000).

Step 5: The \$450,000 is adjusted to reflect the ratio of NT wages (\$3,900,000) to Australian wages (\$5,700,000):

$$\text{ADA for 2022-23} = \$450,000 \times (\$3,900,000 / \$5,700,000) = \$307,894$$

Step 6: The \$307 894 tax-free component (ADA) is allocated in full to GHI as the DGE.

Step 7: GHI's taxable wages are therefore: \$2,900,000 - \$307,894 = \$2,592,106

Step 8: GHI's payroll tax liability is \$2,592 106 x 5.5% = \$142,565.

Step 9: JKL and MNO are liable for payroll tax at 5.5% on their total gross wages:

$$\text{JKL: } \$400,000 \times 5.5\% = \$22,000$$

$$\text{MNO: } \$600,000 \times 5.5\% = \$33,000$$

Note: PQR has no direct NT liability but would need to register and pay payroll tax in Western Australia (if it has not already done so). However, PQR remains jointly and severally liable for the payroll tax debts of each other group member incurred from 1 July 2022 onwards, the date of its acquisition.

Example 5: BDE Pty Ltd is ungrouped and its head office is based in SA. The NT branch has wage and superannuation costs of \$2,700,000 per annum. Total taxable wages paid by BDE Pty Ltd in the NT, SA and other interstate branches is \$10,400,000 per annum.

Because total Australian wages exceeds the \$7,500,000 cut-off point, BDE Pty Ltd has no entitlement to any tax-free component in the NT. Therefore, its NT payroll tax liability will be \$2,700,000 x 5.5% = \$148,500.

Lodging and paying your payroll tax returns

When monthly returns are required

Employers registered for payroll tax in the NT must lodge a return and pay the calculated value of payroll tax every month, unless the Commissioner has given approval to pay tax annually.

Note: The Commissioner will generally not require a taxpayer to lodge monthly returns if the estimated tax payable in a full financial year is less than \$10,000 (in which case the employer will only need to lodge an annual return).

Registering for payroll tax

An employer required to register for payroll tax can do so by completing the online application at intra.nt.gov.au.

See also [How do you know if your business should be registered as an employer for payroll tax?](#)

Lodging returns online

Monthly returns are lodged using INTRA, TRO's online return lodgement and payment system. Returns are required to be lodged by the 21st day of each month.

'Nil' returns must be lodged

If an employer does not have a liability in a particular month, a 'nil' return must still be lodged, to avoid the employer receiving reminder notices.

Annual adjustment return

At the end of each financial year, all registered employers must lodge an annual adjustment return (AAR) by 21 July and pay (or if applicable, seek a refund of) the difference between tax paid during the first 11 months of the year and the full year liability to 30 June.

The AAR must be lodged using INTRA.

How to pay payroll tax

Payment may be made by direct credit (with each payment controlled and authorised solely by the taxpayer), electronic funds transfer (EFT) or BPAY. Cheques may also be accepted by mail.

Single return for a group

A group of NT taxpayers can apply to have their DGE lodge a single consolidated return and make a single payment of payroll tax on behalf of all group members.

While all group members remain jointly and severally liable for other group members' liabilities, the liabilities are deemed to be satisfied as long as the DGE lodges the consolidated return and makes the necessary payment.

To apply for a single group return arrangement, complete form [F-PRT-003 – Nomination of designated group employer \(DGE\)](#).

End of financial year refunds

If a taxpayer believes he or she has overpaid tax, he or she can apply to TRO for a refund.

To apply for a refund, complete form [F-PRT-012 Payroll tax – application for refund](#).

Registration of INTRA users

Access to INTRA is user-specific, however each taxpayer may elect to have multiple users.

User access can either be managed by a 'Manager' user within your organisation or, if no Manager is available, by lodging a new user application at intra.nt.gov.au.

It is important to ensure changes in users are processed promptly to avoid any delays in access for new employees.

Cancellation of payroll tax registration

Circumstances in which payroll tax registration may be cancelled

An employer can apply for cancellation if it has ceased employing in the NT, or if its wages have dropped below the \$125,000 per month tax-free threshold.

Reminder: A taxpayer must lodge monthly returns and pay payroll tax when it pays wages of any value in the NT and the total Australian taxable wages including group members exceeds \$125,000 per month.

Administrative process – cancellation of registration

Where NT and Australian wages completely ceased

Complete and lodge [F-PRT-002 Cancellation of payroll tax registration](#) and complete an AAR for that financial year within 21 days of the end of the month in which wages ceased (do not wait until the next July).

If you believe payroll tax has been overpaid, complete the [F-PRT-012 Payroll Tax – Application for refund](#) form. Otherwise ensure any payroll tax due for that year is paid by the 21st day of the month following the last month in which wages were paid.

Where NT wages completely cease, but wages continue to be paid in another state

1. Lodge the cancellation application.
2. Continue to lodge 'nil' monthly returns up to and including the next May's return (that is, the return due by 21 June).
3. Alternatively you may apply to temporarily convert from a 'monthly lodger' to an 'annual lodger' until ceasing registration at the end of the financial year.
4. Lodge the AAR (for the last time) by the next 21 July.
5. In conjunction with the final AAR, as the case requires, either pay payroll tax outstanding or seek a refund as described above.
6. If the employer does not wish or is not entitled to claim the ADA, the AAR can be lodged immediately on cessation rather than waiting until the end of financial year.

To apply to cancel payroll tax registration, go to intra.nt.gov.au.

Grouping and payroll tax

What is grouping?

For payroll tax purposes, businesses are 'grouped' when they are subject to 'common control' (whether direct or indirect) and or share the use of one or more employees.

'Common control' means they are directly or indirectly majority controlled by the same person, people or businesses – typically because those people or other businesses have a majority holding of share capital (for example, a holding company or subsidiary relationship), a majority of common directors, common shareholders, common partners or common trust beneficiaries.

These people are said to have a 'controlling interest'.

'Majority', in terms of control, means greater than 50%.

The majority control can be direct or indirect.

Example 1: Direct and indirect interests

A Pty Ltd holds 80% of the voting shares in B Pty Ltd. Therefore A Pty Ltd has a (majority) controlling interest in B Pty Ltd, and A Pty Ltd and B Pty Ltd are grouped. B Pty Ltd acquires 80% of the voting shares in C Pty Ltd. Therefore, A Pty Ltd has an 80% controlling interest in B Pty Ltd and an indirect 64% (80% x 80%) controlling interest in C Pty Ltd.

Further, B Pty Ltd has an 80% controlling interest in C Pty Ltd. As all controlling interest ratios exceed 50%, all three businesses are grouped. This situation is sometimes referred to as grouping due to a 'cascade' of controlling interests (see examples on page 60).

'Common employees' means two or more businesses share the services of one or more employees – for example, an accounts clerk whose full-time job is reception, bookkeeping and clerical work for three businesses that operate from the same building (regardless of whether or not those businesses are commonly controlled).

Subsuming of multiple groups into a single master group

If a single business is a member of two or more groups, all of the members of those groups are automatically 'subsumed' into a single 'master' group.

Example 2:

Group 1 (ABC Pty Ltd and DEF Pty Ltd): John and Mary are the only two directors and 50/50 shareholders of two companies – ABC Pty Ltd and DEF Pty Ltd. These companies are grouped through ‘common control’. This group is called ‘Group 1’.

Group 2 (GHI Pty Ltd and JKL Pty Ltd): Jim and Jean are the only two directors and 50/50 shareholders of two companies – GHI Pty Ltd and JKL Pty Ltd. These companies are grouped through ‘common control’. This group is called ‘Group 2’.

Group 3 (DEF Pty Ltd and GHI Pty Ltd): DEF Pty Ltd and GHI Pty Ltd operate from a common office. Three employees of DEF Pty Ltd provide administrative, debtor/creditor and face-to-face and telephone reception to both DEF Pty Ltd and GHI Pty Ltd. GHI Pty Ltd reimburses DEF Pty Ltd for 40% of the employee costs. Because there is an arrangement between DEF Pty Ltd and GHI Pty Ltd for the sharing of employees, the two businesses are grouped, even though they are not subject to common control. This group is called ‘Group 3’.

Group 4 (subsuming into ‘master group’):

Group 1 comprises ABC Pty Ltd and DEF Pty Ltd.

Group 2 comprises GHI Pty Ltd and JKL Pty Ltd.

Group 3 comprises DEF Pty Ltd and GHI Pty Ltd.

Because:

DEF Pty Ltd is a member of Group 1 and Group 3.

GHI Pty Ltd is a member of Group 2 and Group 3.

All three groups are subsumed into a single group (for convenience referred to as Group 4).

Background – how does grouping affect payroll tax?

A non-grouped business is entitled to claim the tax-free threshold (ADA), calculated upon its NT and Australian wages.

When two or more businesses are grouped, only one member of the group (the DGE, which is selected by the group members) can claim a tax-free threshold, which is then calculated taking account of wages paid by all group members in all states of Australia.

Any other group members who pay NT wages then pay payroll tax on their full value of their NT wages.

Group members are jointly and severally liable for each other’s payroll tax debts

Each member of a group is jointly and severally liable for the payroll tax debts of all other group members, provided only that they were all members of the group when the liability arose.

A group member need not be an employer to be jointly and severally liable

A group member will be jointly and severally liable for the payroll tax debts of other members of the group, regardless whether or not it employs and pays wages itself. However, only NT wage-paying businesses need to register for payroll tax purposes.

Example 3:

A1 Pty Ltd is a construction company that pays NT wages of \$2 million per annum. As this exceeds the \$1.5 million tax-free entitlement, A1 is liable for NT payroll tax.

A2 Pty Ltd has the same directors and shareholders as A1 Pty Ltd, and is therefore grouped with A1 Pty Ltd under the 'common control' provisions. A2 Pty Ltd has no employees, it simply owns the property from which A1 Pty Ltd operates its business.

A1 Pty Ltd fails to pay its payroll tax liabilities. In this case A2 Pty Ltd automatically becomes jointly and severally liable to pay A1's payroll tax debts. This could involve TRO initiating recovery action against A2 as well as A1.

Legislative background to grouping

The historic objective behind grouping was to ensure companies did not artificially separate their operations into separate legal entities to gain the benefit of multiple tax-free threshold entitlements and to separate their liabilities.

This has evolved over time to apply in all circumstances where there is an active or significant relationship, whether in a business or commercial sense, between the carrying on of two or more businesses.

Example 4:

Johnnie Johnston is the sole director and shareholder of JJ Pty Ltd, which has two divisions and carries on business under two trading names – JJ's Constructions and JJ's Transport. The businesses pay total NT wages of \$4 million per annum.

On professional advice, Johnnie Johnston creates two separate companies to run the two businesses; he remains as sole director and sole shareholder of each. The advice was unrelated to payroll tax. As these businesses would be grouped under the 'common control' provisions, they in effect 'share' one tax-free entitlement and the action would have no effect upon the overall payroll tax liabilities of the companies, although each company would now need to be separately registered as an employer.

Grouping is automatic

Grouping occurs automatically through the application of law – that is, TRO does not make a decision as to whether businesses are grouped or not.

The main effect of grouping is to ensure two or more grouped businesses share only one tax-free threshold amount by:

- combining their Australian taxable wages to determine whether this total exceeds the NT tax-free threshold of \$1,500,000 per annum
- where the total Australian wages of group members combined exceeds \$1,500,000, requiring each wage-paying NT employer in the group (regardless of amount of wages paid) to register as an employer for payroll tax purposes
- allowing only one member of the group, the DGE, to claim the tax-free entitlement (ADA) on behalf of all members of the group (refer to [Calculating your payroll tax](#) and [Lodging and paying your payroll tax returns](#) for further details).

Meaning of person

The PRTA makes frequent references to the term 'person'.

For grouping purposes, 'person' includes an individual person (a 'natural person'), two or more individual persons together, a partnership of individuals, a partnership of companies, a trustee of a trust, or a private or public company.

Example 5: A business may be carried on, and wages paid under any of these arrangements:

- Dave Devonshire is a person.
- Dave Devonshire trading as Dave's Electrical Services is the same person as Dave Devonshire alone (Dave's Electrical Services is simply a trading name and not an entity or person in its own right).
- Dave and Donna Devonshire Family Partnership is a person.
- Dave's Electrical Services Pty Ltd is a person.
- Dave Pty Ltd is a person.
- In the case of Dave Pty Ltd as trustee for the Dave and Donna Devonshire Family Trust trading as Dave's Electrical Services, the 'person' is the trustee (Dave Pty Ltd).

What is a business?

The grouping provisions apply to businesses, regardless of whether the business pays wages.

'Business' includes any of the following:

- any profession or trade
- any activity carried on for fee, gain or reward
- the employing of people to provide services to another business
- the carrying on of a trust, (whether active or dormant)
- holding property (including goods, equipment or money) used for or by another business.

What if one person operates more than one business?

When one person operates more than one business (usually under different trading names), this is not a group – it is the same business.

In these circumstances, there is only one employer and (subject to tax-free thresholds) the wages for those businesses must be combined into a single return for that employer.

Example 6: John and Beryl have a family partnership with its own ABN and GST registration. The family partnership operates two separate businesses – John works as a plasterer under the trading name of JB Plasterers, and Beryl operates a restaurant under a separate trading name.

This is a single business for payroll tax purposes, not a group.

The only exception to this rule is a trustee that operates businesses for different trusts, where the trustee is considered a different person in respect of each trust.

Geographical location of a business is irrelevant

It does not matter where (in which state or states) a business is carried on.

If there are two or more group members, anywhere within Australia, and at least one of them pays NT taxable wages, the NT wage-payer(s) must register for payroll tax if the combined Australian taxable wages of all members of the group exceeds the NT tax-free threshold of \$1,500,000 per annum (\$125,000 per month) (see [When does a business need to register and start paying payroll tax?](#) for further details).

Groups arising from the use of common employees

An employer that provides the services of one or more of its employees to one or more other businesses constitutes a group with the other business:

Example 7: Business A employs Employee 1. Employee 1 provides services to Business A and Business B. It does not matter whether Business A and Business B are related or unrelated. Further, it does not matter whether or not Business B reimburses Business A for part of Employee 1's wages. In these circumstances, Business A and Business B are grouped.

This type of situation may exist where, for example, two businesses operating from the same premises set up a single group of people to operate a common accounting, payroll, personnel, debtor management and creditor management section.

Note: Simply because two or more otherwise unrelated businesses share premises does not result in them being grouped – there must be a common use of employees as in the above example.

Who has a controlling interest in various business structures?

Establishing who has a controlling interest in a business is fundamental, in most cases, to determining whether a group exists for payroll tax purposes.

The table on page 60 includes examples for the majority of business structures used by taxpayers and employers in the NT.

It should be noted that the persons with controlling interest in these examples are based upon the legal capacity (or deemed legal capacity) of a person or persons to exercise that controlling interest, regardless of whether that control is ever exercised in practice. Under this principle, there may be two unrelated or non-overlapping groups of persons with simultaneously existing controlling interests, which in practice, could not be exercised simultaneously. However, because of the PRTA provisions, these two sets of persons are effectively deemed to both have separate and simultaneous control. This is a fundamental aspect of the controlling interest and grouping provisions of the PRTA.

Example 1: A business carried on by a company may have five directors (named A, B, C, D and E); but three individual shareholders (named F, G and H, who each hold 33.3% of the voting shares (and none of whom are directors)).

Under the controlling interest provisions, any of the following sets of people are deemed to simultaneously have a controlling interest in the business (whether or not such controlling interests are ever exercised is not relevant – it is the deemed capacity to exercise a controlling interest that is relevant):

- any three or more of the directors A, B, C, D or E
- any two or more of the shareholders F, G and H.

Example 2: A business has been carried on under a family trust for many years. The trust deed clearly indicates (through the unfettered powers provided to the trustee) that the trust is discretionary in nature, in common with the vast majority of family trusts. There are three beneficiaries – wife A, husband B and daughter C, each of whom works in the family restaurant business.

In practice, for each of the last 10 years since the business and trust was established, the trustee has apportioned all distributions from the trust equally between the three beneficiaries (i.e. 33.3% each). Under the controlling interest provisions, as they relate to businesses carried on under a discretionary trust, any of the following sets of people are deemed to simultaneously have a controlling interest in the business (whether or not such controlling interests are ever exercised is not relevant – it is the deemed capacity to exercise a controlling interest that is relevant):

- wife A alone
- husband B alone
- daughter C alone
- any two or more of the above three together.

The practical outcome of this situation means that if any of the three individual beneficiaries were to commence carrying on the business as a sole trader in another venture, that business would automatically be grouped with the business carried on under the family trust (exposing their personal assets to collection activity if the trust's business was to default on its payroll tax debts).

Business structures and controlling interests

Ref.	Business structure	Who has the controlling interest?	Example(s)	Who has the controlling interest?	Comment/explanatory notes
1	Sole trader/individual	The individual person (sole trader)	Dave Devonshire.	Dave Devonshire as the individual person.	The legal entity is 'Dave Devonshire', the natural person.
2	Sole trader/individual using business name or trading name	The individual person (sole trader)	Dave Devonshire trading as Dave's Diving School.	Dave Devonshire as the individual person.	The legal entity is 'Dave Devonshire', the natural person. The business name or trading name has no legal status for grouping or payroll tax purposes – it is for advertising and customer information purposes only.
3	Individual natural person acting as a sole trustee	The individual person	Dave Devonshire as trustee for the Dave Family Trust trading as Dave's Diving School.	Dave Devonshire as the individual person (in the capacity of trustee).	The business name or trading name has no legal status for grouping or payroll tax purposes – it is for advertising and customer information purposes only. The business entity is 'Dave Devonshire as trustee for the Dave Family Trust'.
4	Company (private or public) carrying on business in own right	Majority of directors	ABC Pty Ltd, with two directors.	At director level must be unanimous, as one of two is not a majority.	If ABC Pty Ltd had three directors, two would constitute a majority.
5	Company (public or private) carrying on business in own right	Majority of voting shares	ABC Pty Ltd has 100 voting shares, spread evenly over four individuals (25 voting shares each).	Any three of the four shareholders together would be a controlling interest.	Any two shareholders together represent exactly 50% of voting shares, which is not a majority, which must be greater than 50%.
6	Company (public or private) acting as trustee	Majority of voting shares Majority of directors	As per 4 and 5 above.	As per 4 and 5 above.	As per 4 and 5 above.

Ref.	Business structure	Who has the controlling interest?	Example(s)	Who has the controlling interest?	Comment/explanatory notes
7	Association	Persons who together constitute more than 50% of the board of management (sometimes called 'the committee') (or equivalent).	Darwin South Surf Riders Association has a board of management of seven. All members of the board of management are elected by and from the local members.	Any four of these persons acting together have a controlling interest.	
8	Association	Persons who can control the composition of the board of management.	The articles of Darwin South Surf Riders Association allow a simple majority of members in a general meeting of which proper notice has been given and at which a quorum is present to change any or all of the board of management.	A majority of members in general meeting as specified in articles.	
9	Association	Persons who can control the composition of the board of management.	The Darwin-Timor-Leste Origami Association has a board of management of 11 people. Under its articles, five of these people are elected by and from local members, and the remaining six are appointed by the Australian Association of Origami Clubs.	The Australian Association of Origami Clubs (who can appoint the majority of committee members).	As a consequence, the Australian Association of Origami Clubs is grouped with the Darwin-Timor-Leste Origami Association.
10	Partnership	Persons who are entitled to, individually or together, (beneficially or not) more than 50% of the partnership's capital and or income.	A, B and C carry on business as ABC Services under the ABC Partnership. Each has a one-third entitlement to capital and profits.	A and B together A and C together B and C together A, B and C together.	

Ref.	Business structure	Who has the controlling interest?	Example(s)	Who has the controlling interest?	Comment/explanatory notes
11	Partnership	Persons who are entitled to, individually or together, (beneficially or not) more than 50% of the partnership's capital.	D, E and F carry on business as DEF Services under the DEF Partnership. D and E are each entitled to 50% of the partnership's capital (F has no entitlement to capital).	D and E together only.	
12	Partnership	Persons who are entitled to, individually or together, (beneficially or not) more than 50% of the partnership's income.	D, E and F carry on business as DEF Services under the DEF Partnership. D and E are each entitled to 20% of the partnership's income. F is entitled to 60% of the partnership's income.	F alone D and F E and F D, E and F together.	F also carries on business as a sole trader under the business name 'Fernando's Pizzeria'. Because F has a 100% controlling interest in Fernando's Pizzeria and a 60% controlling interest in DEF Services, the two businesses are grouped.
13	Unit Trust	Persons who are entitled to more than 50% of the units, in terms of income and/or capital, in accordance with the provisions of the trust deed.	Western Transport & Logistics Pty Ltd (WTLPL) is the trustee of the WTL Unit Trust, which carries on business as Western Transport & Logistics. John, Mary, Annabel and Jack each hold 25% of the units in the WTL Unit Trust.	Any three or more of John, Mary, Annabel or Jack together.	

Ref.	Business structure	Who has the controlling interest?	Example(s)	Who has the controlling interest?	Comment/explanatory notes
14	Discretionary trust	Any beneficiary or combination of beneficiaries.	XYZ Pty Ltd acts as trustee for the Jones Family Trust, which carries on business as Jones Painting Services. The trust has been set up as a discretionary trust. The beneficiaries are John, Mary, Annabel, Jack and David Jones.	John alone Mary alone Annabel alone Jack alone David alone, or any combination of any two, three or four of the above five individuals, or all five of the above individuals together.	Most family trusts are discretionary trusts. The defining characteristic of a discretionary trust is that the trustee has the unfettered power to distribute income and/or capital to any or none of the beneficiaries, in any proportion between zero and 100%. As a consequence, any beneficiary, or any combination of beneficiaries, as a potential recipient of 100% of the capital and income, is deemed to have a controlling interest in the business carried on under the trust.
15	Other types of trusts	The person or persons with an entitlement to more than 50% of the income and or capital of the trust.	-	The person or persons with an entitlement to more than 50% of the income and or capital of the trust	Each trust deed will be reviewed by TRO to determine the controlling interest provisions. Where a trust contains a provision that provides broad powers to the trustee, the trust may be determined to be discretionary in nature, under which any beneficiary alone, or any combination of beneficiaries acting together, have a controlling interest (see reference 14 above).

Note: Controlling interests when exercise of power is inconsistent with constitutions or articles

On occasions, situations may arise where decisions are made (control is exercised) by a business in a manner that is not consistent with a reading of the articles or constitution.

For example:

Cheap Chips Pty Ltd carries on an information technology business with the business name of CC Infotech Services.

Lorna and John are the only directors and are also 50/50 shareholders of Cheap Chips Pty Ltd.

John is employed as production manager in an unrelated construction business.

Lorna works full-time in CC Infotech Services, along with three employees that she manages.

While John and Lorna nominally together control the directors' and shareholders' decisions of Cheap Chips Pty Ltd, in practice, John delegates all decisions related to CC Infotech Services to Lorna.

In these circumstances, Lorna acting alone is considered to have a controlling interest in CC Infotech Services.

Tracing provisions – direct, indirect and aggregation of interests in companies

Introduction

The 'tracing' provisions cause a 'person', or a set of 'associated persons' to be grouped with a company if the person or associated persons has or have a controlling interest in the company.

In this section, 'person' means an individual, two or more individuals together, companies, trusts or partnerships.

'Associated person' means family members, partners in a partnership, private companies with common shareholders with majority interests, and trustees of trusts where there are common beneficiaries.

Fundamental principle

A person or set of associated persons has a controlling interest in a company if it has:

- a direct interest in excess of 50%
- an indirect interest in excess of 50%
- or an aggregate of direct and indirect interests in excess of 50%.

Examples of the application of fundamental tracing principles

Scenario 1: Direct interest exceeding 50%

A direct interest exists if the entity can directly or indirectly:

- exercise the voting power attached to the voting shares in the corporation
- control the exercise of voting power attached to the voting shares in the corporation
- or substantially influence the exercise of the voting power attached to the majority of voting shares in the corporation.

Example:

- Entity A controls 80% of the voting shares in Company B
- or entity A can control, or substantially influence, the use of voting power by the majority of shareholders of Company B.

Entity A could be a natural person, a company, a trustee or a partnership. In this case, Entity A has a direct interest in Company B and therefore has a controlling interest.

As a consequence, Entity A and Company B are grouped for payroll tax purposes.

Scenario 2: Indirect interest exceeding 50%

An indirect interest in a corporation exists if the entity is linked to that corporation by a direct interest in another corporation with a direct or indirect interest in the indirectly controlled corporation.

The value of an indirect interest in an indirectly controlled corporation is determined by multiplying the value of the entity's direct interest in the directly controlled corporation by the value of the directly controlled corporation's interest in the indirectly controlled corporation.

Example:

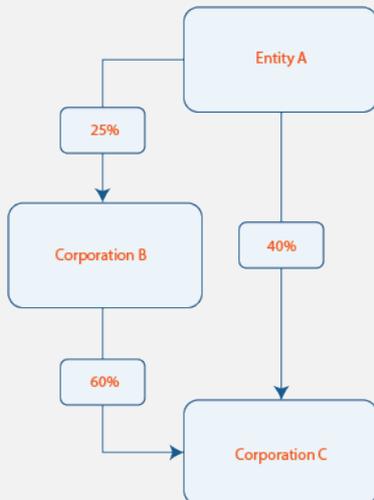
- Entity A controls 90% of the voting shares in Company B
- Company B controls 90% of the voting shares in Company C
- Company C controls 80% of the voting shares in Company D
- Company D controls 50% of the voting shares in Company E.

As a consequence:

- Entity A has a 90% direct interest in Company B
- Entity A has an 81% ($90\% \times 90\%$) indirect interest in Company C
- Entity A has a 64.8% ($81\% \times 80\%$) indirect interest in Company D
- Entity A has a 32.4% ($64.8\% \times 50\%$) indirect interest in Company E
- Entity A is grouped with Company B
- Entity A is grouped with Company C
- Entity A is grouped with Company D
- Entity A, Company B, Company C and Company D are subsumed into a single 'master' group
- Company E remains ungrouped (unless grouped on another basis such as use of common employees or common control with any of the other companies or entities on the basis of common directors).

Scenario 3: Aggregate (of direct and indirect interests) exceeding 50%

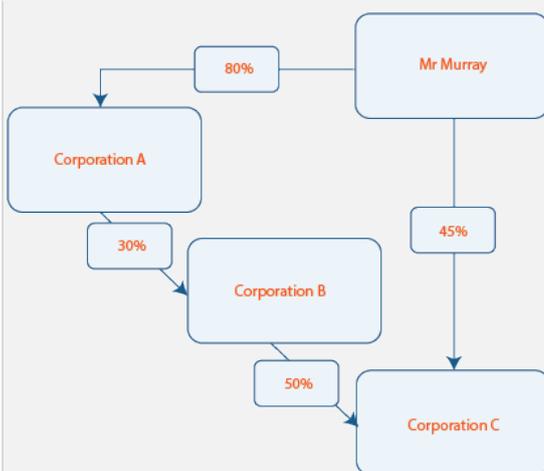
An aggregate interest exists if an entity has a direct and an indirect interest or two or more indirect interests. The aggregate interest is the sum of the entity's direct and indirect interests in the corporation.

Example 1:

Entity A has a direct interest in Corporation C of 40%.

Entity A also has an indirect interest in Corporation C of 15% (that is, $25\% \times 60\% = 15\%$).

The total aggregate interest that Entity A holds in Corporation C is 55% (that is, $40\% + 15\% = 55\%$).

Example 2:

Mr Murray has a direct interest in Corporation A of 80%.

Mr Murray has a direct interest in Corporation C of 45% and an indirect interest in Corporation C of 12% (through Corporation A and B, that is, $80\% \times 30\% \times 50\% = 12\%$). Therefore, Mr Murray holds a total aggregate interest in Corporation C of 57%.

Corporation A, Corporation C and Mr Murray's interest in both companies is greater than 50%.

Corporation B cannot be part of the group because the level of interest in each of the entities is 50% or less.

Exclusion from a group

As previously highlighted, grouping is an automatic process depending on the status of each business that constitutes the group.

That is, grouping will automatically arise from any one or more of the following circumstances:

- common (majority) control at the level of shareholder(s), director(s), partners, or trust beneficiaries
- controlling interests arising from direct interests, indirect interests or aggregation of interests
- or the use of common employees.

The PRTA recognises that in certain circumstances the strict application of these provisions may result in unintended consequences.

As a consequence, the PRTA makes provision for the Commissioner (with one exception) to exercise the discretion to exclude a business from a group when it would otherwise be part of the group.

Note: The one exception to this rule is where the business is grouped because it is a 'related body corporate' under section 50 of the *Corporations Act 2001*(Cth). In that circumstance the business remains grouped and the Commissioner has no capacity to consider exclusion. This also applies to groups created by subsuming of two or more groups with common members where the common member is itself grouped by reason of being a related body corporate.

How the process works

1. The onus is on a grouped business to provide the Commissioner with detailed submissions and evidence as to why it should be excluded from the group.
2. The business must continue to lodge and pay its returns on the basis that it is grouped until such time as the Commissioner approves an application for exclusion.
3. An application for exclusion is to be made on the form [F-PRT-015 Application for exclusion from a group](#).
4. Further background information on the subject can be found at [PTA031 Commissioner's discretion to exclude from a group](#).

Note: If the exclusion is approved by the Commissioner, it can be backdated which may result in a reassessment and/or refund of payroll tax paid to date.

What the Commissioner considers

To grant exclusion, the Commissioner must be satisfied that the business carried on by the employer seeking exclusion is independent of and not connected with businesses carried on by other group members.

The Commissioner needs to be satisfied that the connections between the businesses are no more than casual, irregular or occasional occurrences.

The Commissioner will look at a broad range of matters, including:

- business dealings between group members
- any sharing of staff, premises, equipment and facilities
- how business decisions are made and who makes them
- the extent of financial interdependence between group members, including intra-group loans and the rates of interest charged
- whether there are common customers of group members
- purchases made by one group member from another
- whether goods or services are purchased by one group member for sharing between group members
- economies of scale generated by the cooperative activities of group members
- the types of businesses conducted by each group member and the extent to which they are complementary
- the connection(s) between the ultimate owners of each group member.

Administration of payroll tax

Payroll tax liabilities arise under the PRTA.

The TAA regulates the administration of NT revenue, including payroll tax, and related matters such as:

- interest and penalty tax
- record keeping requirements
- refunds
- power of investigation
- power to require taxpayer to provide documents or attend an interview
- objections and appeals
- general penalties for non-compliance (for example, failure to keep records, failure to provide required information, failure to provide information requested for an investigation).

Record keeping

Background

TRO relies on access to a range of business and employer records in order to verify a taxpayer's payroll tax liability, in the event of an investigation.

What records need to be kept?

These records are similar to those a taxpayer is required to keep for ATO/income tax purposes and include, where relevant to the business structure of the taxpayer:

- business financial statements in normal accounting standards format
- PAYG payment summaries
- payroll journals, timesheets and similar records
- employee superannuation contribution records
- records of allowances, bonuses and expense reimbursements related to employees and directors
- payment journals recording payments to contractors, subcontractors, consultants and similar categories of service providers
- tax invoices received from persons paid via the payments journal
- contractor quotes, agreements, job sheets and similar records related to contractor payments
- business activity statements (BAS)
- income tax returns

- FBT returns
- minutes of directors' and shareholders' meetings
- minutes of meetings of trustees
- trust deeds
- partnership agreements
- copy of company constitution
- copies of correspondence related to investigations conducted by other statutory authorities (including ATO and any other state revenue office)
- any other record to substantiate that the treatment of a payment to an employee or contractor was taxable, not taxable or otherwise exempt from tax (for example, a contract under which an employee or director purchased an asset from the employer, such as a company vehicle or a home unit constructed by the employer).

Retention period

Each employer is required to keep these records for a period of not less than five years from the date of the transaction or the date the record was obtained or created.

The records must be in the English language and in Australian currency.

Interest and penalty tax

The TAA provides for interest and penalty tax to apply to a 'tax default'.

A tax default includes the non-payment, underpayment or late payment of payroll tax.

Penalty tax and interest are calculated on the amount of payroll tax underpaid.

Penalty tax is charged on a one-off basis, whereas interest is time-based – the longer an underpayment is overdue, the higher the value of interest.

The intent of interest and penalty tax is to ensure the majority of taxpayers who meet their obligations in full and on time are not penalised in comparison to those who do not and to compensate Government from revenue to which it was entitled after it became due.

Interest

The rate of interest is made up of two parts – the market rate (which varies from year to year in line with bond rates) and a 'premium' rate (currently fixed at 8% p.a.)

The market and premium rate together are called the 'statutory' rate. The statutory rate applies to all defaults other than in special circumstances where the default was beyond the control of the taxpayer. In those special circumstances, only the market rate will apply.

The statutory rate will be reduced to zero where the employer can demonstrate that the payroll tax was paid in error to another state (within the time frame for payment) and, on discovering the error, immediate steps are taken to make payment to TRO.

The statutory rate is set at a level that ensures a taxpayer who underpays and or pays late will pay more than if the business had borrowed from a normal commercial lending facility to fund the payroll tax.

Penalty tax

Penalty tax is a one-time administrative sanction set as a percentage of the amount of the tax default.

The penalty tax rate normally ranges between 2% and 95%, depending on the circumstances of the taxpayer.

The lower rates of penalty tax apply where TRO considers that the taxpayer has taken reasonable care in administering its tax obligations and the higher rate of 95% would apply where TRO has formed the view that the taxpayer has not taken reasonable care, has intentionally disregarded a taxation law and has deliberately concealed or suppressed information important to TRO in calculating the taxpayer's liability.

Voluntary disclosure of liability

The rate of penalty tax will also be affected by whether the taxpayer made an unprompted voluntary disclosure of an underpayment (that is, before being approached by TRO) or whether the underpayment was detected by TRO as part of an investigation.

A voluntary disclosure will result in a lower rate of penalty tax.

For further information on interest and penalty tax, refer to [CG-GEN-002 Interest and penalty tax](#).

Investigations, assessments and reassessments

TRO conducts an active and continuous payroll tax compliance program investigating registered taxpayers and unregistered businesses.

Most investigations ultimately arise from TRO's ongoing data-matching program, in particular using ATO income tax returns, BAS lodgements, ATO contractor payments report (the [Taxable payments annual report \(TPAR\)](#)), ATO PAYG payment summary records, work health premium payment records and motor vehicle registrations, to identify both unregistered businesses with potential payroll tax liabilities and underpayments or overpayments by existing registered taxpayers.

TRO will normally contact the taxpayer and formally request copies of documents for analysis (see [Record keeping](#)).

When the investigation is complete, if it appears that payroll tax has been underpaid, the taxpayer will normally be issued with a set of preliminary findings and a draft assessment for comment.

After receipt of comments, TRO will consider any additional information or documentation provided before the case is finalised. Taxpayers have the right to expect that the outcome of any investigation, including the reasons for any decisions made, will be fully explained as part of the assessment process.

Where payroll tax is owing, the assessment usually provides one-calendar month for payment.

In most cases the taxpayer will have the right to object to all or part of an assessment.

If an objection is upheld, TRO will issue a reassessment based upon the amended levels of taxable wages, payroll tax, interest and penalty tax resulting from the outcome of the objection.

For further information on the investigation process, refer to [I-GEN-002 Investigation Process](#).

Objections and appeals

Objection to a payroll tax assessment

A taxpayer has 60 days after an assessment is issued to lodge an objection. In special circumstances, the Commissioner may extend this period.

To maximise the integrity of the objection process, objections are reviewed by an independent group of employees within TRO who are not involved in the investigation and/or assessment process.

The objection must be in writing and give detailed reasons why the assessment is incorrect.

After the objection has been decided, TRO will issue the taxpayer with either:

- a reassessment for an increased or decreased amount, depending on the objection decision
- or a letter advising that the objection was not successful (therefore, there was no change to the amount owing).

The reasons for the objection decision will be explained in full.

Note: Lodgement of an objection does not suspend the requirement to pay the debt by the date specified in the assessment. In the event of a successful objection, any overpayment plus market interest would be refunded to the taxpayer.

Objection to a payroll tax reassessment

A payroll tax reassessment can arise for a number of reasons, the most common of which are to apply the outcome of a successful objection to the original assessment or TRO becoming aware of new information after having issued an assessment.

A taxpayer's right to object to a reassessment, which must be lodged within 60 days, is summarised as follows:

- if the payroll tax owing under the reassessment is less than that owing under the original assessment, there is no further right to object
- if the payroll tax owing under the reassessment is more than that owing under the original assessment, the taxpayer's right to object is limited to the amount of the increase only.

Appeals to the tribunal or court

If a taxpayer disagrees with the outcome of the objection, appeal proceedings may be commenced in either the Taxation and Royalty Appeals Tribunal or the NT Supreme Court. A 60-day limit applies for commencing action.

If the taxpayer appeals firstly to the Tribunal, and this is not successful, they retain a further right of appeal to the NT Supreme Court.

For further information on objections and appeals, refer to [CG-GEN-003 Objections and appeals](#).

Instalment arrangements

Where a taxpayer is genuinely unable to pay the whole of a payroll tax assessment by its due date, the taxpayer may apply to TRO to pay the debt by instalments.

All such applications will be considered but TRO is under no obligation to agree to such a request.

For periods in excess of three months, TRO will generally need to be satisfied that the taxpayer has exhausted all other forms of liquidity, including external loans, and the sale of non-essential business assets, before giving consideration to any such request.

Important: If your business anticipates any difficulty in meeting its payroll tax payment, please keep TRO informed of your circumstances so we can assist in ensuring appropriate arrangements can be put in place.

For further information on repaying a payroll tax liability under an instalment arrangement, refer to [CG-GEN-004 Instalment arrangements](#).

Alphabetical list of wage types – when are they taxable?

Type of payment or benefit	Payroll tax status
Accommodation allowance	Exempt if daily rate does not exceed the amount prescribed at Appendix 2 .
Adoption leave pay (where paid by employer)	Exempt (14 weeks maximum). Any other leave taken in conjunction (such as annual or long service) is not exempt.
Allowances	Taxable, subject to some exempt thresholds for car, travel and accommodation allowances (refer to ATO-prescribed free thresholds). Also see Appendix 2 .
Apprentice, graduate and trainee wages, superannuation and other payments	Exempt up to 30 June 2015 only. From 1 July 2015, payments made to apprentices, graduates and trainees are treated the same as payments made to all other employees.
Backpay	Taxable.
Board and quarters	Taxable to the extent taxable as a fringe benefit (grossed up by the Type 2 rate).
Bona fide redundancy payment	Exempt if does not exceed the ATO-prescribed tax-free limit, amount in excess is taxable.
Bonuses	Taxable.
Car allowance	Exempt if per-kilometre rate does not exceed the rate prescribed at Appendix 2 .
Car parking	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Clothing allowance	Taxable.
Club membership paid by employer	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Commission	Taxable.
Common law wages	Taxable.
Company car – home garaging	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Company car – private use by employee or director	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Company car – use by family of employee or director	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Consultant's fees	Will be taxable if the payment is classified as a taxable relevant contract, otherwise exempt.
Contractor payments	Taxable if a 'taxable relevant contract', less GST and contractor deduction.
Credit cards provided to employees and directors	Taxable to the extent that it is taxable as a fringe benefit (grossed up by the Type 2 rate).

Type of payment or benefit	Payroll tax status
Debt waiver	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Defence force leave paid by employer	Leave paid by the employer for members of the defence force reserves to participate in official reserves training is exempt from payroll tax.
Director's benefits (such as a company car for use by the director and or family members)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Director's fees	Taxable (whether or not working in the business).
Director's wages, superannuation, etc.	Taxable.
Dirt allowance	Taxable.
Discounted sale of real estate to employees and directors (or to their family members, family partnerships, family trusts or family companies)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Discounted staff and director purchases (includes family members, family partnerships, family trusts or family companies)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Emergency and volunteer worker wages (working under the <i>Disasters Act</i> or <i>Fire and Emergency Act</i>)	Exempt (provided that the leave is funded by the employer as paid volunteer leave – if the worker uses their own annual/recreational/long service leave/flex time/RDOs the payments are not exempt).
Entertainment allowance	Taxable.
Fixed price contract (for services provided by a contractor)	May be taxable as a relevant contract in specific circumstances.
Footwear allowance	Taxable.
Golden goodbye/golden handshake at termination, retirement or resignation	Taxable at face value if paid in cash, taxable as a fringe benefit if paid otherwise, grossed up by the Type 2 rate.
Golden hello (pre-employment incentive such as paid family holiday)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
GST	The GST component of a payment under a taxable relevant contract is not taxable, unless the worker claimed GST when not registered, in which case the GST is treated as taxable wages.
Gym membership paid by employer	Taxable as a fringe benefit (grossed up by the Type 2 rate).

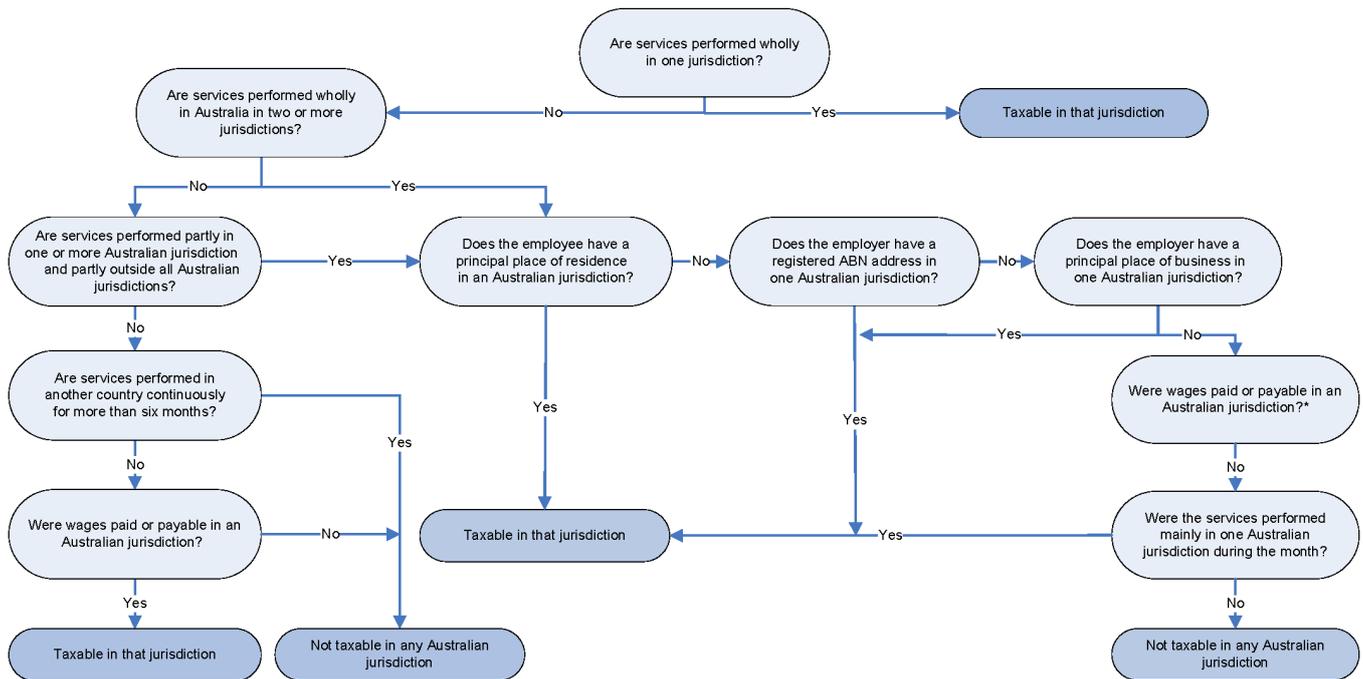
Type of payment or benefit	Payroll tax status
Higher duties allowance	Taxable.
Holiday pay (including that paid at termination)	Taxable.
Home garaging (of work car)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Home loan subsidy (for example, employer pays all or part of home loan interest)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Housing provided by (or subsidised by) employer	Taxable to the extent taxable as a fringe benefit (grossed up by the Type 2 rate).
In-house meals for employees	Taxable only to the extent taxable as a fringe benefit (grossed up by the Type 2 rate).
Labour hire – inwards (i.e. your business hires an employee from a labour hire firm)	Payroll tax is generally payable by the labour hire firm.
Labour hire – outwards (i.e. your business hires a worker to another business but continues to pay the worker)	Your business pays the payroll tax.
Leave loading	Taxable.
Living away from home allowance	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Loan – discounted interest rate	The value of interest foregone may be a fringe benefit, grossed up by the Type 2 rate (compare actual interest with the benchmark rate set annually by the ATO).
Loan – interest free	The value of interest foregone may be a fringe benefit, grossed up by the Type 2 rate (compare actual interest with the benchmark rate set annually by the ATO).
Long service leave pay (including that paid at termination)	Taxable.
Make-up pay (workers' compensation)	Taxable.
Management fees	Taxable in some circumstances – if the work was performed by a director or employee and payment was made to that individual or a business associated with that individual, the payment may be taxable.
Maternity leave pay (where paid by employer)	Exempt (14 weeks maximum). Any other leave taken in conjunction (such as annual or long service) is not exempt.
Meal allowance	Taxable.

Type of payment or benefit	Payroll tax status
Meals – in house for employees	Taxable only to the extent taxable as a fringe benefit (grossed up by the Type 2 rate).
Options to acquire shares	Taxable at face value or taxable as a fringe benefit, depending upon legal status of share scheme under the ITAA.
Overseas employee wages – visa holders	Taxable in same manner as any other Australian resident worker.
Overseas worker wages – Australian resident working temporarily overseas for your business	Wages are subject to NT payroll tax until six months of continuous overseas work, thereafter exempt (including retrospective exemption of the first six months).
Overseas workers (overseas residents doing short-term work in Australia)	Wages earned for work in Australia are taxable wages in the state where most (more than half) of the work is done while in Australia (even if wages are paid into an overseas bank account), see Example 6 on page 21.
Overtime	Taxable.
Overtime meal allowance	Taxable.
Parental, adoption, paternity or maternity leave paid by a government scheme (the 'Paid Parental Leave' scheme or equivalent)	Not treated as wages (not paid by employer), therefore not subject to payroll tax.
Parental leave pay (where paid by employer)	Exempt (14 weeks maximum). Any other leave taken in conjunction (such as annual or long service) is not exempt.
Pay in lieu of notice of termination	Taxable.
Phone bills paid for employees' personal phone costs	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Piece work payments to a contractor (for example, \$ per square metre)	Taxable as a relevant contract in specific circumstances.
Prizes (for goods or services) provided to employees	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Professional advice funded for employees (for example, taxation, legal, retirement)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Redundancy payments	Exempt if does not exceed the ATO-prescribed income tax-free limit, amount in excess is taxable.
Rental assistance by employer	Taxable to the extent taxable as a fringe benefit (grossed up by the Type 2 rate).

Type of payment or benefit	Payroll tax status
School fees	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Shares and options	Taxable at face value or taxable as a fringe benefit, depending upon legal status of share scheme under the ITAA.
Shift allowance	Taxable.
Sick leave pay (including that paid at termination)	Taxable.
Sick pay	Taxable.
Site allowance	Taxable.
Staff discounts	Generally taxable as a fringe benefit (grossed up by the Type 2 rate)(exceptions may apply to 'in-house' benefits).
Subcontractor payments	Taxable if designated as a 'taxable relevant contract', less GST and percentage contractor deduction.
Subscriptions paid for employees	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Superannuation contribution – 'in kind' (for example, transferring company shares or company real property into an employee's or director's personal superannuation fund)	Taxable.
Superannuation – employer's contribution in excess of statutory minimum	Taxable.
Superannuation – employer's statutory contribution	Taxable.
Superannuation – personal contribution made by employee from after-tax income	Not taxable.
Superannuation – salary sacrifice by employee from pre-tax income	Taxable.
Tool allowance	Taxable.
Trainees' wages and superannuation	Exempt up to 30 June 2015 only, taxable in full thereafter.
Travel (private purposes, including family members accompanying employees to business conferences)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Uniform allowance	Taxable.

Type of payment or benefit	Payroll tax status
Visa holders – wages, superannuation, etc.	Taxable in same manner as any other Australian resident worker.
Vouchers (provided to employees to purchase goods or services, such as a free round of golf)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Wages and salaries (gross before income tax)	Taxable.
Wages and salaries in respect of flex time or a rostered day off	Taxable in same manner as other wages and salaries.
Wages etc. in relation to a worker recruited (as a permanent employee, not a labour hire arrangement) through an employment agent	As soon as your business commences paying the worker as an employee or taxable contractor, your business will be liable for payroll tax.
Wages paid to emergency and volunteer workers (working under the <i>Disasters Act</i> or <i>Fire and Emergency Act</i>)	Exempt (provided that the leave is funded by the employer – if the worker uses their own annual/recreational/long service leave/flex time/RDOs the payments are not exempt).
Waiver of debt (a debt from the employee to the employer)	Taxable as a fringe benefit (grossed up by the Type 2 rate).
Workers' compensation insurance premiums paid by employer	Not part of wages, outside the scope of payroll tax – exempt.
Workers' compensation payments made by insurer	Exempt.
Workers' compensation payments (make-up pay paid by employer)	Taxable.

Appendix 1: Payroll tax nexus rules



Appendix 2: Exempt rates – motor vehicle and accommodation allowance

	Motor vehicles (per kilometre) as set by the ATO	Motor vehicles (per kilometre) for payroll tax	Accommodation (per night)
2022 to 2023	78 cents	72 cents	\$289.15
2021 to 2022	72 cents	72 cents	\$285.65
2020 to 2021	72 cents	68 cents	\$283.45
2019 to 2020	68 cents	68 cents	\$280.75
2018 to 2019	68 cents	66 cents	\$278.05
2017 to 2018	66 cents	66 cents	\$266.70
2016 to 2017	66 cents	77 cents	\$257.95
2015 to 2016	77 cents	77 cents	\$255.45
2014 to 2015	77 cents	75 cents	\$253.25
2013 to 2014	75 cents	75 cents	\$250.85
2012 to 2013	75 cents	75 cents	\$248.25
2011 to 2012	75 cents	75 cents	\$238.10

For more information on the treatment of motor vehicle and accommodation allowances, refer to [PTA005: Exempt allowances – motor vehicle and accommodation](#).

Appendix 3: Fringe benefits

Type 2 gross-up rate used for calculating taxable wages for payroll tax returns

	Type 2 gross-up rate
April 2009 to March 2014	1.8692
April 2014 to March 2015	1.8868
April 2015 to March 2017	1.9608
April 2017 onwards	1.8868

Appendix 4: Relevant contract analysis schedule

Available on [TRO's website](#)

Appendix 5: Tax-free entitlements (annual deductions), payroll tax rates and interest rates

Period	Maximum annual deduction	Maximum monthly deduction	Tax rate	Interest		
				Premium rate	Market rate	Total
	\$	\$	%	%	%	%
July 2022 to June 2023	1 500 000*	125 000*	5.5	8	1.00	9.00
July 2021 to June 2022	1 500 000*	125 000*	5.5	8	0.04	8.04
July 2020 to June 2021	1 500 000*	125 000*	5.5	8	0.10	8.10
July 2019 to June 2020	1 500 000*	125 000*	5.5	8	1.54	9.54
July 2018 to June 2019	1 500 000*	125 000*	5.5	8	1.96	9.96
July 2017 to June 2018	1 500 000*	125 000*	5.5	8	1.73	9.73
July 2016 to June 2017	1 500 000*	125 000*	5.5	8	2.01	10.01
July 2015 to June 2016	1 500 000*	125 000*	5.5	8	2.15	10.15
July 2014 to June 2015	1 500 000*	125 000*	5.5	8	2.69	10.69
July 2013 to June 2014	1 500 000*	125 000*	5.5	8	2.82	10.82
July 2012 to June 2013	1 500 000*	125 000*	5.5	8	3.66	11.66
July 2011 to June 2012	1 500 000*	125 000*	5.5	8	5.00	13.00
July 2010 to June 2011	1 250 000	104 167	5.9	8	4.80	12.80
July 2009 to June 2010	1 250 000	104 167	5.9	8	3.13	11.13
July 2008 to June 2009	1 250 000	104 167	5.9	8	7.75	15.75
July 2007 to June 2008	1 250 000	104 167	6.2	7	6.37	13.37
July 2006 to June 2007	1 250 000	104 167	6.2	7	5.87	12.87
July 2005 to June 2006	1 000 000	83 333	6.2	7	5.68	12.68

* Note: The maximum deduction is reduced on a proportionate basis where interstate wages are paid and or where Australian wages exceed \$1,500,000 (see [Calculating and Paying your Payroll Tax](#) for more details).