Under the Payroll Tax Assessment Act (WA) 1971 (‘PTAA’) payroll tax is payable by all employers in Western Australia on the gross amount of ‘wages’ paid to employees, once wages exceeds a certain threshold.

**Checklist of Wages**

- Accident Pay
- Accommodation
- Allowances (including LAHA)
- Annual Leave Payments
- Back Pay
- Bonuses
- Cash Benefits
- Clothing Allowances
- Commissions
- Certain contracting arrangement payments
- Compensation Payments
- Directors’ fees
- Eligible termination payments
- Entertainment Allowances
- Fringe Benefits*
- Holiday Pay
- Housing
- Long Service Leave Payments
- Meals & Sustenance
- Meal Allowances
- Overtime
- Prescribed benefits which are not fringe benefits
- Prizes
- Salaries & wages
- Shift Work Payments
- Sick Pay
- Superannuation Contributions by Employers
- (includes SGC Shortfall Payments)**
- Study Expenses
- Travelling & Accommodation Allowances***
- Entertainment Allowances

* provided on and from 1 July 1997; from 1 January 2002, the grossed-up amount

** on and from 1 July 1997

*** that exceed certain prescribed levels

**Fringe Benefits**

The University is required to declare in the monthly payroll tax return the actual taxable value of fringe benefits provided during that month. Alternatively, the University may elect, on an appropriate form, to estimate the taxable value of the fringe benefits to be declared in the monthly payroll tax return.

The estimated method of declaring fringe benefits requires the University to declare in each monthly payroll tax return, for the months July to May, one twelfth of the adjusted fringe benefits taxable amount declared in the FBT return for the year ending 31 March immediately before commencement of the current financial year. For the final month of June, the amount included in the monthly return should represent the difference between the adjusted fringe benefits taxable value declared in the FBT return for the year ending 31 March of the current financial year and the total amount of estimated fringe benefits included in each payroll tax return for the months July to May.

The taxable value of fringe benefits under the Fringe Benefits Tax Assessment Act 1986 are treated differently under the PTAA in respect of:

- benefits reduced by the "otherwise deductible rule";
- Living Away From Home Allowance (LAHA); and
- Remote Area Fringe Benefit exemptions.

**IMPORTANT DISCLAIMER:**

This tax manual has been developed as a joint effort by the public universities in Western Australia. No person should rely on the contents of this tax manual without first obtaining advice from your University’s tax accountant or other qualified professional. This tax manual has been provided as a general reference guide, on the terms and understanding that the authors are not responsible for the results of any actions taken on the basis of information in this tax manual, nor for any error or omission therein. The authors and all Universities involved in the development and update of this tax manual expressly disclaim all and any liability and responsibility to any person, in respect of anything done or omitted to be done by any such person in reliance, whether wholly or partially, upon the whole or any part of the contents of this tax manual. You should not rely on this tax manual for your personal income tax obligations.
Exemption for Overseas Service

An exemption from payroll tax applies to University employees performing or rendering services wholly in another country or countries. However, this exemption only applies after the services have been performed for a continuous period of six months or more. Wages paid in the first six months are still liable to payroll tax.

While there is no definition of ‘employee’ in the PTAA, the term ‘employer’ is defined to mean:

‘Any person who pays or is liable to pay wages...’.

Thus, in a similar vein to the PAYE provisions of the ITAA 1936, the liability of the University to payroll tax under the PTAA tax depends on the existence of an employer/employee relationship.

An employer/employee relationship is determined based on similar tests as those used for the PAYE and Superannuation Guarantee provisions of the ITAA 1936. Therefore, it must be determined if the person being paid for the work or services is an employee as such (refer Part 2.3 Attachment A).

Employment Agents

The PTAA provides that an employment agent is a person (agent) who by an arrangement procures the services of a person (worker) for another person (client). A number of conditions must be met before a person can be classified as an employment agent, these are:

- the worker is not an employee of the agent or client;
- the worker does ‘carry out duties of a similar nature to those of an employee’; and
- remuneration is paid directly or indirectly by the agent to the worker, or some other person, in respect of the services provided by the worker.

Should the University have an ‘employment agency’ relationship, payroll tax in respect of monies earned by the worker will be required to be remitted, as the employment agent will be deemed to be the employer.
**Inter State Appointments**

Pay-roll tax is payable in Western Australia on wages paid or payable:
- in Western Australia for services rendered in Western Australia; and
- elsewhere than in Western Australia for services rendered in Western Australia.

Where an employee performs service in another state on behalf of the University, the University is required to register for pay-roll tax and remit pay-roll tax to the relevant Government authority in that State.

Note: time spent in another State attending meetings or courses is not considered to be the performance of services in that other State.

The following chart may be used in respect of University employees:

| Employee performs service in Western Australia | Wages paid in Western Australia | Pay-roll tax is payable in Western Australia |
| Employee performs services in another State (wholly) | Wages paid in another State | Pay-roll tax is payable in another state |
| Employee performs services which are not rendered wholly in another State | Wages paid in Western Australia | Pay-roll tax is payable in another State |

**Overseas Appointments**

Payroll tax is payable by the University on gross wages paid to employees performing services outside Australia only if the wages are paid or payable in Western Australia. For example, if wages are physically handed to the employee in Western Australia or paid into his or her bank account held in Western Australia, then they are treated as being paid or payable in Western Australia.

Payroll tax is payable regardless of any exemption the employee may receive from income tax in Australia. The employee must be performing services wholly in another country or countries for a continuous period greater than six months before the payroll tax exemption will apply.

**Visiting Fellows**

Wages paid to visiting Fellows in respect of services provided in Western Australia are subject to payroll tax regardless of their income tax treatment or where they are physically paid.
Anti-avoidance Measures

Payroll tax does not fall on payments made to an independent contractor. However, the Commissioner of State Taxation has an extended power under section 11E of the PTAA to disregard any agreement, transaction or arrangement entered into whereby payments by an employer for the services of the employee are paid to another entity with the effect of avoiding payroll tax. That is, a tax avoidance purpose is not required so long as the result is the avoidance of payroll tax.

Section 11E is a measure designed to combat the increasing use of subcontractors and employment agents under arrangements which do not fall within the strict legal definition of an employer/employee relationship.

Any party to the arrangements may be deemed to be an ‘employer’ for the purposes of the PTAA and payments made are deemed to be within the definition of ‘wages’ under that Act. Thus, if the Commissioner of State Taxation is of the opinion that the transaction results in the avoidance of payroll tax, he has the power to disregard the form of the transaction and impose payroll tax on the amount of those payments.

Payroll Tax Rates

From 1\textsuperscript{st} July 2004 and subsequent tax years, the maximum rates and annual wages threshold for each State and Territory are:

<table>
<thead>
<tr>
<th>State</th>
<th>Maximum Rate</th>
<th>Annual Wages Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>6.00%</td>
<td>$600,000</td>
</tr>
<tr>
<td>Victoria</td>
<td>5.25%</td>
<td>$550,000</td>
</tr>
<tr>
<td>Queensland</td>
<td>4.75%</td>
<td>$850,000</td>
</tr>
<tr>
<td>South Australian</td>
<td>5.50%</td>
<td>$504,000</td>
</tr>
<tr>
<td>Western Australia</td>
<td>5.50%\textsuperscript{1}</td>
<td>$750,000</td>
</tr>
<tr>
<td>Tasmania</td>
<td>6.10%</td>
<td>$1,010,000</td>
</tr>
<tr>
<td>ACT</td>
<td>6.85%</td>
<td>$1,250,000</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>6.20%</td>
<td>$1,000,000\textsuperscript{2}</td>
</tr>
</tbody>
</table>

\textsuperscript{1} From 1 January 2005, the pay-roll tax rate in Western Australia reduced from 6\% to 5.5\%.
\textsuperscript{2} The annual threshold in the Northern Territory increased from $800,000 to $1,000,000 from 1 July 2005.