

# REVENUE RULINGS

## GST considerations for the calculation of pay-roll tax liability

### Revenue Ruling PT.101

#### Preamble

From 1 July 2000, the supply of most goods and services became subject to the Commonwealth's Goods and Services Tax (the GST). The introduction of the GST has relevance to pay-roll tax because certain supplies which are subject to the GST are also subject to pay-roll tax. These include the supply of labour services provided by independent contractors and agency supplied staff.

As part of the arrangements in relation to the Intergovernmental Agreement on the GST the Victorian Government introduced amendments to sections 3C and 3D of the *Pay-roll Tax Act 1971* (the Act) to ensure that the GST component of payments to contractors and employment agencies (for on-hired workers) would be excluded from pay-roll tax calculations.

In addition to payments to contractors and employment agencies (for on-hired workers), the GST has an impact on the calculation of the Commonwealth's fringe benefits tax. Taxable wages for pay-roll tax include fringe benefits valued in accordance with the *Fringe Benefits Tax Assessment Act 1986* (the FBT Act). Therefore the impact of the GST on fringe benefits must also be taken into account when considering a pay-roll tax liability.

The purpose of this ruling is to explain how the GST impacts on the calculation of an employer's liability for pay-roll tax.

#### Ruling

##### ***Payments to, or in relation to, employees***

Employees' wages and salaries are not subject to GST. Consequently, there is no impact for pay-roll tax purposes.

##### ***Payments to, or in relation to, contractors***

With effect from 1 July 2000, a new section 3C(6)(h) has been inserted into the Act. It provides that an employer can exclude the GST component from those payments to contractors

which are deemed to be taxable wages under the Act.

*Example: Employer A engages Contractor B for 12 months. Contractor B invoices Employer A for \$6,000 a month plus \$600 GST.*

*Assuming that the payments are not otherwise exempt under section 3C of the Act, the deemed taxable wages are \$6,000 per month.*

##### ***Payments in relation to employment agency contracts***

With effect from 1 July 2000, a new section 3D(2A) has been inserted into the Act to provide that the GST component of an amount charged by an agency to its client for the provision of on-hired labour is excluded from the deemed taxable wages for pay-roll tax purposes.

*Example: An employment agency provides a person to its client for ten days in a calendar month at \$200 per day plus \$20 GST.*

*Deemed wages for the month  
\$2,000  
Less prescribed 25% deduction  
\$500  
Deemed taxable wages  
\$1,500*

##### ***Fringe benefits***

Prior to 1 July 2001, the taxable value of a benefit for pay-roll tax purposes was the non-grossed up taxable value calculated in accordance with the FBT Act. With effect from 1 July 2001, the Act was amended so that the taxable value of a benefit for pay-roll tax purposes is the grossed-up taxable value calculated in accordance with the FBT Act.

With the introduction of the GST on 1 July 2000, the taxable value of a fringe benefit may or may not include GST depending on the valuation rules applicable under the FBT Act. In addition, the formula used to gross-up the taxable value of a fringe benefit varies depending on whether GST input tax credits are available to the employer or an associate of the employer in relation to the provision of the fringe benefit.

*Benefits provided on or after 1 July 2000, but prior to 1 July 2001*

For pay-roll tax purposes, the taxable value of a fringe benefit provided during this period is the non-grossed up taxable value calculated in accordance with the FBT Act.

Where the taxable value determined in accordance with the FBT Act includes GST, the GST amount is also included in the taxable value to be declared for pay-roll tax purposes.

*Benefits provided on or after 1 July 2001*

With effect from 1 July 2001, the Act has been amended so that the grossed-up taxable value, as determined under the FBT Act, is to be declared for pay-roll tax purposes.

Where the taxable value determined in accordance with the FBT Act includes GST, the GST amount is also included in the taxable value for pay-roll tax purposes.

The applicable gross-up formula is the same as that which applies under the FBT Act according to whether the benefit is categorised as a 'Type 1' or a 'Type 2' benefit.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

**Commissioner of State Revenue  
June 2002**

