

SOUTH AUSTRALIAN PAY-ROLL TAX LIABILITY FOR WAGES PAID BY AN EMPLOYER

The *Pay-roll Tax (Harmonisation Project) Amendment Act 2008*, which was assented to on 26 June 2008 and comes into operation on 1 July 2008, makes amendments to the *Pay-roll Tax Act 1971* (the "Act") to harmonise legislative and administrative arrangements with other States and Territories. One of the areas that has been harmonised is liability for wages paid for services performed in another country.

The purpose of this Circular is to clarify the circumstances when wages must be declared in South Australia for pay-roll tax purposes and to clarify the liability for wages paid for services performed in another country (or countries).

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

To determine whether the wages paid or payable in respect of each monthly return period are subject to South Australian pay-roll tax, two factors need to be considered:

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

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

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

The following table shows the circumstances in which wages are taxable in South Australia. It is important to note that the liability for South Australian pay-roll tax must be considered separately for each calendar month.

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

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

Where an employee is working outside any State or Territory, but not in another country, the wages are taxable under the Act if they are paid in South Australia. Employees working on an oil rig would not be considered as working in another country unless the oil rig is physically located in another country.

Employees working in another country

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

- wages are exempt if the employee has worked in another country for a continuous period of more than six months (i.e. the exemption from pay-roll tax applies for the whole assignment, including the first six months);
- the six-month period does not have to be within the one financial year but must be a continuous period;
- where an employee, working in another country, returns to Australia in the following circumstances, it will not be considered to be a break in continuity:
 - for a holiday; or
 - to perform work exclusively related to the overseas assignment for a period of less than one month.

and the employee immediately returns to that country to perform further work on the assignment.

Please refer to Circular No 297 entitled "Expatriate Employees" for further details on employees working in another country.

This Circular is effective from 1 July 2008.

Please note that circulars do not have the force of law.

FURTHER INFORMATION

Further information regarding these amendments may be obtained from RevenueSA.

Location

RevenueSA
State Administration Centre
200 South Australia Square East
ADELAIDE SA 5000

Postal

Commissioner of State Taxation
RevenueSA
GPO Box 1353
ADELAIDE SA 5001

Telephone

(08) 8204 9880

Facsimile

(08) 8226 3805

Website

www.revenuesa.sa.gov.au

Email

payrolltax@saugov.sa.gov.au

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COMMISSIONER OF STATE TAXATION

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