

## Perspective

Each month, we rally a group of professionals to engage in their area of expertise. This month, we talk payroll and logistics labelling with The Quinn Group and GS1 Australia.

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### Payroll tax and grouping provisions

Many businesses are required to pay Payroll Tax to the Office of State Revenue (OSR). Payroll Tax is a state-based tax imposed on wages that are paid or payable in the relevant state. Wages includes most payments for services made by an employer to employees, directors and contract workers who are deemed to be employees.

An individual employer or a group of employers may be liable for Payroll Tax if their total taxable wages throughout Australia, including NSW, exceeds \$658,000 for the 2010–11 Payroll Tax year. If their wage payment is lower than this threshold, they do not have to pay the tax. As soon as their total wages go above this amount, the full tax is applicable to the amount that exceeds the limit.

In NSW, from 1 July 2010 to 31 December 2010, the Payroll Tax rate is reduced to 5.5 per cent. If the employer is a member of a group, the \$658,000 threshold can be claimed by one member only (the designated group employer). The threshold entitlement does not apply to businesses if they are not the designated group employer. If none of the group members have total Australian wages exceeding \$658,000, the group must nominate a "Single Lodger" to be responsible for lodging and paying Payroll Tax on behalf of all members of the group.

For Payroll Tax purposes, a group can be constituted under the following circumstances:

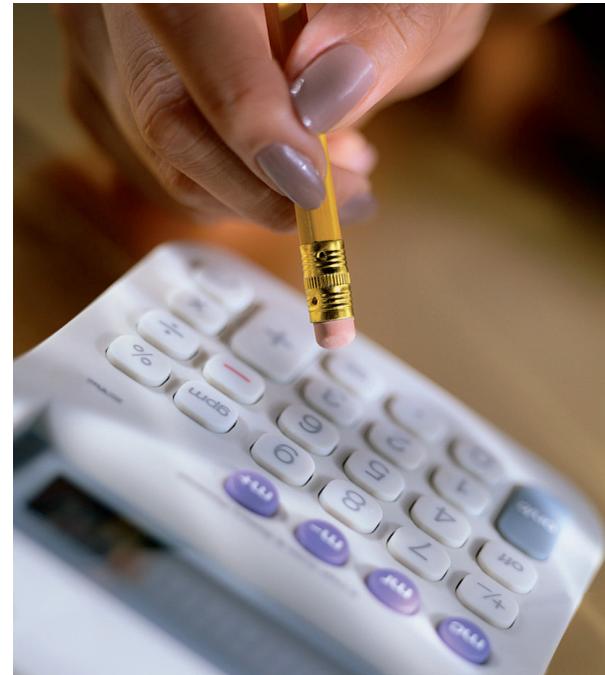
use of common employees; commonly controlled businesses; inter-company agreements and common financial arrangements; smaller groups subsumed by larger groups; trade between the

businesses; shared expenses and resources, including premises – for example, a restaurant operating inside a hotel.

When one of the members of a group is also a member of another group, the groups will be combined as one group for Payroll Tax purposes. Many businesses (particularly those operated through discretionary trusts) are often not aware of this until they receive an audit questionnaire or audit notice. Should you be audited and it is found that you have not correctly paid Payroll Tax, it may potentially result in a five-year OSR assessment with penalties and interest.

Recently, the NSW OSR has significantly increased its auditing of payroll activity, especially through the use of desk audits and questionnaires, due to a decline in stamp duty revenue. Since the OSR now has increased access to the ATO, ASIC and WorkCover databases it is able to easily discover unregistered businesses which have wages in excess of the exemption threshold and those that are grouped with other businesses. The questionnaire is essentially the beginning of an OSR audit, for this reason it is important that all questions be answered accurately. This is the point when many companies find out they are liable to pay Payroll Tax and may find themselves with penalties and interest building up. Taxable wage components include:

Salaries, remuneration, commissions, bonuses, allowances and director's fees; wages and salaries paid to apprentices and new entrant trainees, for example trainee chefs; fringe benefits; termination; employer contributions to shares; make-up pay that is additional to a workers' compensation payment specified in the award or agreement; motor vehicle allowances; accommodation allowances; superannuation contributions; allowances not subject to fringe benefits tax, excluding a direct reimbursement of employee related expenses for which receipts are kept; wages paid under an employment agency contract are liable to be paid by



the employment agency; payments to contractors may be liable; annual, sick, recreation, long service leave or any similar.

#### What is not taxed?

- paternity leave (up to 14 weeks) paid in addition to an employee's normal leave entitlements;
- maternity or adoption leave (up to 14 weeks) paid in addition to an employee's normal leave entitlements;
- workers' compensation payments, except for make-up pay;
- reimbursement of the exact amount of an employee's receipted or documented business expenses;
- GST component of a wage or relevant contract payment.

Employers should usually lodge their Payroll Tax returns on a monthly basis, and pay any tax they have outstanding to the appropriate revenue office within seven days after the end of the month that the wages were paid in.