

THE HEALTH AND POST SECONDARY EDUCATION TAX LEVY ACT

REMUNERATION

This bulletin will help employers understand what kind of payments, made to or on behalf of employees, are remuneration for purposes of the Payroll Tax.

General information

- The Health and Post Secondary Education Tax Levy Act (also known as the Payroll Tax) is a tax imposed on remuneration that is paid to employees. The tax is payable by the employer.
- For information on tax rates, exemption and other general information, see Bulletin No. HE 001 – Information For Employers.

Definition of remuneration

- Remuneration includes any payment, benefit or allowance which, by reason of subsection 5(1) or section 6 or 7 of the Income Tax Act (Canada) are declared to be or are required to be included in income of a person for the purposes of that Act, and without limiting the generality of the foregoing includes:

- Salary and wages
- Bonuses
- Commissions or other similar amounts fixed by reference to the volume of sales made or the contracts negotiated
- Other taxable allowances or benefits paid to an employee or officer,

but does not include any pension, annuity or superannuation benefit paid by an employer to a former employee after retirement of that employee.

- The following lists of common benefits and allowances have been prepared to assist you in applying the Payroll Tax correctly:
 - List “A” - Benefits and allowances that are remuneration subject to tax.
 - List “B” - Benefits and allowances that are not remuneration and therefore are not subject to tax.

List “A” – Remuneration subject to Payroll Tax

REMUNERATION AS DEFINED ABOVE INCLUDES THE FOLLOWING BENEFITS OR ALLOWANCES PAID TO, OR ON BEHALF OF AN EMPLOYEE OR OFFICER:

- Value of board and lodging.
- Honorariums.
- Vacation trips and other travel benefits, (except as noted in List “B”).
- Personal or living expenses, (except as noted in List “B”).
- Gifts, either in cash or in kind.

- Incentive prizes and awards.
- Sick leave credits paid to employees during on-going employment, that are required to be included on an employee's T4 slip.
- Tuition fees that are required to be included on an employee's T4 slip.
- Bursaries provided directly to employees or their families. (In other circumstances bursaries are not remuneration).
- Gratuities/tips disbursed by the employer.
- Director's or other fees.
- Personal use of an employer's automobile.
- Employment insurance benefits paid to employees where the employer makes contributions to a self-funded plan and /or assumes all risks and obligations regarding the payment of benefits.
- Employee benefit plan benefits.
- Contributions to an employee trust.
- Salary deferral arrangements.
- Group term life insurance premiums.
- Contributions to an employee's RRSP (but not an RPP as noted in List "B").
- Discounts on merchandise/service that reduce the selling price below the employer's cost.
- Any tax on a property or service paid on behalf of an employee.
- Benefit from interest free or low interest loans.
- Amount forgiven on an employee's debt.
- Employer-provided housing subsidies and housing loss reimbursements.
- Rent-free and low-rent housing.
- Contributions to an employee's profit sharing plan.
- Severance pay pertaining to salary, unpaid vacation leave credits and amounts paid in lieu of notice (but not retiring allowances as noted in List "B").
- Payments for the acceptance of an offer of employment or an office, or payments for an agreement not to compete after the termination of employment or an office.
- The benefit an employee or officer receives under a stock option or issuance of shares as described in section 7 of the Income Tax Act (Canada).
- Any other benefit or allowance that an employer is required to report as employment income of an employee or officer for income tax purposes.

**List "B"-
Benefits and
allowances not
subject to
Payroll Tax**

THE FOLLOWING BENEFITS OR ALLOWANCES PAID TO, OR ON BEHALF OF AN EMPLOYEE OR OFFICER ARE NOT REMUNERATION FOR PURPOSES OF APPLYING THE PAYROLL TAX:

- Payment of pension, annuity or superannuation benefits.
- Retiring allowances, including termination allowances and payment for sick leave credits.
- Dividend payments.
- Remuneration paid to employees who report for work at a permanent establishment of the employer outside of Manitoba.
- Death benefits paid to a beneficiary or an estate.
- Payments from a Deferred Profit Sharing Plan.
- Employment insurance/disability benefits (except if self-funded by the employer as noted in List "A").

- Contributions to, or premiums for, the following :
 - A registered pension plan (RPP).
 - A private health services plan.
 - A deferred profit sharing plan.
 - Employee counselling services.
 - Employment insurance/disability plan.
- Employee allowances (that are reasonable) for work related travel expenses.
- Allowances (that are reasonable) for work related use of an employee's own automobile.
- Board, lodging and transportation costs for employees at/to a special work site or remote location.
- Subsidized school services for the children of an employee, in remote or unorganized areas.
- Subsidized meal costs.
- Allowances for uniforms and special clothing.
- Moving expenses.
- Cost of transporting employees between pick-up points and the location of employment where for security or other reasons, public or private transportation is not practical.
- Use of an employer's recreational facilities.
- Membership fees in a social club or recreational facility where the membership is primarily for the employer's advantage.

Self-employed earnings

- Earnings from self-employment, that is an individual proprietor's or partner's net profits, are not remuneration for purposes of the Payroll Tax.

Contract services vs. salary and wages

- Salaries or wages paid to employees are remuneration. However if an employer/employee relationship does not exist between the employer and the person(s) providing the service, the payments are for contract services and are not remuneration for purposes of the Payroll Tax.
- To determine if an employer/employee relationship exists, the conditions of the worker's employment/contract must be considered using the following tests. These tests are similar to those used by Canada Revenue Agency (formerly known as Revenue Canada):
 1. What degree of control the employer has over the way the work is done or the work methods used.
 2. Whether the tools and equipment and other supplies are owned/maintained by the employer or worker.
 3. Whether the worker has the opportunity for profits.
 4. Whether the worker faces the risk of financial losses arising from business activities such as damage to equipment, bad debts or inventory delivery delays.
 5. Whether the worker is offering the services as part of his/her larger business enterprise or only to one particular client.
 6. Whether the employer contributes to CPP, EI or other benefits.

Please note: Contact the Taxation Division if you require assistance in determining whether payments being made are on account of remuneration to an employee or on account of contract services.

Who pays the Payroll Tax

- Employers that have a permanent establishment in Manitoba are subject to Payroll Tax on remuneration paid to:
 - a) Employees who report for work at a permanent establishment of the employer in Manitoba; and/or
 - b) Employees who are not required to report to work at any permanent establishment of the employer (either inside or outside of Manitoba) but who are paid from or through a permanent establishment of the employer in Manitoba.

Please note: A group of associated corporations and certain corporate partnerships are considered to be a single employer for purposes of the Payroll Tax.

- Remuneration paid in the following situations is not subject to tax:
 - When the total remuneration paid by a single employer (or by an associated group) in a calendar year is \$1 million or less.
 - Remuneration paid by common carriers to an employee operating a commercial truck on trips that are both inside and outside Manitoba.

For purposes of this exemption a commercial truck must be designed and used for the transportation of goods of members of the public for compensation.

- If you require assistance to determine if you have a permanent establishment in Manitoba, please contact one of the Taxation Division offices listed below.

FURTHER INFORMATION

This bulletin is intended as a guideline and is not all-inclusive. For the specific wording of the law, please refer to the Act and Regulations stated below. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 – 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll Free 1-800-782-0318
Fax (204) 948-2087
E-mail: MBTax@gov.mb.ca
Web site: www.gov.mb.ca/finance/taxation

Westman Regional Office

Manitoba Finance
Taxation Division
349, 340 – 9th Street
Brandon Manitoba R7A 6C2
Telephone (204) 726-6153
Manitoba Toll Free 1-800-275-9290
Fax (204) 726-6763

Principal references in Legislation:

The Health and Post Secondary Education Tax Levy Act (C.C.S.M. c. H24)
Sections (1), (2), (3),(5), (7), (9), (16), (17), (20)
Manitoba Regulation 212/93