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Payroll Tax Audits On The Rise

There is currently increased audit and review activity by state revenue offices across the country and one area where auditors always seem to find problems is payroll tax.

In NSW, for example, nearly 3,000 registered businesses were audited by the Office of State Revenue in the year ended 30 June 2011, resulting in an average additional payroll tax liability of around $29,000 plus interest and penalties.

During the same period, over 2,500 unregistered businesses were audited with more than 60 percent found to be over the payroll threshold where businesses should have registered for payroll tax, with on average around $27,000 payroll tax owing plus penalties.

The rules and thresholds can vary significantly making it very complex for businesses that operate in multiple states.

For instance, the annual registration thresholds, based on total wages paid by the business throughout Australia range from $550,000 in Victoria up to $1,500,000 in NT and ACT.

It is common for businesses to register in the state where the main business operations are located but neglect to register in other states where they have a small number of employees.

Take the example of a NSW business that pays a total of $2 million in wages in Australia. This includes a small operation in Victoria where total wages are just $120,000.

The company must still register for payroll tax in Victoria because its total Australian wages exceed that state's threshold of $550,000.

There are some common key risk areas that can trigger payroll tax including:

- Payments to contractors, including "one-man bands" even where using a company structure
- Grouping rules that can bring together related entities and businesses
- Failure to report certain items such as bonuses and commissions
- In some cases, dividends to owners and employee share entitlements
- Superannuation contributions and taxable fringe benefits

The state revenue offices can apply heavy fines, penalties and interest, but as with the ATO, it is possible to minimise or eliminate penalties by making a voluntary disclosure.

There are also some opportunities or savings that can be made with good attention to detail. For example, ensure that wages are excluded from payroll tax calculations where they have been effectively reimbursed to the business through a workers compensation claim.

In the current uncertain economic climate, and with state governments looking for every available dollar of revenue to shore up their budget positions, scrutiny from revenue offices can only be expected to get tougher and it pays to be vigilant.