

Western Australia

## **Pay-roll Tax Rebate Act 2010**

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As at 14 May 2010

No. 5 of 2010

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## Pay-roll Tax Rebate Act 2010

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### CONTENTS

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<b>Part 1 — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Relationship with <i>Taxation Administration Act 2003</i> and <i>Pay-roll Tax Assessment Act 2002</i>	2
<b>Part 2 — Rebate of pay-roll tax</b>		
5.	Rebate for the 2009/10 assessment year	4
6.	Who is entitled to the rebate — eligible employer	4
7.	Calculation of the rebate	5
8.	Pro rata amounts	8
<b>Part 3 — Overpayment and underpayment of rebate</b>		
9.	Overpayment of rebate	9
10.	Underpayment of rebate	9
11.	Amounts of tax and rebate may be offset against each other	9
<b>Part 4 — Miscellaneous</b>		
12.	Wages prepaid before 1 July 2010	11
13.	Notices about rebate	11
14.	Regulations	11

## **Defined Terms**

Western Australia

## **Pay-roll Tax Rebate Act 2010**

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**No. 5 of 2010**

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**An Act to provide for a rebate on pay-roll tax for the 2009/10 assessment year and for related matters.**

*[Assented to 14 May 2010]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Pay-roll Tax Rebate Act 2010*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 other than sections 3 and 4 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

### **3. Terms used**

- (1) In this Act —

***2009/10 assessment year*** means the assessment year commencing on 1 July 2009;

***Australia wide wages*** means WA taxable wages and interstate taxable wages;

***eligible employer*** has the meaning given in section 6;

***overpaid amount*** has the meaning given in section 9(1).

- (2) If a term is given a meaning in the *Pay-roll Tax Assessment Act 2002* or the *Taxation Administration Act 2003*, it has the same meaning in this Act unless the contrary intention appears in this Act.

### **4. Relationship with *Taxation Administration Act 2003* and *Pay-roll Tax Assessment Act 2002***

- (1) The following provisions of the *Taxation Administration Act 2003* apply, as described, in relation to the administration and enforcement of this Act as if this Act were, for that purpose, specified as a taxation Act in section 3(1) of that Act —
- (a) Part 4 applies, as limited by subsection (2), in relation to a decision under this Act as if —
    - (i) the decision were a decision referred to in section 34(1)(b) of that Act; and

- (ii) a person liable to repay an overpaid amount under section 9(1) were a taxpayer;
- (b) Part 5 Division 1 and Part 6 Division 1 apply as if —
  - (i) an overpaid amount were tax; and
  - (ii) a person liable to repay an overpaid amount under section 9(1) were a taxpayer.
- (2) An objection or review under the *Taxation Administration Act 2003* Part 4 to or of a decision under this Act cannot be made or sought if the objection or review relies upon objecting to or seeking the review of an assessment of pay-roll tax.
- (3) The *Pay-roll Tax Assessment Act 2002* section 43 applies in relation to this Act as if this Act were a pay-roll tax Act as defined in the Glossary to that Act.

## **Part 2 — Rebate of pay-roll tax**

### **5. Rebate for the 2009/10 assessment year**

- (1) An eligible employer is entitled to a rebate of pay-roll tax for the 2009/10 assessment year of an amount calculated in accordance with section 7.
- (2) Subject to section 11(2), the amount of rebate to which an eligible employer is entitled is to be paid by the Commissioner to the eligible employer.

### **6. Who is entitled to the rebate — eligible employer**

- (1) An employer is an eligible employer if —
  - (a) the employer was registered during the whole or part of the 2009/10 assessment year; and
  - (b) the employer meets the threshold requirement in subsection (2) for a part of the year; and
  - (c) the employer, and the DGE of each group of which the employer was a member during the year, have lodged all returns for the year by 31 December 2010.
- (2) To meet the threshold requirement for the purposes of subsection (1)(b), the employer must satisfy at least one of the following —
  - (a) if the employer was a non-group employer during the whole of the year — the employer paid or was liable to pay Australia wide wages for the year of a total amount that is less than \$3.2 million;
  - (b) if the employer was a non-group employer during only part of the year — the employer paid or was liable to pay Australia wide wages for the period or periods during which the employer was a non-group employer of a total amount that is less than \$3.2 million pro rata;
  - (c) if the employer was a member of a particular group during the whole of the year — the group of which the

- employer was a member paid or was liable to pay Australia wide wages for the year of a total amount that is less than \$3.2 million;
- (d) if the employer was a member of a particular group during only part of the year — the group paid or was liable to pay Australia wide wages for the period, in the year, during which the group existed of a total amount that is less than \$3.2 million pro rata.
- (3) For the purposes of subsection (1)(a), an employer is to be taken to have been registered during June 2010 if —
- (a) the employer is required to apply for registration under the *Pay-roll Tax Assessment Act 2002* section 24(1) or (2) on the basis that the employer paid or was liable to pay wages during June 2010; and
- (b) the employer made an application for registration in accordance with section 24(5) of that Act.

## **7. Calculation of the rebate**

- (1) If an eligible employer —
- (a) was a non-group employer for the whole of the 2009/10 assessment year and paid or was liable to pay Australia wide wages for the year of a total amount that is not more than \$1.6 million; or
- (b) was a member of a particular group for the whole of the year and the group paid or was liable to pay Australia wide wages for the year of a total amount that is not more than \$1.6 million,

the amount of the rebate for the non-group employer or the group is equal to the amount of pay-roll tax that the employer or group was liable to pay for the year.

**s. 7**

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- (2) If an eligible employer —
- (a) was a non-group employer for the whole of the 2009/10 assessment year and paid or was liable to pay Australia wide wages for the year of a total amount that is more than \$1.6 million but less than \$3.2 million; or
  - (b) was a member of a particular group for the whole of the year and the group paid or was liable to pay Australia wide wages for the year of a total amount that is more than \$1.6 million but less than \$3.2 million,

the amount of the rebate for the non-group employer or the group is calculated using the following formula —

$$R = \left[ 2 - \frac{W_{AWW}}{1\,600\,000} \right] \times 46\,750 \times \frac{W_{WA}}{W_{AWW}}$$

where —

R is the amount of the rebate;

$W_{AWW}$  is the total amount of Australia wide wages paid or payable by the eligible employer or the group for the year;

$W_{WA}$  is the total amount of WA taxable wages paid or payable by the eligible employer or the group for the year.

- (3) If an eligible employer was a non-group employer for only part of the 2009/10 assessment year and paid or was liable to pay Australia wide wages for the period or periods, in the year, during which the employer was a non-group employer of a total amount that is not more than \$1.6 million pro rata, the amount of the rebate for the non-group employer for the period or periods is equal to the amount of pay-roll tax that the employer was liable to pay for the period or periods.
- (4) If an eligible employer was a non-group employer for only part of the 2009/10 assessment year and paid or was liable to pay Australia wide wages for the period or periods, in the year, during which the employer was a non-group employer of a total amount that is more than \$1.6 million pro rata but less than

\$3.2 million pro rata, the amount of the rebate for the non-group employer for the period or periods is calculated using the following formula —

$$R = \left[ 2 - \frac{W_{AWW} \times 365}{1\,600\,000 \times D} \right] \times 46\,750 \times \frac{W_{WA}}{W_{AWW}} \times \frac{D}{365}$$

where —

D is the number of days, in the year, during which the employer was a non-group employer;

R is the amount of the rebate;

$W_{AWW}$  is the total amount of Australia wide wages paid or payable by the eligible employer for the period or periods;

$W_{WA}$  is the total amount of WA taxable wages paid or payable by the eligible employer for the period or periods.

- (5) If an eligible employer was a member of a particular group for only part of the 2009/10 assessment year and the group paid or was liable to pay Australia wide wages for the period, in the year, during which the group existed of a total amount that is not more than \$1.6 million pro rata, the amount of the rebate for the group for the period is equal to the amount of pay-roll tax that the group was liable to pay for the period.
- (6) If an eligible employer was a member of a particular group for only part of the 2009/10 assessment year and the group paid or was liable to pay Australia wide wages for the period, in the year, during which the group existed of a total amount that is more than \$1.6 million pro rata but less than \$3.2 million pro rata, the amount of the rebate for the group for the period is calculated using the following formula —

$$R = \left[ 2 - \frac{W_{AWW} \times 365}{1\,600\,000 \times D} \right] \times 46\,750 \times \frac{W_{WA}}{W_{AWW}} \times \frac{D}{365}$$

where —

D is the number of days in the period;

**s. 8**

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R is the amount of the rebate;

$W_{AWW}$  is the total amount of Australia wide wages paid or payable by the group for the period;

$W_{WA}$  is the total amount of WA taxable wages paid or payable by the group for the period.

- (7) If, in relation to an eligible employer, an amount of rebate is calculated for a group, the employer is entitled to the same proportion of the rebate as the employer's liability to pay-roll tax while a member of the group, in the year, bears to the group's liability to pay-roll tax for the period, in the year, during which the group existed.
- (8) The amounts to be used in calculating the rebate for an eligible employer are to be taken from the most recent assessment of the employer's or group's pay-roll tax liability for the 2009/10 assessment year.
- (9) Despite anything else in this section, the amount of rebate for an eligible employer cannot exceed \$46 750.

**8. Pro rata amounts**

In this Part, a reference to an amount pro rata in relation to a period or periods is a reference to that amount multiplied by —

$$\frac{D}{365}$$

where —

D is the number of days in the period or periods.

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## Part 3 — Overpayment and underpayment of rebate

### 9. Overpayment of rebate

- (1) If the Commissioner is satisfied, whether as a result of an assessment or otherwise, that —
- (a) an amount of rebate has been paid to a person who was not entitled to a rebate; or
  - (b) an amount of rebate has been overpaid to an eligible employer,

(the *overpaid amount*) then the person to whom the amount was paid must repay, or receive credit under section 11(3) for, the overpaid amount.

- (2) Any amount to be repaid under subsection (1) must be paid to the Commissioner —
- (a) within 30 days after the day on which notice of the overpayment is issued under section 13(1)(b); or
  - (b) in accordance with a tax payment arrangement.

### 10. Underpayment of rebate

If the Commissioner is satisfied, whether as a result of an assessment or otherwise, that an underpayment of rebate has been made to an eligible employer then the Commissioner must pay, or credit under section 11(2), the employer with an amount equal to the amount of the underpayment.

### 11. Amounts of tax and rebate may be offset against each other

- (1) In this section —
- pay-roll tax liability* means —
- (a) a primary liability for pay-roll tax; and
  - (b) a liability to pay another amount under a taxation Act (such as penalty tax, interest or costs) in connection with that primary liability.

**s. 11**

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- (2) Instead of paying a rebate, or any additional amount under section 10, to an eligible employer, the Commissioner may credit all or part of the amount against any existing unpaid pay-roll tax liability of that employer.
- (3) Instead of refunding pay-roll tax overpaid by a person in accordance with the *Taxation Administration Act 2003* section 54(1), the Commissioner may credit all or part of the amount of the refund against any overpaid amount (of rebate) otherwise to be repaid by the person.

## **Part 4 — Miscellaneous**

### **12. Wages prepaid before 1 July 2010**

If, in relation to an eligible employer, the Commissioner is satisfied that —

- (a) the employer paid wages before 1 July 2010; and
- (b) the employer was not liable to pay the wages until on or after 1 July 2010; and
- (c) if the employer had paid the wages on or after 1 July 2010, the amount of rebate otherwise payable to the employer would be reduced,

the amount of rebate payable to the employer is to be calculated as if the wages were paid on 1 July 2010.

### **13. Notices about rebate**

- (1) The Commissioner must give a notice to a person —
  - (a) if a rebate is to be paid to the person under section 5; and
  - (b) if satisfied under Part 3 that an overpayment or underpayment of rebate has been made to the person.
- (2) The notice must —
  - (a) be in a form approved by the Commissioner; and
  - (b) state the amount of the rebate, overpayment or underpayment, as is relevant; and
  - (c) if an amount is to be repaid under section 9(1) — indicate the due date for payment of the amount and state the amount to be repaid; and
  - (d) give details of any offset made under section 11.

### **14. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are

**s. 14**

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necessary or convenient to be prescribed, for giving effect to this Act.

- (2) Without limiting subsection (1), regulations may be made in relation to any or all of the following matters —
- (a) the calculation of a rebate;
  - (b) records to be kept in relation to the entitlement to a rebate;
  - (c) notification to be given regarding the rebate to eligible employers or other persons.

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## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
2009/10 assessment year .....	3(1)
Australia wide wages .....	3(1)
eligible employer .....	3(1)
overpaid amount .....	3(1), 9(1)
pay-roll tax liability .....	11(1)