



REVENUE RULING

PT 4.0

PAY-ROLL TAX LIABILITY WHERE SERVICES PERFORMED OFFSHORE OR OUTSIDE AUSTRALIA

RULING HISTORY

Revenue Ruling	Issued	Dates of effect	
		From	To
PT 4.0	November 1997	November 1997	25 June 2010

INTRODUCTION

1. Pay-roll tax is payable in all States and Territories of Australia and is administered by each State or Territory under their own separate legislation.
2. The purpose of this revenue rulings is to provide employers with the coastal limits of each State or Territory (with the exception of the Australian Capital Territory) as a guideline to assist in the determination of the State or Territory in which pay-roll tax is payable, where services are performed offshore, but within the coastal limits of that State or Territory.
3. Where services are performed outside the coastal limits of any State or Territory, or outside Australia but payment is in Australia, this ruling determines the State or Territory in which the pay-roll tax is payable.
4. This ruling has been developed jointly by all States and Territories to ensure that where wages are paid in such circumstances, the pay-roll tax that is payable is not sought by more than one State or Territory.

RULING

5. A liability for pay-roll tax arises in a particular State or Territory where:
 - (a) services are performed wholly in that State or Territory regardless of where the wages are paid or payable; or
 - (b) wages are paid or payable in that State or Territory in respect of services which are not performed wholly in another State or Territory.

6. The reference to a particular State or Territory in the pay-roll tax legislation of that State or Territory may include the sea adjacent to that State or Territory to certain limits that differ across jurisdictions. These limits are provided in the Schedule to this ruling.
7. The liability of wages to pay-roll tax in some jurisdictions extends beyond payment for services performed on the land of a State or Territory to include payment for services performed at sea but within the coastal limits of that State or Territory.
8. The schedule to this ruling provides the coastal limits of each State or Territory in order for employers to determine whether they are operating within a particular State or Territory.
9. Where a drilling rig, platform, etc. is operating within the coastal limits of a particular State or Territory, wages paid or payable for services performed on that rig, platform, etc. will be liable to pay-roll tax in that State or Territory regardless of where the wages are paid or payable. For example, wages paid in New South Wales for services performed on a drilling rig operating within the coastal limits of Western Australia are liable to pay-roll tax in Western Australia.
10. Where a rig, platform, etc. is operating outside the coastal limits of all State and Territories, or an employee performs services entirely outside of Australia (i.e. in another country), the jurisdiction in which the pay-roll tax liability arises is determined by the State or Territory where the wages are paid or payable, subject to any exemption provisions which apply in that jurisdiction.
11. In Western Australia, an exemption exists for services performed wholly in another country or countries for a continuous period of six months after wages were first paid for the services in question. Wages paid in the first six months are still liable to pay-roll tax. Some examples for further clarification are provided below.
 - (a) Where payment of wages for services performed in Africa for a continuous period of more than six months, is made to a person's bank account in Western Australia, pay-roll tax liability is incurred in Western Australia for the first six months only.
 - (b) Where payment of wages for services performed outside the coastal limits of all jurisdictions, but not in another country, is paid to a person's bank account in Western Australia, pay-roll tax is incurred in Western Australia and no exemption is available.
 - (c) Where payment of wages is made by cash or cheque, pay-roll tax liability is incurred in the State or Territory in which the cash is given to the employee, or the State or Territory in which the cheque is received by the employee.
12. A number of jurisdictions provide an exemption in respect of wages paid for services performed entirely outside Australia. Accordingly, employers

should check with the jurisdiction in which the wages are paid in order to ascertain the position in that jurisdiction.

DATE OF EFFECT

This Revenue Ruling takes effect from 1 November 1997

SCHEDULE

COASTAL LIMITS OF EACH STATE AND TERRITORY

Western Australia

By virtue of section 3(1)(b) of the *Offshore (Application of Laws) Act 1982*, any reference to Western Australia in a written law of the State is deemed to include a reference to the coastal waters of the State.

Accordingly, for the purposes of the *Pay-roll Tax Assessment Act 2003* and *Pay-roll Tax Assessment Act 1971*, and in the context of offshore oil and gas rigs, and platforms, etc., the coastal limits of Western Australia means, in general terms, all seas adjacent to the State within three nautical miles to the seaward side of the territorial sea baseline. The territorial sea baseline follows the low water mark on the State's mainland and islands, and deviates offshore across river mouths and bays of less than 24 nautical miles in width.

As a guide, a rig, platform, etc. is considered to be operating within the coastal waters of Western Australia if conducting operations under a Drilling Reservation, Exploration Permit, Production Licence, Retention Lease, Special Prospecting Authority, Access Authority, Petroleum Lease or Pipeline Licence issued by the Western Australian Department of Information and Resources under the *Petroleum Act 1967*, *Petroleum Pipelines Act 1969*, or *Petroleum (Submerged Lands) Act 1982*.

Queensland

For the purposes of Queensland's *Pay-roll Tax Act 1971*, a reference to Queensland means the land territory of Queensland as delineated at the coast by the low water mark.

Victoria

For the purposes of the Victorian *Pay-roll Tax Act 1971*, a reference to Victoria means Victoria's land mass, inland waters and coastal waters down to the low water mark.

New South Wales

For the purposes of the *Pay-roll Tax Act 1971* (NSW), the expression "in New South Wales" means within the territorial limits of New South Wales together with coastal waters of the State including the three mile limit of the coastal sea of New South Wales.

Tasmania

By virtue of section 5 of the *Coastal Waters (State Powers) Act 1980* (Commonwealth), Tasmania exercises jurisdiction over its coastal waters. As a result of that Act, Tasmania extends its legislation to the breadth of the territorial sea. That distance is currently three nautical miles. There are baselines from which that distance is measured so that large stretches of internal waters are not included in the measurement.

The terms "adjacent area of Tasmania" and "coastal waters of the State" are defined in both the *Coastal Waters (State Powers) Act 1979* and the *Coastal and Other Waters (Application of State Laws) Act 1982* (Tas).

For the purposes of the *Pay-roll Tax Act 1971*, any operations being conducted within the three mile limit would be liable for pay-roll tax in Tasmania.

South Australia

For the purposes of the *Pay-roll Tax Act 1971 (SA)*, South Australia's coastal border is defined by reference to the mean low water mark.

Northern Territory

By virtue of section 3(1)(b) of the *Off-shore Waters (Application of Territory Laws) Act 1985*, any reference in a written law of the Territory, to the Territory, the Northern Territory, or other similar reference is deemed to include a reference to the coastal waters of the Territory.

For the purposes of the Pay-roll Tax Act in the Northern Territory and offshore oil and gas rigs, platforms, etc., "coastal waters" means that part or parts of the territorial sea of Australia that is within the adjacent area in respect of the Territory, subject to the limitation that the area in question must not be further than three nautical miles from the Australian territorial sea baseline as defined by proclamation in the Commonwealth Gazette number S29 dated 9 February 1983.