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Public Ruling

Payroll Tax Act—Harmonised:

PENALTY CHARGES UNDER

SUPERANNUATION GUARANTEE CHARGE

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. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the *Payroll Tax Act 1971* (the Payroll Tax Act) with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of other jurisdictions.
2. The definition of 'wages' in the Schedule of the Payroll Tax Act includes superannuation contributions.
3. The term 'superannuation contribution' is defined in s.3 of the Payroll Tax Act as a contribution paid or payable by an employer for an employee, or by a company for a director of the company:
 - (a) as a superannuation guarantee charge under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth) (the SGA Act)
 - (b) to a superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cwlth) or
 - (c) to another form of superannuation, provident or retirement fund or scheme.
4. The purpose of this Public Ruling is to clarify which components of a superannuation guarantee charge under the SGA Act are subject to payroll tax.

Ruling and explanation

5. Superannuation guarantee charge for an employer for a quarter is made up of:
- (a) the total of the employer's individual superannuation guarantee charge shortfalls for the quarter
 - (b) the employer's nominal interest component for the quarter and
 - (c) the employer's administration component for the quarter.¹
6. The sum of the three components referred to in paragraph 5 is subject to payroll tax.
7. Payroll tax is not imposed on:
- (a) any additional superannuation guarantee charge under s.49² or Part 7³ of the SGA Act or
 - (b) any superannuation guarantee charge payable in relation to a contribution for which the employer has paid payroll tax when the contribution was payable, and for which there would have been a reduction in the charge percentage under the SGA Act if the contribution had been paid.⁴

Date of effect

8. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 3 July 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
PTA030.2	3 July 2009	3 July 2009	Current
PTA030.1	24 February 2009	1 July 2008	2 July 2009

¹ Section 17 of the SGA Act and ss.5 and 6 of the *Superannuation Guarantee Charge Act 1992* (Cwlth)

² Section 49 of the SGA Act imposes general interest charge on unpaid superannuation guarantee charge.

³ Part 7 of the SGA Act imposes additional superannuation guarantee charge if an employer other than a government body refuses or fails to provide a superannuation guarantee statement or information relevant to assessing the employer's liability to pay superannuation guarantee charge.

⁴ Section 3(2) of the Payroll Tax Act