

# Guideline

## EISPR4

### Employment Incentive Scheme (Payroll Tax Rebate)

*Employment Incentive Scheme (Payroll Tax Rebate) Act 2009*

#### Introduction

The Tasmanian Government introduced EISPR4 to provide employers with payroll tax rebates equivalent to the payroll tax levied on wages paid to eligible new employees between 1 July 2014 and 30 June 2016.

The scheme is an incentive for creating additional positions in Tasmania between 30 June 2014 and 30 June 2015, and maintaining them through to 30 June 2016.

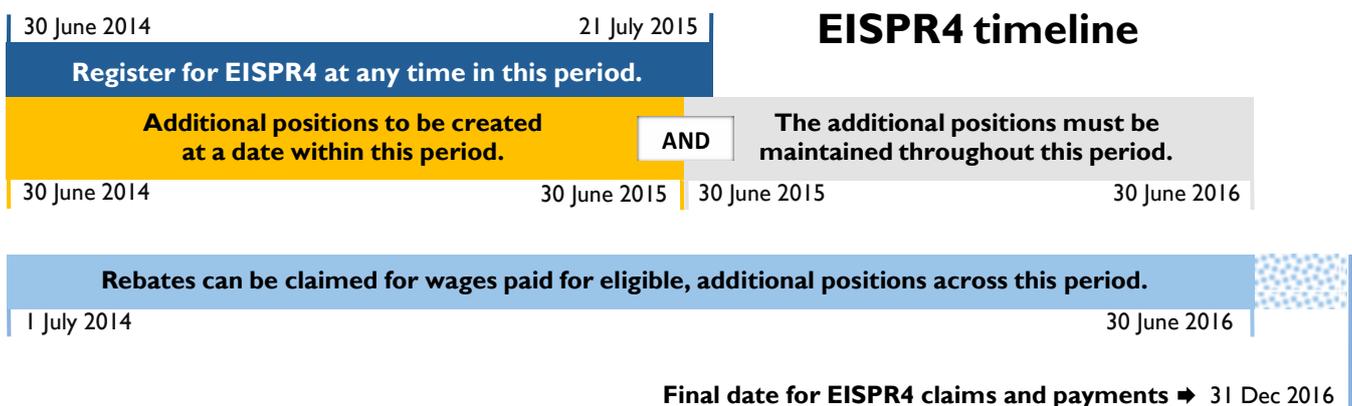
The duration and/or amount of EISPR4 will not change unless advised otherwise by the Treasurer in a notice published in the Government Gazette.

The EISPR4 rebate can be claimed on any new position (including apprentice/trainee positions) that meets the eligibility criteria and conditions set out in this guideline.

Positions created under EISPR3 are **not** eligible for the EISPR4 rebate. EISPR3 positions will form part of an employer's FTE Base Employment Level at 29 June 2014 should they decide to register for EISPR4.

#### *Circumstances for employment agents / labour hire businesses*

Employment agents or labour hire businesses will be able to participate in EISPR4 provided they satisfy the eligibility criteria and conditions of the rebate, including the additional conditions and eligibility criteria applicable to the on-hiring of employees to indirect employers.



**Employers must meet these eligibility criteria/conditions to be entitled to receive/retain EISPR4.**

### **Eligibility Criteria**

#### **1. Employers**

- 1.1 Must be registered for and pay payroll tax in Tasmania.
- 1.2 Must register for EISPR4.
- 1.3 Ensure their FTE Employment Level does not fall below their FTE Base Employment Level.

#### **2. Positions**

- 2.1 The eligible positions must:
  - a) constitute newly created positions filled on or after 30 June 2014 and on or before 30 June 2015; and
  - b) be maintained continuously up to and including 30 June 2016<sup>\*</sup>; and
  - c) be part-time or full-time appointments, but not seasonal or casual; and
  - d) create a liability for payroll tax within Tasmania; and
  - e) constitute a Net Increase to the employer's FTE Base Employment Level.

#### **3. Company mergers / takeovers**

- 3.1 Where businesses merge or are subject to a takeover, EISPR4 will not be available for any employees that were employed by either employer before the merger/takeover – except those employees for whom either employer was receiving EISPR4 before the merger/takeover.

#### **4. Grouping**

- 4.1 Where employers constitute a group for the purposes of Part 5 of the *Payroll Tax Act 2008*, the rebate will not be available for any employee previously employed by a member of the group that is subsequently employed by another member of the group – except where EISPR4 was being received for an employee before the employee restructure.

#### **5. Registrations and Claims**

- 5.1 Employers must satisfy the registration and claim requirements; see page 4 for links to the forms.

### **Conditions**

#### **1. General**

- 1.1 Employers must lodge their returns and pay their payroll tax by the due date to be eligible for EISPR4 for the same period.
- 1.2 Employers must comply with all legislative requirements of the *Payroll Tax Act 2008* and the *Employment Incentive Scheme (Payroll Tax Rebate) Act 2009*.
- 1.3 Employers must provide any information requested by the Commissioner of State Revenue and cooperate with any compliance checks made by the SRO within the time permitted, and/or repay any EISPR4 received when demanded.
- 1.4 Employers must complete and lodge the EISPR4 Annual Adjustment Summary with the SRO for the 2014-15 and 2015-16 financial years by 31 August 2015 and 31 August 2016 respectively.
- 1.5 Employers must provide all information requested in the registration and claim forms.

<sup>\*</sup> Or, in the event EISPR4 is closed earlier by the Treasurer, the eligible positions must be maintained until that revised date.

### **Conditions continued**

#### **2. Employment circumstances**

- 2.1 Employers must notify the Commissioner within 14 days, and, if required, repay any EISPR4 received within a period specified by the Commissioner where, for any reason:
  - a) the position(s) for which EISPR4 was received are not maintained through to 30 June 2016<sup>\*†</sup>; or
  - b) there is a change to the employer's FTE Employment Level<sup>†</sup>.

#### **3. Debts, rebates and repayments**

- 3.1 Where an employer has an unpaid payroll tax liability they will not be entitled to the EISPR4 until the tax (including any interest and penalty) has been paid.
- 3.2 Where an eligible employer pays an outstanding payroll tax liability after the closure of the EISPR4, the rebate will not be backdated.
- 3.3 EISPR4 may be offset against any unpaid tax debt owing to the Commissioner.
- 3.4 Unclaimed rebates identified by the eligible employer or through future payroll tax audits cannot be claimed retrospectively.

### **Definitions**

#### **FTE Employment Level**

An employer's FTE (Full Time Equivalent) Employment Level is derived by dividing the total contracted weekly working hours of all employees at a particular point in time by the average number of contracted hours worked per week by full time employees at that point in time.

#### **FTE Base Employment Level**

An employer's FTE Base Employment Level is their FTE Employment Level determined at 29 June 2014 (see example on page 4).

#### **Net Increase to FTE Base Employment Level**

A Net Increase to an Employer's FTE Base Employment Level is determined by calculating the employer's FTE Base Employment Level and comparing it to their FTE Employment Level at the subsequent point in time (see example on page 4). Where the subsequent figure is higher than the FTE Base Employment Level, the difference represents a Net Increase to the employer's FTE Base Employment Level.

#### **Notes to Definitions:**

- 1. Should an employee resign (who was included in the employer's FTE Base Employment Level), the eligible position with the highest taxable wages will be assigned to the employer's FTE Base Employment Level. The EISPR4 received for this employee must be repaid.
- 2. The Commissioner may adopt or approve another basis to calculate the employer's Employment Level.<sup>‡</sup>

<sup>†</sup> If the loss of an EISPR4 position or a decrease to an employer's FTE Employment Level is merely temporary (ie staff resignation), an employer who immediately take steps to replace the position/s may seek an exercise of the Commissioner's discretion to disregard the temporary decrease in the FTE Employment Level or failure to maintain the eligible position. The Commissioner's decision in this regard is non-reviewable.

<sup>‡</sup> In this situation, the Commissioner's decision is non-reviewable.

## **Additional eligibility criteria and conditions for Employment Agents, Labour Hire Businesses and Indirect Employers**

Generally, the party that pays payroll tax in respect of an employee is the employer entitled to EISPR4.

Therefore, in the case of Employment Agents and Labour Hire Businesses, EISPR4 is payable to them where they either:

- i) on-hire the employee to the indirect employer, in which case both the standard and additional eligibility criteria and conditions must be satisfied;
- ii) do not on-hire the employee (ie the employee is part of the agent's/business's own staff), in which case only the standard eligibility criteria and conditions must be satisfied.

Where the indirect employer themselves enter into a contract of employment directly with the outsourced employee, the indirect employer will be entitled to EISPR4, provided the standard eligibility criteria and conditions are satisfied.

### ***Additional Eligibility Criteria***

#### **6. Employees and Contracts**

- 6.1 Should an employment agent or labour hire business take on additional staff who are, or are intended to be, outsourced to an indirect employer under a labour hire agreement, EISPR4 is only available for those employees where:
  - a) a contract exists between the employment agent/labour hire business and the indirect employer for the position to be:
    - i) appointed between 30 June 2014 and 30 June 2015; and
    - ii) maintained until at least 30 June 2016;
  - b) the indirect employer and the employment agent/labour hire business are registered for EISPR4 and pay payroll tax in Tasmania;
  - c) the position filled by the outsourced employee would constitute a Net Increase to the indirect employer's FTE Base Employment Level were that person employed directly by the indirect employer;
  - d) the indirect employer must maintain their FTE Base Employment Level;
  - e) there is not a substantial decrease in the number of casual positions employed by the indirect employer.
- 6.2 Where the indirect employer directly engages an employee before 1 July 2016, who had initially been sourced from an employment agent or labour hire business between 30 June 2014 and 30 June 2015 and is continuously maintained: it will be considered that the indirect employer employed the person at the time they were first outsourced to them. Therefore, they would be eligible to claim the rebate for that employee in their own right.

### ***Additional Conditions***

#### **4. Rebates and Repayments**

- 4.1 Where EISPR4 is paid for an employee of an employment agent/labour hire business who is outsourced to one of the organisation's clients (indirect employer):
  - a) EISPR4 will only be paid annually after lodgement and payment of the employment agent's/labour hire business's Annual Adjustment Return;
  - b) the employment agent/labour hire business must, unless the parties to the arrangement agree otherwise, pay any EISPR4 rebates received for that outsourced employee(s) to the indirect employer within 21 days of their receipt.
- 4.2 The indirect employer must notify the Commissioner within 14 days and, if applicable, repay any EISPR4 they have received from the employment agent/labour hire business should the eligibility criteria or conditions not be met. Where the EISPR4 has not been on-paid to the indirect employer by the employment agent/labour hire business, in those circumstances the latter must repay the rebate(s).

## Sample calculations

### FTE Base Employment Level

#### 1. Determine total contracted weekly hours at 29 June 2014:

Type of employee	Number of employees	Contracted weekly hours (each)	Weekly combined hours
Full-time	20	40	800
Part-time (not seasonal or casual appointments)	10	20	200
	5	10	50
<b>Total</b>			<b>1050</b>

#### 2. Divide the employer's total contracted weekly hours by the average number of contracted hours worked by full time employees at 29 June 2014 to determine the FTE Base Employment Level:

Total contracted weekly hours worked	1050
Divide total by average contracted weekly hours worked (in full-time jobs)	40
<b>FTE Base Employment Level</b>	<b>26.25</b>

### Net Increase to the FTE Base Employment Level

If, on or after 30 June 2014, two additional part-time staff are employed, both working 15 hours a week with taxable wages of \$20,000 per annum each, the new total weekly contracted hours worked for the employer would be  $1050 + (2 \times 15) = 1080$  hours.

The employer's new FTE Employment Level would be  $1080 \div 40 = 27$ , which is a net increase to the FTE Base Employment Level of 0.75.

Because these wages are paid to employees whose positions are in addition to the employer's FTE Base Employment Level, both additional positions represent a Net Increase to the FTE Base Employment Level and are therefore eligible new positions for the purposes of the EISPR4.

The total rebate would be \$2 440 per annum (being 6.1 per cent (*the rate of payroll tax*) of the \$40 000 in combined wages paid to the persons in eligible new positions).

## Registering for EISPR4

Please use the [EISPR4 Registration Form](#) (also at [www.sro.tas.gov.au](http://www.sro.tas.gov.au)).

Current payroll tax taxpayers must forward their EISPR4 Registration Form to the SRO no later than 21 July 2015.

New payroll tax registrants (after 21 July 2015) must forward their EISPR4 Registration Form to the SRO no later than 21 days after being registered for payroll tax.

Late rebate claims may be accepted by the Commissioner using their absolute discretion.

## Claiming EISPR4

### Claim Form – General

Direct employers should use this [Claim Form](#) (also at [www.sro.tas.gov.au](http://www.sro.tas.gov.au)), and lodge it within 14 days of an employee's commencement date.

Rebates are paid at the same frequency as the employer's payroll tax returns – monthly, quarterly, half-yearly or annually.

### Claim Form – Employment Agents, Labour Hire Businesses and Indirect Employers

Please use this [Claim Form](#) (also at [www.sro.tas.gov.au](http://www.sro.tas.gov.au)), and lodge it within 14 days of an employee's commencement date.

The rebate is paid annually after lodgement and payment of the employment agent's/labour hire business's Annual Adjustment Return.

### Late Claims

For both employment situations above, late rebate claims may be accepted by the Commissioner using their absolute discretion.

## Questions about EISPR4

- Q. What supporting information do I lodge with my claim form?
- A. You will be asked to provide a copy of the new employee's first payslip.
- You will also be asked to provide other information for a reconciliation of your claims at the end of each financial year.
- Q. What happens where an apprentice or trainee completes their training and leaves my business, and I then employ a replacement apprentice/trainee?
- A. Where an apprentice/trainee who leaves your employment is replaced by another apprentice/trainee, your FTE Employment Level remains the same. Therefore that position would not be claimable for EISPR4, unless wages for the departing apprentice/trainee were subject to EISPR4.
- Where the former apprentice/trainee stays within your business in a new position and a replacement apprentice/trainee is appointed between 1 July 2014 and 30 June 2015, the new position filled by the former apprentice/trainee is considered an additional position and is claimable for EISPR4.
- Q. I created an additional position and claimed the rebate but the employee has now resigned. It may take weeks to fill the vacancy. Will I lose the rebate?
- A. If new positions are filled promptly, and you advise the State Revenue Office that this has happened, the Commissioner may exercise their discretion to continue to allow your EISPR4 claim for that position.
- Q. What happens where employees resign from my business that were included in my FTE Base Employment Level and I have employed new employees in new eligible positions?
- A. The new eligible position with the highest taxable wages will be assigned to the FTE Base Employment Level and will no longer attract EISPR4. The rebate received for this employee must be repaid.
- Where multiple positions resign resulting in FTE Employment Level being either equal to or below the Base, all EISPR4 must be repaid.
- If new positions are filled promptly, and you advise the State Revenue Office that this has happened, the Commissioner may exercise their discretion to continue to allow your EISPR4 claim for that position.
- Q. What happens should my business cease operating before 30 June 2016?
- A. Because you have not maintained employees for whom EISPR4 was received until at least 30 June 2016, your business will be required to repay all EISPR4 rebates received. The State Revenue Office will advise you about the amount to be repaid.
- Q. What happens if I declare wages for a new employee on the EISPR4 claim form, and their wages later increase or decrease?
- A. There is an annual reconciliation for EISPR4 at the end of each financial year. This gives you an opportunity to declare the actual wages paid and will account for any variations in wages for eligible positions.
- Q. What should I do where I have made incorrect declarations on my EISPR4 registration or claim forms?
- A. Advise the State Revenue Office immediately. Penalty tax is not applied to voluntary disclosures, although interest may be charged if you fail to make a repayment when required to do so.

## Information and assistance from the State Revenue Office

### Email

[taxhelp@treasury.tas.gov.au](mailto:taxhelp@treasury.tas.gov.au)

### Phone

(03) 6166 4400 weekdays, 9:00am to 5:00pm  
1800 001 388 Tas-based callers outside the '62' area

### Fax

(03) 6234 3357

### In person

Ground floor  
Salamanca Building Parliament Square  
4 Salamanca Place HOBART TAS 7000  
weekdays, 9:00am to 5:00pm

### Website

[www.sro.tas.gov.au](http://www.sro.tas.gov.au)