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Public Ruling Payroll Tax Act:

EMPLOYMENT GROWTH REBATE

A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this ruling is about

1. This public ruling sets out the terms of an administrative arrangement, approved on 7 November 2019, that enables the *Payroll Tax Act 1971* (the Payroll Tax Act) to be administered on the basis that, for the 2019–20 and 2020–21 financial years, a payroll tax rebate is available to eligible employers that over a relevant full financial year employ over and above their level of full-time employees (the employment growth rebate). Eligible employers may claim up to \$20,000 per year.
2. The employment growth rebate was announced by the Queensland Government as part of the 2019–20 State Budget. It will be calculated as part of employers' 2019–20 and 2020–21 annual returns.
3. Payroll tax is imposed at the rates set out under the Payroll Tax Act on taxable wages paid or payable to employees in a financial year.¹ For payroll tax purposes, employees may include contractors and workers providing services under an employment agency arrangement in certain circumstances (deemed employees).²
4. Payroll tax applies when the total yearly Australian taxable wages of an employer, or a group of employers, exceed the exemption threshold. Employers are required to lodge with the Commissioner periodic returns of all taxable wages paid or payable during a period (usually monthly), unless the Commissioner exempts the employer from this requirement.³ At the end of a financial year, employers are required to lodge annual returns for all wages paid or payable during the financial year.⁴ In the annual return, employers work out their annual payroll tax

¹ Section 10 of the Payroll Tax Act

² Sections 13D and 13I Payroll Tax Act

³ Sections 59, 60 and 62 of the Payroll Tax Act

⁴ Section 63 of the Payroll Tax Act

amount and determine whether the correct amount of payroll tax has been paid for the year.⁵ Annual returns for the 2019–20 and 2020–21 financial years are due no later than 21 July 2020 and 2021 respectively.⁶ In particular circumstances, employers may also be required to lodge final returns⁷ (e.g. where they cease to be an employer).

5. Subject to conditions, employers will be eligible for the employment growth rebate if they demonstrate a net employment increase by increasing the number of new Queensland full-time positions in their business over the 2019–20 and/or 2020–21 financial years. For employers in a payroll tax group, eligibility will be separately determined for each employer in the group.
6. The amount of the employment growth rebate will be calculated based on the employer's annual payroll tax amount for the relevant year and the proportion that the net employment increase bears to the employer's total Queensland workforce, including deemed employees under the Payroll Tax Act.
7. To claim the employment growth rebate, eligible employers will need to provide particular information to the Office of State Revenue as part of their annual return. They will also need to keep records that contain sufficient information to substantiate their eligibility.

Ruling and explanation

8. For an employer that demonstrates a net employment increase in 2019–20 and/or 2020–21 by satisfying paragraphs 9 to 24 of this public ruling (where applicable), their annual payroll tax amount for the relevant 2019–20 and/or 2020–21 financial year is reduced by the amount of the employment growth rebate for the relevant year calculated in accordance with this public ruling.

Calculation of the employment growth rebate

9. The amount of the employment growth rebate for the relevant year is the lesser of:
 - (a) \$20,000
 - or
 - (b) the amount for the relevant year calculated in accordance with the following formula:
$$\text{Annual payroll tax amount} \times (\text{Net employment increase} \div \text{Average total of all payroll tax employees})$$
10. The amount of the employment growth rebate for the relevant year cannot be greater than the employer's annual payroll tax amount for the relevant year.
11. The **annual payroll tax amount** for the relevant year is the annual payroll tax amount as defined in ss.29(1), 33 and 48(4) of the Payroll Tax Act for the relevant year. It is calculated when an employer lodges their annual return. For employers that lodge online, the annual payroll tax amount is automatically calculated in OSR Online.

⁵ Defined in ss.29(1), 33 and 48(4) of the Payroll Tax Act

⁶ Section 63(2) of the Payroll Tax Act

⁷ Section 64 of the Payroll Tax Act

12. To determine the **net employment increase** for the relevant year an employer must:
- (a) record the total of the employer's Queensland full-time positions as at 1 July of the relevant year (baseline total)
 - (b) record the total of the employer's Queensland full-time positions as at 30 June of the relevant year (baseline comparison total)
 - (c) subtract the baseline total from the baseline comparison total to calculate the baseline employment increase for the relevant year
 - (d) record the total number of new Queensland full-time positions for the relevant year.

The net employment increase is the lesser of the baseline employment increase for the relevant year *or* total number of new Queensland full-time positions for the relevant year.

Example 1

As at 1 July 2019, ABC Pty Ltd had 45 Queensland full-time positions in its business (baseline total).

In November 2019, it created 5 new positions and filled them with new Queensland employees.

Between January 2020 and March 2020, 2 of its longstanding employees retired. ABC decided that the positions those retired employees held were no longer needed.

As at 30 June 2020, ABC had 48 Queensland full-time positions in its business (baseline comparison total).

For the 2019–20 financial year, ABC's baseline employment increase is 3.

As the baseline employment increase for 2019–20 is less than the total number of new Queensland full-time positions for 2019–20, ABC Pty Ltd's net employment increase is 3.

13. For the 2020–21 financial year, a position may be taken to be a new Queensland full-time position in particular circumstances and added to the employer's net employment increase for that relevant year. See paragraph 24 of this ruling for further details.
14. To determine the **average total of all payroll tax employees**, an employer must:
- (a) record the employer's monthly payroll tax employee count for every month in the relevant year
 - (b) divide the total of all monthly payroll tax employee counts by 12.

Relevant terms

15. The following terms are relevant for calculating the employment growth rebate and are listed in alphabetical order.

Deemed employee

16. *Deemed employee* means a person who is deemed to be an employee under ss.13D or 13I of the Payroll Tax Act. In particular circumstances, ss.13D and 13I of the Payroll Tax Act deem

contractors and workers providing services under an employment agent arrangement to be employees.

Monthly payroll tax employee count

17. *Monthly payroll tax employee count* is the total, as at the last day of the month, of all employees (including deemed employees) who are paid taxable wages during the month.

Example 2

ABC Pty Ltd conducts business solely in Queensland. As at 31 July 2019, it has 12 full-time employees, 4 part-time employees, 2 casual employees and 1 contractor. Wages paid to all, including the contractor, are liable for payroll tax in Queensland.

ABC Pty Ltd's monthly payroll tax employee count for July 2019 is 19.

Example 3

ABC Pty Ltd conducts business solely in Queensland and has 25 full-time employees as at 31 July 2019. Three of these employees are apprentices. ABC does not pay payroll tax on the wages paid to its apprentices because they qualify for the exemption for wages paid to apprentices. The wages paid to the remaining 22 full-time employees are liable for payroll tax in Queensland.

ABC Pty Ltd's monthly payroll tax employee count for July 2019 is 22.

New Queensland employee

18. *New Queensland employee* is a Queensland employee who has not been an employee (including a deemed employee) of the employer, or another employer in the payroll tax group, for at least 12 months.

Example 4

ABC Pty Ltd operates a retail business. Throughout the 2018–19 financial year, Chris, an IT specialist, provided services to ABC Pty Ltd while it was setting up the online component of its business. ABC decides that it needs more permanent IT services going forward and creates a new full-time IT Manager position in its business from 1 July 2019. Chris is hired to fill the position from 1 August 2019.

Because Chris has worked as a contractor for ABC Pty Ltd in the 12 months preceding 1 August 2019, he is not a new Queensland employee.

New Queensland full-time position

19. *New Queensland full-time position* is a position that:
- (a) has responsibilities that require, on average, at least 35 hours of work per week to be undertaken for the employer
 - and
 - (b) as at 30 June of the relevant year, is filled to capacity with one or more new Queensland employees
 - and

- (c) has been filled to capacity with one or more new Queensland employees for a continuous period of at least 6 months ending on 30 June of the relevant year or at least 245 days during the relevant year (minimum employment requirement)

and

- (d) was created in the relevant year or, at the time it was first filled to capacity during the relevant year with one or more new Queensland employees, had been 100% vacant for a continuous period of at least 6 months.

Example 5

In August 2019, ABC Pty Ltd creates a new full-time position in its business. It hires Barry and Lisa, both new Queensland employees, to fill the position from 1 September 2019 under a 60:40 job-share arrangement. The position requires Barry and Lisa to work 40 hours per week between them, with Barry working Monday to Wednesday each week and Lisa working Thursday and Friday each week.

Both Barry and Lisa are still working in the position on 30 June 2020.

For the purpose of determining the net employment increase for the 2019–20 financial year, the position is a new Queensland full-time position.

Example 6

ABC Pty Ltd operates a retail business selling goods both from a physical shopfront and online. It processes and packages online orders every Monday. Due to an increase in online sales, ABC hires 4 new Queensland employees from 1 August 2019 to help with processing these orders. Each employee is required to work 9 hours each Monday.

Although the employees collectively work more than 35 hours per week for ABC, their combined work does not equate to a new Queensland full-time position. The employees are working in separate positions with separate responsibilities. In the ordinary course of business, the combined responsibilities the employees have on a Monday could not be physically undertaken by only one employee.

Example 7

In August 2019, ABC Pty Ltd creates a new full-time position in its business and hires Sam, a new Queensland employee, to fill the position from 31 August 2019. Sam resigns on 29 June 2020. Because the position is not filled as at 30 June 2020, it is not a new Queensland full-time position.

Example 8

In September 2019, ABC Pty Ltd creates a new full-time position in its business. It hires Greg and Peggy, both new Queensland employees, to fill the position from 1 October 2019 under a 50:50 job-share arrangement. The position requires Greg and Peggy to work 40 hours per week between them. Greg works his 20 hours from Monday to Wednesday and Peggy works her 20 hours from Wednesday to Friday.

Greg resigns from the position on 31 May 2020. Peggy continues to work her 20 hours from Wednesday to Friday and is still working those hours on 30 June 2020.

The position is not filled to capacity as at 30 June 2020 and therefore is not a new Queensland full-time position.

Example 9

In September 2019, ABC Pty Ltd creates a new full-time position in its business and hires Jack, a new Queensland employee, to fill the position from 15 September 2019. Jack ceases working for ABC on 31 December 2019. ABC undertakes a recruitment process and employs Jill, a new Queensland employee, who commences in the position on 15 January 2020. Jill is still working in the position on 30 June 2020.

Although multiple new Queensland employees have filled the position, it has been filled to capacity for more than 245 days during the relevant year. Therefore, the minimum employment requirement is satisfied.

Queensland employee

20. *Queensland employee* is an employee, other than a deemed employee, who:
- (a) has a principal place of residence located in Queensland
- and
- (b) is paid taxable wages or wages that are exempt from payroll tax under the Payroll Tax Act.

Queensland full-time position

21. *Queensland full-time position* is a position that:
- (a) is filled to capacity with one or more Queensland employees
- and
- (b) has responsibilities that require, on average, at least 35 hours of work per week to be undertaken for the employer.

Relevant year

22. *Relevant year* is a financial year ending on 30 June 2020 or 2021.

Taxable wages

23. *Taxable wages* are wages that are liable to payroll tax, under s.9 of the Payroll Tax Act.

Particular positions taken to be new Queensland full-time positions for 2020–21

24. For the 2020–21 financial year, a position will be taken to be a new Queensland full-time position if all the following apply:
- (a) In the 2019–20 financial year, it was first filled to capacity with one or more new Queensland employees after 1 January 2020.
 - (b) As at 30 June 2020, it is and has continued to be filled to capacity with one or more new Queensland employees.

- (c) It would have been a new Queensland full-time position for the 2019–20 financial year but for the fact that the minimum employment requirement was not satisfied as at 30 June 2020.
- (d) As at 30 June 2021, either:
- (i) one or more of the new Queensland employees that were in the position as at 30 June 2020 have continued to fill the position to capacity
- or
- (ii) since 30 June 2020, the position has been continuously filled to capacity with new Queensland employees.

Example 10

In January 2020, ABC Pty Ltd creates a new full-time position in its business and hires Sally, a new Queensland employee, to fill the position from 1 February 2020.

Although Sally was still in the position as at 30 June 2020, the position was not a new Queensland full-time position for the 2019–20 financial year. Sally was only in the position for 5 months (150 days), and therefore the minimum employment requirement was not satisfied.

As at 30 June 2021, Sally was still working for ABC Pty Ltd in the same position.

The position is taken to be a new Queensland full-time position for the 2020–21 financial year.

Date of effect

25. This public ruling takes effect from the date of issue.

Mark Jackson
 Commissioner of State Revenue
 Date of issue: 23 December 2020

References

Public Ruling	Issued	Dates of effect	
		From	To
PTAQ000.4.2	23 December 2020	23 December 2020	Current
PTAQ000.4.1	18 November 2019	18 November 2019	22 December 2020