



## Audits & Investigations Insight

An insight into the factors driving Employment Tax Audits in 2015-16

The ATO, State Revenue & WorkCover Authorities are working closely together to identify non-compliance across jurisdictions. Employers should undertake internal reviews of compliance and policies to ensure they are prepared in case of an audit

### ATO Contractor program

The ATO's focus is employers who are improperly treating workers as contractors rather than employees, and are thereby avoiding their superannuation, PAYG withholding and FBT obligations.

This includes audits of contractor reporting (Taxable Payments Annual Reports) in the building and construction industry, which was introduced in 2013 following similar audits in 2012 which revealed 48% of businesses were incorrectly treating employees as contractors.

Note that contractor audit results are shared with the State Revenue & WorkCover authorities, therefore, further audits should be expected if any issues are uncovered.

Employers should ensure they have a contractor management system to ensure the appropriate tax treatment is applied and to manage their risks.

### ATO Superannuation audits

The ATO initiated a Superannuation compliance project in late 2014 to address unpaid superannuation complaints, and it expects to contact approximately 20,000 employers. Its focus includes:

- Payments to Contractors
- Superannuation reporting
- Unpaid superannuation complaints

Over \$600M in unpaid super is recovered each year as a result of the ATO's compliance action, with over 70% of audits detecting some form of non-compliance.

### ATO Employer obligation audits

The ATO reviewed approximately 18,000 employers in 2014-15 to ensure they are meeting their employer obligations. Audit findings revealed that 88% of employers were non-compliant in one or more aspects.

Due to the success of these audits, the ATO is set to continue employer obligation audits in 2015-16 and its focus will continue to be:

- Fringe benefits (meal entertainment, in-house benefits, cars & non-compliant log-books)
- Payments to contractors
- Superannuation & 'ordinary time earnings'
- Reconciling PAYG discrepancies

### Victorian focus

The Victorian State Revenue Office recovers approximately \$70M in Payroll Tax per annum as a result of its audit activity.

Specific compliance issues which are being targeted include payments to contractors, employee share schemes, grouping, fringe benefits and superannuation.

In addition, industry specific audits include the construction, security & financial services industries focusing on payments to contractors, labour hire arrangements and disclosure of commissions.

Victoria will continue to participate in a National Audit campaign by managing audits on behalf of other states and has specifically stated it will be conducting audits on 'large taxpayers'.

### Audit & Investigations – Key facts:

- Focus for 2015-16 audits include contractors (all taxes), employee share schemes & 'large employers'
- State Revenue & WorkCover Authorities continue to be the most active in terms of Audits
- ATO Employer Obligation 'desktop' Audits increasing, particular focus on FBT, Contractors and Superannuation
- Sophisticated data-matching techniques used for audit selection
- Industry specific audits are being undertaken to target non-compliance in certain industries
- Authorities are cross-referencing business data and salaries data between the ATO, State Revenue & WorkCover Authorities to identify non-compliance & audit selection
- National audits are being conducted by the states to reduce 'red-tape' for interstate employers and to increase effectiveness of audits
- Investigation results are shared between Government Authorities for non-compliance detection
- An issue identified in an audit is likely to result in further audits from other Government Authorities

### Contact

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## Our services areas include:

- Fringe Benefits Tax
- Payroll Tax
- WorkCover
- Superannuation
- Salary Packaging
- Contractor compliance
- Payroll & PAYG
- Audit assistance
- Seminars & Training
- Policies & Procedures

### New South Wales focus

The New South Wales Office of State Revenue is continuing to improve its case selection models by utilising technology and data available from other Government Authorities.

Whilst audits generally cover all aspects of compliance, particular focus is being applied to:

- Employers that fail to declare a related entity and incorrectly claim multiple thresholds
- Disclosure of fringe benefits
- Payments to contractors
- Understatement of wages declared to other Government Authorities
- Employers that fail to lodge monthly and annual returns on time

### Queensland focus

Audits of large employers and contractors continues to be the consistent theme communicated by the State Revenue Authorities, and Queensland is no exception. It has announced it will undertake audits of large employers using computer-assisted verification techniques.

In addition, audits of wage and deduction discrepancies will ensure all relevant taxable wages are declared.

### Western Australian focus

Western Australian will continue to focus on the construction, mining, manufacturing, retail and wholesale trade industries.

Interestingly, it has been announced that the top 300 entities in WA will be audited to ensure compliance, which is a similar trend in most states.

The focus includes payments to Contractors (WA is the only state that has not adopted the 'harmonised' Relevant Contract provisions and requires an altered approach), Fringe Benefits, Superannuation Guarantee, Employee Share Schemes, Grouping and the Labour hire service industry.

### WorkCover focus

The definition of 'rateable remuneration' in each State varies significantly and continues to be a minefield for employers, particularly during audits.

The State Revenue Authorities have made gradual progress aligning the respective Payroll Tax administrative and legislative provisions through harmonisation, whereas the WorkCover provisions in each State continue to be inconsistent and vague in so far as the definition of 'rateable remuneration'.

For example, superannuation guarantee contributions are not 'rateable' in certain states. Similar differences in treatment exists for termination payments, director's fees and fringe benefits.

As a result, multi-jurisdictional employers could be grossly overpaying premiums, particularly considering most would simply apply the 'wage base' used for Payroll Tax purposes.

### New audit methods, be aware

- National audits being conducted by the states to increase the detection of non-compliance
- Authorities are utilising ATO salary & wages data to identify variances & audit targets for Payroll Tax & WorkCover
- ATO Employee share scheme data is being used to identify non-disclosure for Payroll Tax
- ATO BAS and Income Tax return data is being used to identify businesses that are not registered for Payroll Tax

### Further information

Please refer to the below links for further details:

[VIC SRO Payroll Tax compliance focus](#)  
[NSW OSR Payroll Tax compliance focus](#)  
[QLD OSR Payroll Tax compliance focus](#)  
[WA Payroll Tax compliance focus](#)  
[NT Payroll Tax compliance focus](#)  
[TAS SRO compliance focus](#)

### FBT, Payroll & Salary Packaging Solutions

FBT, Payroll & Salary Packaging Solutions are a specialist Employment Taxes Consulting and Compliance Practice. We have over 20 years of experience assisting corporates & non-profit organisations in all industry sectors.

We are registered tax agents and regularly present to clients and industry leaders on topical tax issues.

### How can we help?

If you receive an audit or review letter from a Government Authority, contact us immediately. We can assist by:

- Performing pre-audit reviews for assurance and understanding the extent of any exposures
- Managing the audit process, including representing you in meetings, managing correspondence and negotiating optimal resolution of disputes
- Minimising liabilities, penalties and interest by voluntarily disclosing any exposure prior to it being detected during audit

### Audit Risk Assessment

Our Audit Risk Assessment provides an independent assessment of your compliance, associated systems and processes to identify and reduce risk and uncertainty. Contact us to find discuss how your organisation could benefit from our Audit Risk Assessment.

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