

Revenue Ruling

Ruling Number	:	PTA004
Title	:	Termination Payments
Tax Line	:	Payroll Tax
Legislative Reference	:	<i>Payroll Tax Act 2008</i>
Previous Ruling	:	PUB-PT-2008-5
Date of Ruling	:	1 July 2008
Attachments	:	-

Preamble

The *Payroll Tax Act 2008* (the Act), which commenced on 1 July 2008, rewrote the *Pay-roll Tax Act 1971* and harmonised payroll tax legislation in Tasmania with Victoria and New South Wales. A summary of the jurisdictions that have adopted this Revenue Ruling is available at: <http://payrolltax.gov.au/revenue>.

The Commonwealth government introduced superannuation reforms effective from 1 July 2007. One of the consequences of this reform is a change in the treatment of employment termination payments for income tax purposes and also changes in the terminology of termination payments. Employers should contact the Australian Taxation Office for advice in relation to the income tax treatment of employment termination payments, transitional termination payments, unused annual leave and long service leave payments, and genuine redundancy payments and early retirement scheme payments.

This Revenue Ruling clarifies which termination payments are subject to payroll tax.

Ruling

Termination payments generally constitute wages for payroll tax purposes under section 27 of the Act. These include:

- a payment made in consequence of the retirement from, or termination of, any office or employment of an employee. This includes:
 - unused annual leave and long service leave payments;
 - employment termination payments, within the meaning of section 82-130 of the *Income Tax Assessment Act 1997* (Cwth) ('ITAA'), that would be included in the assessable income of an employee under Part 2-40 of the ITAA;

- transitional termination payments, within the meaning of section 82-10 of the *Income Tax (Transitional Provisions) Act 1997* (Cwth) and any payment that would be an employment termination payment but for the fact that it was received more than 12 months after the termination;
- amounts paid or payable by a company as a consequence of terminating the services or office of a director; and
- amounts paid or payable by a person taken to be an employer under the contractor provisions as a consequence of termination of the supply of services by a person taken to be an employee under those provisions.

Employment Termination Payments

Employment termination payments may include:

- payments for unused sick leave or rostered days off;
- payments in lieu of notice;
- ex gratia payments or ‘golden handshakes’;
- an employee’s invalidity payment (a permanent disability, other than compensation for personal injury); or
- certain payments after the death of an employee.

Employment termination payments do not include:

- a payment for unused annual leave or unused long service leave (however, such payments are subject to payroll tax – see section below), or
- the tax free part of a genuine redundancy payment or an early retirement scheme payment.

The amount subject to payroll tax is the amount of an employment termination payment paid by the employer that would be income tax assessable income of the employee.

Genuine Redundancy Payments (previously known as bona fide redundancy payments) and Early Retirement Scheme Payments (previously known as approved early retirement scheme payments).

A payment arising from the termination of employment may constitute either a genuine redundancy payment under section 83-175 of the ITAA or an early retirement scheme payment under section 83-180 of the ITAA. Such payments are exempt from payroll tax to the extent that they are exempt from income tax.

Invalidity Payments

The invalidity segment of an employment termination payment within the meaning of section 82-150 of the ITAA is income tax free and is not subject to payroll tax.

More Information

Enquiries about this Revenue Ruling should be directed to the Legislation, Communication and Review Section on telephone (03) 6166 4400 or e-mail at revenuereview@treasury.tas.gov.au.

All rulings must be read in conjunction with the 'Explanation and Status of Revenue Rulings' available on the SRO website, <https://www.sro.tas.gov.au/resources/rulings>.

A handwritten signature in black ink, appearing to read 'W K Sawford', is positioned above the printed name.

W K Sawford
COMMISSIONER OF STATE REVENUE