



Pay-roll Tax

Superannuation

Pay-roll Tax Assessment Act 2002

As at 1 July 2012

Introduction

Superannuation contributions made by an employer have been liable to pay-roll tax since 1 July 1997. From 1 July 2009, revised legislation has come into effect regarding the treatment of employer superannuation contributions to or for an employee for pay-roll tax purposes.

The new provisions

A superannuation contribution falls within the definition of wages under sections 9CA to 9CD of the *Pay-roll Tax Assessment Act 2002* ("the Act"). A superannuation contribution is taken to be:

- a) contribution **paid or payable** by an employer to, or as, a superannuation fund in respect of an employee in a return period; or
- b) any amount, although not paid or payable, that is or is required to be credited under a superannuation fund as an employer's contribution in respect of an employee (this refers only to an Australian superannuation fund that does not provide any defined benefits).

An *Australian superannuation fund* means a superannuation fund that was established in Australia or has any asset in Australia, and has its central management in Australia.

The amount to be included as a superannuation contribution is:

- a) the contribution made by the employer in the return period;
- b) a notional contribution taken to have been made by the employer in the return period;
- c) if an employer has an individual superannuation guarantee shortfall for the return period, the amount of the shortfall.

The setting aside of any money or anything that is worth money as, or as part of, a superannuation fund is taken to be the payment of a contribution.

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Employee includes any person to whom (or in relation to whom) wages are payable and any person to whom remuneration is paid or payable by a company in that person's capacity as a director of that company.

Superannuation Fund means:

- a) a superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwth);
- b) any other form of superannuation, provident or retirement fund or scheme including -
 - i. the Superannuation Holding Accounts Special Account within the meaning the *Small Superannuation Accounts Act 1995* (Cwth); and
 - ii. a retirement savings account within the meaning of the *Retirement Savings Accounts Act 1997* (Cwth).

A *notional contribution* is taken to have been made if the employee is a member of an Australian Superannuation fund and the fund is a defined benefit fund. For each return period in which an entitlement accrues, an employer is taken to have made a notional contribution to the fund in that return period. The amount of the notional contribution is the amount that an actuary determines would be sufficient to meet the expected long-term cost to the employer of that benefit.

If an employer makes a notional contribution to the fund for the employee as described above, no *actual* contribution for that employee is to be included in the pay-roll tax return as wages. This ensures that the amount payable and the amount paid are not accounted for twice.

An *individual superannuation guarantee shortfall* has the same meaning as it has in section 19 of the *Superannuation Guarantee (Administration) Act 1992* (Cwth). The shortfall for the purposes of inclusion as wages does not include any superannuation guarantee shortfall penalty imposed on the employer because of non-compliance with choice of fund requirements.

If an employer's contribution to a fund is payable, but not paid, it is treated as a superannuation contribution for pay-roll tax purposes, and the amount should be declared on the pay-roll tax return at the time the contribution arises. As a superannuation contribution for pay-roll tax purposes also includes an individual superannuation guarantee shortfall paid to the Australian Taxation Office, any amount that is treated as an individual superannuation guarantee shortfall, as a result of the employer's failure to pay the contribution, is reduced by the amount the employer has declared as a superannuation contribution for pay-roll tax purposes in a return for that period. Without this provision, an employer would be liable for pay-roll tax on both contributions. Any penalty included in a superannuation guarantee shortfall is not included for pay-roll tax purposes.

If an employer has an individual superannuation guarantee shortfall for an employee, that shortfall is taken to be paid for the *last* month of the quarter (as section 17 of the *Superannuation Guarantee (Administration) Act 1992* requires that a superannuation guarantee shortfall is calculated each quarter).

Superannuation holidays

Occasionally, employers make contributions to defined superannuation funds in excess of requirements. The superannuation fund may then advise the employer that no further contributions are required for a certain period. This is known as a superannuation holiday, and during this 'holiday' the employer is not in effect making any superannuation contributions, and therefore is not required to declare that component of taxable wages.

This pay-roll tax information should be used only as a guide and if you have any questions regarding your liability or require more detailed information, please contact the Office of State Revenue.

Contact the Office of State Revenue

Office	Office of State Revenue Plaza Level 200 St Georges Terrace PERTH WA 6000	Telephone	(08) 9262 1300 1300 368 364 (WA country STD callers only – local call charge)
Office hours	8:00 am – 5:00 pm Monday to Friday	Facsimile	(08) 9226 0841
		Web Enquiry	www.osr.wa.gov.au/PayrollEnquiry
		Website	www.osr.wa.gov.au
Postal	Office of State Revenue GPO Box T1600 PERTH WA 6845		

Note: The information contained in this FACT SHEET is issued for guidance purposes only. It is not an exhaustive explanation of the provisions of the *Pay-roll Tax Assessment Act 2002* and reference should be made to the Act for complete details.