

Western Australia

Pay-roll Tax Assessment Amendment Act 2010

As at 25 Jun 2010

No. 15 of 2010

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Pay-roll Tax Assessment Amendment Act 2010

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Western Australia

Pay-roll Tax Assessment Amendment Act 2010

No. 15 of 2010

An Act to amend the Pay-roll Tax Assessment Act 2002 and the Pay-roll Tax Assessment Regulations 2003.

[Assented to 25 June 2010]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Pay-roll Tax Assessment Amendment Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1, Part 2 Divisions 1 and 2 and Part 3 — on the day on which this Act receives the Royal Assent;
- (b) Part 2 Division 3 — 1 July 2012.

Part 2 — *Pay-roll Tax Assessment Act 2002* amended

Division 1 — Act amended

3. Act amended

This Part amends the *Pay-roll Tax Assessment Act 2002*.

Division 2 — Amendments relating to taxable wages

4. Section 5A inserted

After section 4 insert:

5A. Notes in the text

A note included in this Act is explanatory and is not part of this Act.

5. Section 5 amended

- (1) In section 5(1) delete “taxable in Western Australia under subsection (2) except wages that are exempt under section 40.” and insert:

WA taxable wages.

- (2) Delete section 5(2) and insert:

- (2) ***WA taxable wages*** are wages, other than exempt wages, that are taxable in this jurisdiction.

Note: The heading to amended section 5 is to read:

Pay-roll tax on WA taxable wages

6. Sections 6A to 6D inserted

After section 5 insert:

6A. Wages that are taxable in this jurisdiction

- (1) Wages are taxable in this jurisdiction if —
- (a) the wages are paid or payable by an employer for or in relation to services performed by a person wholly in this jurisdiction; or
 - (b) the wages are paid or payable by an employer for or in relation to services performed by a person in 2 or more Australian jurisdictions, or partly in one or more Australian jurisdictions and partly outside all Australian jurisdictions, and —
 - (i) the person is based in this jurisdiction; or
 - (ii) the employer is based in this jurisdiction — in a case where the person is not based in an Australian jurisdiction; or
 - (iii) the wages are paid or payable in this jurisdiction — in a case where both the person and the employer are not based in an Australian jurisdiction; or
 - (iv) the wages are paid or payable for services performed mainly in this jurisdiction — in a case where both the person and employer are not based in an Australian jurisdiction and the wages are not paid or payable in an Australian jurisdiction;

or

- (c) the wages are paid or payable by an employer for or in relation to services performed by a person wholly outside all Australian jurisdictions and are paid or payable in this jurisdiction.

Note: Section 41B provides an exemption for wages paid or payable for services performed wholly in one or more other countries for a continuous period of more than 6 months.

- (2) The question of whether wages are taxable in this jurisdiction is, subject to this section, to be determined by reference only to the services performed by the person in respect of the employer during the month in which the wages are paid or payable.
- (3) For that purpose, any wages paid or payable by an employer in respect of a person in a particular month are taken to be paid or payable for or in relation to the services performed by the person in respect of the employer during that month.

Note: For example, if wages paid in a month are paid to a person for services performed over several months, the question of whether the wages are taxable in this jurisdiction is to be determined by reference only to services performed by the person in the month in which the wages are paid. The services performed in previous months are disregarded for this purpose.

- (4) If no services are performed by a person in respect of an employer during a month in which wages are paid or payable to or in relation to the person by the employer —
 - (a) the question of whether the wages are taxable in this jurisdiction is to be determined by reference only to the services performed by the person in respect of the employer during the most recent prior month in which the person performed services in respect of the employer;
and

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- (b) the wages are taken to be paid or payable for or in relation to the services performed by the person in respect of the employer during that most recent prior month.
- (5) If no services are performed by a person in respect of an employer during a month in which wages are paid or payable to or in relation to the person by the employer and no services were performed by the person in respect of the employer during any prior month —
 - (a) the wages are taken to be paid or payable for or in relation to services performed by the person during the month in which the wages are paid or payable; and
 - (b) the services are taken to have been performed at a place or places where it may be reasonably expected that the services of the person in respect of the employer will be performed.
- (6) All amounts of wages paid or payable in the same month by the same employer in respect of the same person are to be aggregated for the purposes of determining whether they are taxable in this jurisdiction.

Note: For example, if one amount of wages is paid by an employer in a particular month for services performed in this jurisdiction, and another amount of wages is paid by the same employer in the same month for services performed by the same person in another Australian jurisdiction, the wages paid are to be aggregated as if they were paid for all the services performed by the person in that month.

- (7) If wages are paid in a different month from the month in which they are payable, the question of whether the wages are taxable in this jurisdiction is to be determined by reference to the earlier of the relevant months.

- (8) If an amount that is paid or payable to a company is, under section 9GA or 21, taken to be wages paid or payable to another person, subsection (1)(b) has effect as if references to the jurisdiction in which the person who performs the services is based were references to the jurisdiction in which the company is based and, for that purpose, the jurisdiction in which the company is based is to be worked out under section 6C as if the company were an employer.

6B. Jurisdiction in which person who performs services is based

- (1) The jurisdiction in which a person who performs services is based is the jurisdiction in which the person's principal place of residence is located.
- (2) The jurisdiction in which the person is based is to be determined by reference to the state of affairs existing during the month in which the relevant wages are paid or payable.
- (3) If more than one jurisdiction would qualify as the jurisdiction in which the person is based during a month, the jurisdiction in which the person is based is to be determined by reference to the state of affairs existing on the last day of that month.
- (4) If the person does not have a principal place of residence, the person is taken to be a person who is not based in an Australian jurisdiction.

6C. Jurisdiction in which employer is based

- (1) The jurisdiction in which an employer is based is —
- (a) the jurisdiction in which the employer's registered business address is located — if the employer has an ABN; or

- (b) the jurisdiction in which the employer's principal place of business is located — in any other case.
- (2) If wages are paid or payable in connection with a business carried on by an employer under a trust, the employer's registered business address is the registered business address of the trust or, if the trust does not have an ABN, the registered business address of the trustee of the trust.
- (3) If an employer has registered business addresses located in different jurisdictions at the same point in time, the jurisdiction in which the employer is based at that point in time is the jurisdiction in which the employer's principal place of business is located.
- (4) The jurisdiction in which an employer is based is to be determined by reference to the state of affairs existing during the month in which the relevant wages are paid or payable.
- (5) If more than one jurisdiction would qualify as the jurisdiction in which an employer is based during a month, the jurisdiction in which the employer is based is to be determined by reference to the state of affairs existing on the last day of that month.
- (6) An employer who has neither a registered business address nor a principal place of business is taken to be an employer who is not based in an Australian jurisdiction.

6D. Place and date of payment of wages

- (1) In this section —
instrument includes a cheque, bill of exchange, promissory note, money order or a postal order issued by a post office.

- (2) Wages are taken to have been paid at a place if, for the purpose of the payment of those wages —
 - (a) an instrument is sent or given or an amount is transferred by an employer to a person or a person's agent at that place; or
 - (b) an instruction is given by an employer for the crediting of an amount to the account of a person or a person's agent at that place.
- (3) The wages are taken to have been paid on the date that the instrument was sent or given, the amount was transferred or the account credited in accordance with the instruction (whichever is relevant).
- (4) Subject to this section, wages are taken to be payable at the place at which they are paid.
- (5) Wages that are not paid by the end of the month in which they are payable are taken to be payable at —
 - (a) the place where wages were last paid by the employer for or in relation to services performed by the person; or
 - (b) if wages have not previously been paid by the employer for or in relation to services performed by the person — the place where the person last performed services in respect of the employer before the wages became payable.
- (6) If wages paid or payable in the same month by the same employer in respect of the same person are paid or payable in more than one Australian jurisdiction, the wages paid or payable in that month are taken to be paid or payable in the Australian jurisdiction in which the highest proportion of the wages are paid or payable.

7. Part 2 Division 2A inserted

After Part 2 Division 1 insert:

Division 2A — Wages

Subdivision 1 — General concept of wages

9AA. Term used: wages

(1) In this Act —

wages means —

- (a) wages, remuneration, salary, commission, bonuses or allowances paid or payable to or in relation to an employee; and
- (b) an amount paid or payable by way of remuneration to a person holding an office under, or in the service of, the Crown in right of the State of Western Australia; and
- (c) an amount paid or payable under a contract in a class of contract prescribed under section 45(2)(g), to the extent to which that payment is attributable to labour; and
- (d) an amount paid or payable by a company by way of remuneration to or in relation to a director of that company; and
- (e) an amount paid or payable by way of commission to an insurance or time-payment canvasser or collector; and
- (f) an amount that is taken to be wages paid or payable by an employer to a person by another provision of this Division; and
- (g) a motor vehicle allowance paid or payable to an employee for a financial year, to the extent to which it exceeds the exempt component determined under section 9FA; and

- (h) an accommodation allowance paid or payable to an employee in a financial year in respect of a night's absence from the person's usual place of residence, to the extent to which it exceeds the exempt rate determined under section 9FB.
- (2) Wages, remuneration, salary, commission, bonuses, allowances or other amounts referred to in subsection (1) are wages —
 - (a) whether paid or payable at piece work rates or otherwise; and
 - (b) whether paid or payable in cash or in kind.

Subdivision 2 — Fringe benefits and specified taxable benefits

9BA. Wages include fringe benefits and specified taxable benefits

- (1) The value of a fringe benefit or a specified taxable benefit that is provided by an employer to or in relation to an employee is taken to be wages paid by the employer to the employee unless the benefit is a fringe benefit constituted by the grant of a share or an option the value of which is taken to be wages under Subdivision 4.
- (2) Subsection (1) does not apply to benefits that are exempt benefits for the purposes of the FBTA Act.

9BB. Actual value of a fringe benefit

- (1) The value of a fringe benefit (**V**) is to be calculated in accordance with the formula —

$$V = TV \times \frac{1}{1 - \text{FBT rate}}$$

where —

FBT rate is the rate of fringe benefits tax, imposed for the purposes of the FBTA Act, that applies when the liability to pay-roll tax under this Act arises;

TV is the taxable value of the benefit as a fringe benefit for the purposes of the FBTA Act.

- (2) The value of a fringe benefit calculated in accordance with subsection (1) is the **actual value** of the fringe benefit.

9BC. Basis for including the value of fringe benefits in returns

- (1) If an employer is required to specify in a return WA taxable wages that include the value of fringe benefits provided by the employer, the employer may, instead of including the actual value of the fringe benefits, include a value of the fringe benefits calculated using the estimated value method, if the employer is eligible to do so.
- (2) An employer must use the same basis upon which to include the value of fringe benefits in returns for all returns for an assessment year unless the Commissioner allows a change during that year under section 9BH(4).

9BD. Eligibility to use estimated value method

An employer is eligible to use the estimated value method to calculate the value of fringe benefits provided by the employer in an assessment year if the employer —

- (a) has provided WA fringe benefits for at least the 15 months ending immediately before the beginning of the assessment year; and
- (b) lodges monthly returns for the assessment year.

9BE. Returns (other than annual returns) using the estimated value method

- (1) If an employer, other than one who lodges an annual return, uses the estimated value method for an assessment year, the value of the fringe benefits (**V**) to be included in each return for the year except the last return is to be calculated in accordance with the formula —

$$V = AV \times \frac{1}{N}$$

where —

AV is the actual value of the fringe benefits provided by the employer in relation to the FBT year ending on 31 March in the financial year immediately before the assessment year;

N is the number of returns in the assessment year.

- (2) The value of the fringe benefits to be included in the employer's last return for the assessment year is the amount equal to the difference between —
- (a) the actual value of the WA fringe benefits provided by the employer during the FBT year that ended on 31 March in the assessment year; and
 - (b) the sum of the amounts included in each of the previous returns for the assessment year under subsection (1).

9BF. Annual returns using the estimated value method

If an employer who lodges an annual return for an assessment year uses the estimated value method for the assessment year, the value of the fringe benefits to be included in the return is the amount equal to the actual value of the WA fringe benefits provided by the

employer for the FBT year that ended on 31 March in the assessment year.

9BG. Final returns using the estimated value method

If an employer who uses the estimated value method lodges a final return for an assessment year, the value of the fringe benefits to be included in the return is the amount equal to the difference between —

- (a) the sum of —
 - (i) the WA fringe benefits provided by the employer for the FBT year that ended on 31 March in the assessment year; and
 - (ii) the WA fringe benefits provided by the employer for April, May and June in the assessment year (if any);

and

- (b) the sum of —
 - (i) one quarter of the WA fringe benefits provided by the employer for the FBT year that ended in the first financial year for which the employer last chose to make returns using the estimated value method; and
 - (ii) the total of the amounts of WA fringe benefits included in the returns for the assessment year.

9BH. Changing method of valuing fringe benefits

- (1) An employer may commence using the estimated value method for an assessment year if the employer —
 - (a) is eligible to use the estimated value method; and
 - (b) gives the Commissioner notice of the intention to do so before the day on which the first or

only return for the assessment year is required to be lodged by the employer.

- (2) An employer may cease using the estimated value method for an assessment year if the employer gives the Commissioner notice of the intention to do so before the day on which the first or only return for the assessment year is required to be lodged by the employer.
- (3) A notice under subsection (1) or (2) must be in a form approved by the Commissioner.
- (4) On the written application of an employer, the Commissioner may allow the employer to change the basis upon which to include the value of fringe benefits in returns during an assessment year if the Commissioner is satisfied that —
 - (a) there is a compelling reason for making the change; and
 - (b) where relevant — if the change were not made, the amount of pay-roll tax paid by the employer during the assessment year would be substantially greater than the amount payable for the assessment year on the actual value of the fringe benefits provided by the employer for the assessment year.
- (5) If an employer ceases using the estimated value method during an assessment year, the value of the fringe benefits to be included in the last return lodged by the employer for the assessment year is the amount equal to the difference between —
 - (a) the sum of —
 - (i) the actual value of the WA fringe benefits provided by the employer for the FBT year ending on 31 March in the assessment year; and

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- (ii) the actual value of the WA fringe benefits provided by the employer in April, May and June of the assessment year (if any);
- and
- (b) the sum of —
 - (i) one quarter of the actual value of the WA fringe benefits provided by the employer for the FBT year that ended in the first financial year in which the employer last chose to make returns using the estimated value method; and
 - (ii) the total of the amounts of the WA fringe benefits included in the employer's returns for the assessment year.
- (6) If an employer commences using the estimated value method during an assessment year, the value of the fringe benefits to be included in the last return lodged by the employer for the assessment year is the amount equal to the difference between —
 - (a) the actual value of the WA fringe benefits provided by the employer for the FBT year ending on 31 March in the assessment year; and
 - (b) the total of the amounts of the WA fringe benefits included in the employer's returns for the assessment year.

9BI. Value of a specified taxable benefit

The value of a specified taxable benefit is the prescribed value, or the value calculated in the prescribed manner (whichever is relevant).

Subdivision 3 — Superannuation contributions

9CA. Terms used

For the purposes of this Subdivision —

employee includes —

- (a) any person to whom, because of paragraph (a), (b), (c), (d) or (e) of the definition of *wages* in section 9AA(1), an amount paid or payable in the circumstances referred to in that paragraph constitutes wages; and
- (b) a director of a company to whom paragraph (a) does not apply;

employer, of a director referred to in the definition of *employee* paragraph (b), means the company;

notional contribution has the meaning given in section 9CD;

superannuation contribution has the meaning given in section 9CC.

9CB. Wages include superannuation contributions and other similar amounts

- (1) The amount of each of the following is taken to be wages paid by the employer to the employee in the return period —
 - (a) a superannuation contribution made by an employer in respect of an employee in a return period of the employer;
 - (b) a notional contribution taken to have been made by an employer in respect of an employee in a return period of the employer;
 - (c) an individual superannuation guarantee shortfall that an employer has for an employee for a return period of the employer.

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- (2) If a notional contribution is taken to have been made by an employer, in respect of an employee, to a superannuation fund in a return period, no contribution made to the fund by the employer, in respect of the employee, in the return period to make provision for the cost referred to in section 9CD(3) is taken to be wages under subsection (1).
- (3) If —
- (a) a superannuation contribution that was payable, but not paid, or was required to be credited as a contribution, but was not, by an employer in respect of an employee is taken to be wages paid by the employer to the employee in a return period under subsection (1); and
 - (b) an individual superannuation guarantee shortfall results wholly or in part from the employer's failure to pay or credit the contribution,

the amount of the individual superannuation guarantee shortfall is reduced (but not to below zero) by the amount of the superannuation contribution referred to in paragraph (a).

- (4) Section 6D(5) applies to —
- (a) a superannuation contribution that is payable but not paid or is or is required to be credited as a contribution; and
 - (b) a notional contribution; and
 - (c) an individual superannuation guarantee shortfall,
- as if —
- (d) it referred to contributions rather than wages; and

- (e) an amount that is or is required to be credited as a contribution, a notional contribution and an individual superannuation guarantee shortfall were contributions payable.
- (5) For the purposes of subsection (1)(c) —
- (a) the individual superannuation guarantee shortfall referred to is reduced by any amount of the shortfall arising under the Superannuation Guarantee Act section 19 because of contributions not made in compliance with the choice of fund requirements; and
 - (b) if an employer has an individual superannuation guarantee shortfall for an employee for a quarter (within the meaning given in the Superannuation Guarantee Act section 6), the shortfall is taken to be for the last month of the quarter.

9CC. Superannuation contributions

- (1) A superannuation contribution is made by an employer in respect of an employee if —
- (a) a contribution is paid or payable by an employer to or as a superannuation fund in respect of the employee; or
 - (b) an amount, although not paid or payable, is or is required to be credited under a superannuation fund as an employer's contribution in respect of an employee.
- (2) Subsection (1)(b) applies only in respect of an Australian superannuation fund that does not provide for any defined superannuation benefits in respect of any person.

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- (3) Setting aside any money or anything that is worth money as, or as part of, a superannuation fund is taken to be paying a contribution.
- (4) Making a contribution of anything that is worth money is taken to be paying a contribution of the amount equal to its value, and its value is to be worked out in accordance with section 9HA as if that section referred to the contribution instead of to wages.

9CD. Notional contributions

- (1) Notional contributions are taken to have been made by an employer in respect of an employee if —
 - (a) the employee is a member of an Australian superannuation fund; and
 - (b) the fund is a defined benefit fund.
- (2) For each return period of the employer in which the employee accrues an entitlement to a defined superannuation benefit from the fund, a notional contribution is taken to have been made to the fund in the return period by the employer in respect of the employee.
- (3) The amount of the notional contribution is the amount that an actuary determines would be sufficient to meet the expected long-term cost to the employer of that benefit.
- (4) The regulations may include provisions about how an actuary is to determine an amount under subsection (3).

Subdivision 4 — Shares and options

9DA. Wages include shares and options granted to employees

- (1) The value of a share or an option granted by an employer to an employee in respect of the appointment

of or services performed by the employee is taken to be wages paid by the employer to the employee unless the share or option is wages under a paragraph of section 9AA(1) other than paragraph (f).

- (2) A share or an option is granted to a person in the following circumstances —
 - (a) in the case of a share — if the person acquires the share —
 - (i) in accordance with section 139G of the *Income Tax Assessment Act 1936* (Commonwealth); or
 - (ii) in circumstances prescribed for the purposes of this paragraph by the regulations;
 - (b) in the case of an option — if the person acquires a right to the share to which the option relates and the right is acquired —
 - (i) in accordance with section 139G of the *Income Tax Assessment Act 1936* (Commonwealth); or
 - (ii) in circumstances prescribed for the purposes of this paragraph by the regulations.
- (3) Wages constituted by the value of a share or an option are taken to be paid on the relevant day.
- (4) The **relevant day** is the day that the employer elects, in accordance with this Subdivision, to treat as the day on which the wages are paid.
- (5) To avoid doubt, a share or an option is valuable consideration for the purposes of section 9HC.

9DB. Relevant day — choice of

- (1) The employer may elect to treat as the relevant day either the day on which the share or option is granted to the employee or the vesting day.
- (2) The *vesting day* in respect of a share is the day on which the share vests in the employee, that is, when any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded.
- (3) The *vesting day* in respect of an option is the earlier of the following days —
 - (a) the day on which the share to which the option relates is granted to the employee;
 - (b) the day on which the employee exercises a right under the option to have the share the subject of the option transferred to, allotted to or vest in him or her.

9DC. Relevant day — special cases

- (1) If —
 - (a) an employer grants a share or an option to an employee the value of which is taken to be wages under this Subdivision; and
 - (b) the value of the share or option is not specified as WA taxable wages in a return in the financial year in which the share or option was granted,the employer is taken to have elected to treat the wages constituted by the value of that share or option as being paid on the vesting day.

- (2) If —
- (a) an employer grants a share or an option to an employee the value of which is taken to be wages under this Subdivision; and
 - (b) either —
 - (i) the value of the share or option is nil; or
 - (ii) if the employer were to elect to treat the day on which the share or option was granted as the relevant day — the wages constituted by the value of the share or option would not be liable to pay-roll tax,

the employer is taken to have elected to treat the wages constituted by the value of the share or option as being paid or payable on the day on which the share or option was granted.

9DD. Value of shares and options

- (1) In this section —
- Commonwealth income tax provisions*** means the provisions of Subdivision F of Division 13A of Part III of the *Income Tax Assessment Act 1936* (Commonwealth).
- (2) The value of a share or an option taken to be wages under this Subdivision is the market value of the share or option (expressed in Australian currency) on the relevant day, less the consideration (if any) paid or given by the employee in respect of the share or option (other than consideration in the form of services performed).
- (3) The market value of a share or an option on the relevant day is to be determined in accordance with the Commonwealth income tax provisions.

- (4) For that purpose, the Commonwealth income tax provisions apply with the following modifications, and any other necessary modifications —
- (a) the market value of an option is to be determined as if it were a right to acquire a share;
 - (b) a reference to a taxpayer is to be read as a reference to the employee;
 - (c) a reference to the Commissioner of Taxation is to be read as a reference to either that Commissioner or the Commissioner of State Revenue.

9DE. Effect of rescission, cancellation etc. of share or option

- (1) If an employer grants a share or an option to an employee the value of which is taken to be wages under this Subdivision and the grant of the share or option is withdrawn, cancelled or exchanged before the vesting day for any valuable consideration (other than the grant of other shares or options) —
- (a) the day of withdrawal, cancellation or exchange is taken to be the relevant day in relation to the share or option; and
 - (b) the market value of the share or option, on the relevant day, is taken to be the amount of the valuable consideration.
- (2) If —
- (a) an employer grants a share or an option to an employee the value of which is taken to be wages under this Subdivision; and
 - (b) the value of the share or option is specified as WA taxable wages in a return; and

- (c) the grant is rescinded because the conditions attaching to the grant were not met,

the WA taxable wages of the employer, in the return period in which the grant is rescinded, are to be reduced by the value of the share or option as specified in the earlier return.

- (3) Subsection (2) does not apply just because an employee fails to exercise an option or to otherwise exercise his or her rights in respect of a share or an option.

9DF. Grant of share under exercise of option

The value of a share granted by an employer to an employee is not to be taken to be wages under this Subdivision if —

- (a) the employer is required to grant the share as a consequence of the exercise of an option by a person; and
- (b) the value of the option granted to the person was taken to be wages under this Subdivision.

9DG. Wages include certain shares and options granted to directors

- (1) If the value of a share or an option granted by a company to a director of the company by way of remuneration for the appointment or services of the director would be taken to be wages under this Subdivision if the director were an employee of the company, the value of the share or option is taken to be wages paid by the company (as an employer) to the director.
- (2) For the purposes of subsection (1), the other provisions of this Subdivision apply in respect of any such grant as if a reference to the employer were a reference to the

company and a reference to the employee were a reference to the director of the company.

- (3) In this section, a reference to a director of the company includes a reference to the following —
- (a) a person who, under a contract or other arrangement, is to be appointed as a director of the company;
 - (b) a former director of the company.

9DH. Place where wages (as shares or options) are payable

- (1) In this section —
- local company* means —
- (a) a company incorporated or taken to be incorporated under the Corporations Act that is taken to be registered in Western Australia for the purposes of that Act; or
 - (b) any other body corporate that is incorporated under a written law.
- (2) Wages constituted by the value of a share or an option are taken to be paid in Western Australia if the share is a share in a local company or, in the case of an option, an option to acquire shares in a local company.
- (3) In any other case, wages constituted by the value of a share or an option are taken to be paid outside Western Australia.

Subdivision 5 — Termination payments

9EA. Wages include termination payments

- (1) The amount of a termination payment is taken to be wages paid or payable by the employer to the

employee, or by the company (as an employer) to the director.

(2) For the purposes of subsection (1) —

employment termination payment means —

- (a) an employment termination payment within the meaning of section 82-130 of the ITA Act; or
- (b) a payment that would be an employment termination payment within the meaning of section 82-130 of the ITA Act but for the fact that it was received later than 12 months after the termination of a person's employment; or
- (c) a transitional termination payment within the meaning of section 82-10 of the *Income Tax (Transitional Provisions) Act 1997* (Commonwealth);

termination payment means —

- (a) a payment made in consequence of the retirement from, or termination of, any office or employment of an employee, being —
 - (i) an unused annual leave payment; or
 - (ii) an unused long service leave payment; or
 - (iii) so much of an employment termination payment paid or payable by an employer, whether or not paid to the employee or to any other person or body, that would be included in the assessable income of an employee under Part 2-40 of the ITA Act if the whole of the employment termination payment had been paid to the employee;

or

- (b) an amount paid or payable by a company as a consequence of the termination of the services or office of a director of the company, whether or not paid to the director or to any other person or body, that would be an employment termination payment if that amount had been paid or payable as a consequence of termination of employment;

unused annual leave payment has the meaning given in section 83-10 of the ITA Act;

unused long service leave payment has the meaning given in section 83-75 of the ITA Act.

Subdivision 6 — Allowances

9FA. Motor vehicle allowances

- (1) For the purposes of section 9AA(1)(g), the exempt component (*E*) of a motor vehicle allowance paid or payable in respect of a financial year is calculated in accordance with the formula —

$$E = K \times R$$

where —

K is the number of business kilometres travelled during the financial year under subsection (2);

R is the exempt rate under subsection (3).

- (2) The number of business kilometres travelled during the financial year is to be determined —
- (a) if paragraph (b) does not apply to the employer — in accordance with the applicable recording method in the regulations; or
- (b) if the Commissioner has, by order in writing, approved the use, by an employer or class of employer, of another method (including the use

of an estimate) of determining the number of business kilometres travelled during the financial year — in accordance with the method approved by the Commissioner.

- (3) The exempt rate for the financial year concerned is —
- (a) the rate prescribed by the regulations under section 28-25 of the ITA Act for calculating a deduction for car expenses for a large car using the “cents per kilometre method” in the financial year immediately preceding the financial year in which the allowance is paid or payable; or
 - (b) if no rate referred to in paragraph (a) is prescribed under that Act — the rate prescribed in the regulations.

9FB. Accommodation allowances

For the purposes of section 9AA(1)(h), the exempt rate for the financial year concerned is —

- (a) the total reasonable amount for daily travel allowance expenses using the lowest capital city for the lowest salary band for the financial year determined by the Commissioner of Taxation of the Commonwealth; or
- (b) if no determination referred to in paragraph (a) is in force — the rate prescribed in the regulations.

Subdivision 7 — Employment agents

9GA. Wages include amounts paid by employment agents

An amount in respect of services that is paid or payable by an employment agent (directly or indirectly) to a person who was engaged to perform the services for a client of the employment agent, or to some other

person, as a result of which engagement the employment agent receives payment (directly or indirectly, whether by way of a lump sum or an ongoing fee) in relation to the period during which the services are performed for the client by the person engaged to perform them is taken to be wages paid or payable by the agent (as an employer) to the person for or in relation to the services performed by the person.

Subdivision 8 — Miscellaneous provisions

9HA. Value of wages paid in kind

The value of wages (except fringe benefits or specified taxable benefits) that are paid or payable in kind is the greater of —

- (a) the value agreed or the value attributed to the wages in, or the value ascertainable for the wages from, arrangements between the employer and the employee, whichever is the greater of the 3 amounts; and
- (b) if the regulations prescribe how the value of wages of that type is to be determined — the value determined in accordance with the regulations.

9HB. GST excluded from wages

- (1) If wages paid or payable to a person relate to a supply on which the person is liable to pay GST, the amount or value of the wages is reduced by the amount of GST payable by the person in respect of the services to which the wages relate.
- (2) Subsection (1) does not apply in respect of the value of wages comprising a fringe benefit.

9HC. Wages paid by or to third parties

- (1) If any of the following amounts of money or other valuable consideration would, if paid or given directly by an employer to an employee, be or be taken to be wages paid or payable by the employer to the employee for the purposes of this Act, they are taken to be wages paid or payable by the employer to the employee —
 - (a) any money or other valuable consideration paid or given, or to be paid or given, to an employee, for the employee's services as an employee of an employer, by a person other than the employer;
 - (b) any money or other valuable consideration paid or given, or to be paid or given, by an employer, for an employee's services as the employee of the employer, to a person other than the employee;
 - (c) any money or other valuable consideration paid or given, or to be paid or given, by a person other than an employer, for an employee's services as an employee of the employer, to a person other than the employee.

- (2) If any of the following amounts of money or other valuable consideration would, if paid or given directly by a company to a director of the company, be or be taken to be wages paid or payable by the company to the director for the purposes of this Act, they are taken to be wages paid or payable by the company to the director —
 - (a) any money or other valuable consideration paid or given, or to be paid or given, to a director of a company, by way of remuneration for the appointment or services of the director to the company, by a person other than the company;

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- (b) any money or other valuable consideration paid or given, or to be paid or given, by a company, by way of remuneration for the appointment or services of the director to the company, to a person other than the director;
 - (c) any money or other valuable consideration paid or given, or to be paid or given, by any person, by way of remuneration for the appointment or services of a director to the company, to a person other than the director.
- (3) In this section, a reference to a director of a company includes a reference to —
- (a) a person who, under a contract or other arrangement, is to be appointed as a director of the company; and
 - (b) a former director of the company.

8. Section 21 amended

In section 21(1)(c) after “wages” insert:

paid or payable for or in relation to the services performed by the worker

9. Section 26 amended

Delete section 26(2) and insert:

- (2) A monthly return must be in the approved form.
- (3) A monthly return must —
 - (a) for a month other than June — be lodged within 7 days after the end of the month, or within any further time allowed by the Commissioner in a particular case; and

- (b) for June — be lodged within 21 days after the end of the month, or within any further time allowed by the Commissioner in a particular case.

Penalty: a fine of \$5 000.

10. Section 27 amended

In section 27(2)(c) delete “2 months” and insert:

21 days

11. Section 31 amended

In section 31(1) delete “carries out” and insert:

performs

12. Part 5 heading replaced

Delete the heading to Part 5 and insert:

Part 5 — Exempt wages

13. Section 40 amended

- (1) Delete section 40(1)(b).
- (2) After section 40(2)(o) insert:

- (p) subject to subsection (3), by an employer to or in relation to a person for a period when the person is —
 - (i) performing functions as a volunteer member of a FESA Unit, an SES Unit

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or a VMRS Group under the *Fire and Emergency Services Authority of Western Australia Act 1998*; or

(ii) performing functions as a member of a volunteer fire brigade under the *Fire Brigades Act 1942*; or

(iii) performing functions as a volunteer member of a bush fire brigade under the *Bush Fires Act 1954*;

or

(3) In section 40(2)(r) delete “carried out” and insert:

performed

(4) Delete section 40(3) and insert:

(3) The exemption provided for by subsection (2)(p) does not apply to wages paid or payable as annual leave, long service leave, recreation leave or sick leave.

(5) Delete section 40(5).

14. Sections 41A and 41B inserted

After section 40 insert:

41A. Exempt wages — parental and adoption leave

(1) In this section —

adoption leave means leave given to an employee in connection with the adoption of a child by the

employee, other than annual leave, recreation leave, sick leave or similar leave;

maternity leave means leave given to a female employee in connection with her pregnancy or the birth of her child, other than annual leave, recreation leave, sick leave or similar leave;

parental leave means leave given to an employee in connection with the pregnancy of a female carrying the employee's unborn child or the birth of the employee's child, other than annual leave, recreation leave, sick leave or similar leave.

- (2) Wages paid or payable to or in relation to an employee for maternity leave, parental leave or adoption leave are exempt from pay-roll tax.
- (3) It is immaterial whether the leave is taken during or after the pregnancy or before or after the adoption.
- (4) The exemption in subsection (2) is limited to wages paid or payable for not more than 14 weeks' worth of leave at the employee's normal rate of pay.
- (5) The exemption in subsection (2) does not apply to wages comprising a fringe benefit under the FBTA Act.

41B. Exempt wages — wages paid or payable for or in relation to services performed in other countries

- (1) Wages are exempt from pay-roll tax if they are paid or payable for or in relation to services performed by a person wholly in one or more other countries for a continuous period of more than 6 months beginning on the day on which wages were first paid or payable to that person for the services so performed.

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- (2) The Commissioner must make any reassessment necessary to give effect to this section.

15. Part 6 heading inserted

Before section 41 insert:

Part 6 — Miscellaneous

16. Section 45 amended

In section 45(2)(g) delete “clause 2(1)(e) of the Glossary.” and insert:

section 9AA(1)(c).

17. Section 46 and Schedule 1 inserted

After section 45 insert:

46. Transitional provisions

Schedule 1 contains transitional provisions relating to amendments made to this Act.

Schedule 1 — Transitional provisions

[s. 46]

Division 1 — Provisions for the *Pay-roll Tax Assessment Amendment Act 2010* in relation to taxable wages

1. Liability to tax for the assessment years commencing on 1 July 2009 and 1 July 2010

A person’s liability to pay-roll tax under this Act for the assessment year commencing on 1 July 2009, and for the

assessment year commencing on 1 July 2010, is to be determined as if the *Pay-roll Tax Assessment Amendment Act 2010* (other than Part 2 Division 3) had come into operation on 1 July 2009.

2. Shares and options granted on or after 1 July 2009 and before the *Pay-roll Tax Assessment Amendment Act 2010* received the Royal Assent

- (1) If —
- (a) an employer granted a share or an option to a person —
 - (i) on or after 1 July 2009; and
 - (ii) before the *Pay-roll Tax Assessment Amendment Act 2010* received the Royal Assent;
- and
- (b) the amount equal to the value of the share or option was WA taxable wages; and
 - (c) the value of the share or option is, under section 9DA or 9DG and clause 1, taken to be wages paid by the employer to the employee; and
 - (d) the wages constituted by the value of that share or option are WA taxable wages under section 5(2) and clause 1,

the employer may, by notice given to the Commissioner, elect to treat those wages as being paid on the vesting day.

- (2) A notice under subclause (1) must be given within the 3 months after the day on which the *Pay-roll Tax Assessment Amendment Act 2010* received the Royal Assent.
- (3) The Commissioner must, on application, make any reassessment necessary to give effect to this clause.

3. Notices under the *Pay-roll Tax Assessment Regulations 2003* regulation 26(1) or (2)

A notice under the *Pay-roll Tax Assessment Regulations 2003* regulation 26(1) or (2) in relation to the assessment year commencing on 1 July 2009, or the assessment year commencing on 1 July 2010, has effect as if it were given under section 9BH(1) or (2), whichever is relevant.

18. Glossary amended

- (1) In the Glossary clause 1 delete the definitions of:

assessable income

Australian superannuation scheme

eligible termination payment

'otherwise deductible' rule

participant

regulated superannuation fund

superannuation fund

superannuation guarantee charge

superannuation scheme

unfunded public sector superannuation scheme

WA taxable wages

work-related benefit

- (2) In the Glossary clause 1 insert in alphabetical order:

ABN means the ABN (Australian Business Number) for an entity within the meaning of the *A New Tax System (Australian Business Number) Act 1999* (Commonwealth);

actual value, of a fringe benefit, has the meaning given in section 9BB(2);

Australian jurisdiction means a State or a Territory;

Australian superannuation fund means a superannuation fund that —

- (a) was established in Australia, or has any asset situated in Australia; and
- (b) has its central management and control in Australia;

defined benefit fund has the meaning given to “defined benefit superannuation scheme” in section 6 of the Superannuation Guarantee Act;

director of a company includes a member of the governing body of the company;

FBT year means a year ending on 31 March;

ITA Act means the *Income Tax Assessment Act 1997* (Commonwealth);

motor vehicle allowance means an allowance paid by an employer to a person who provides or maintains a motor vehicle used for business journeys;

option means an option or right, whether actual, prospective or contingent, of a person to acquire a share or to have a share transferred or allotted to the person;

paid, in relation to wages, includes provided, conferred and assigned and **pay** and **payable** have corresponding meanings;

registered business address means an address for service of notices under the *A New Tax System (Australian Business Number) Act 1999* (Commonwealth) on an entity that has an ABN, as shown in the Australian Business Register kept under that Act;

share means a share in a company and includes a stapled security within the meaning of section 139GCD of the *Income Tax Assessment Act 1936* (Commonwealth);

superannuation fund includes —

- (a) a superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Commonwealth); and

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- (b) any other form of superannuation, provident or retirement fund or scheme including —
 - (i) the Superannuation Holding Accounts Special Account within the meaning of the *Small Superannuation Accounts Act 1995* (Commonwealth); and
 - (ii) a retirement savings account within the meaning of the *Retirement Savings Accounts Act 1997* (Commonwealth);

Superannuation Guarantee Act means the *Superannuation Guarantee (Administration) Act 1992* (Commonwealth);

WA fringe benefits means fringe benefits that are WA taxable wages on which fringe benefits tax (imposed under the *Fringe Benefits Tax Act 1986* (Commonwealth)) is paid or payable;

WA taxable wages has the meaning given in section 5(2).

- (3) In the Glossary clause 1 in the definition of **defined superannuation benefit**:
 - (a) delete “scheme” and insert:

fund
 - (b) delete “participant’s” (each occurrence) and insert:

member’s
- (4) In the Glossary clause 1 in the definition of **employment agent**:
 - (a) in paragraph (a) delete “carry out” and insert:

perform

(b) in paragraph (b) delete “provided” and insert:

performed

(5) In the Glossary clause 1 in the definition of *exempt* delete “section 40;” and insert:

Part 5;

(6) In the Glossary clause 1 in the definition of *individual superannuation guarantee shortfall* delete “*Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;” and insert:

Superannuation Guarantee Act;

(7) In the Glossary clause 1 in the definition of *tax-reducing arrangement* paragraph (a) delete “carries out;” and insert:

performs,

(8) In the Glossary clause 1 in the definition of *value*:

(a) in paragraph (b) delete “clause 7;” and insert:

section 9BB;

(b) in paragraph (c) delete “clause 6;” and insert:

section 9BI;

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(c) in paragraph (d) delete “clause 3;” and insert:

section 9HB;

(d) in paragraph (e) delete “clause 6;” and insert:

section 9HA;

(9) In the Glossary clause 1 in the definition of *wages* delete
“definition given in clause 2;” and insert:

meaning given in section 9AA;

(10) Delete the Glossary clauses 2 to 12.

19. Various penalties amended

In the provisions listed in the Table after “Penalty:” insert:

a fine of

Table

s. 24(1)	s. 24(2)
s. 27(2)	s. 28(2)
s. 29(8)	s. 29(9)
s. 44(1)	s. 44(2)

Division 3 — Amendments relating to grouping of employers

20. Section 31 amended

In section 31(4) delete the passage that begins with “section 38” and continues to the end of the subsection and insert:

section 38.

21. Section 32 amended

Delete section 32(3) and (4) and insert:

- (3) The Commissioner may exclude a person from a group in accordance with section 38.

22. Section 33 amended

In section 33(7) delete “related corporation” and insert:

related body corporate

23. Section 35 replaced

Delete section 35 and insert:

35A. Groups arising from tracing of interests in corporations

- (1) For the purposes of this section —
associated person means a person who is associated with another person in accordance with any of the following —
- (a) persons are associated persons if they are related persons;

- (b) individuals are associated persons if they are partners in a partnership;
- (c) private companies are associated persons if common shareholders have a majority interest in each private company;
- (d) trustees are associated persons if any person is a beneficiary common to the trusts (not including a public unit trust scheme) of which they are trustees;
- (e) a private company and a trustee are associated persons if a related body corporate of the company is a beneficiary of the trust (not including a public unit trust scheme) of which the trustee is a trustee;

entity means —

- (a) a person; or
- (b) 2 or more persons who are associated persons;

private company means a company that is not limited by shares, or whose shares are not quoted on the Australian Stock Exchange or any exchange of the World Federation of Exchanges;

related person means a person who is related to another person in accordance with any of the following —

- (a) individuals are related persons if —
 - (i) one is the spouse or de facto partner of the other; or
 - (ii) the relationship between them is that of parent and child, brothers, sisters, or brother and sister;
- (b) private companies are related persons if they are related bodies corporate;

- (c) an individual and a private company are related persons if the individual is a majority shareholder or director of the company or of another private company that is a related body corporate of the company;
 - (d) an individual and a trustee are related persons if the individual is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee;
 - (e) a private company and a trustee are related persons if the company, or a majority shareholder or director of the company, is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee.
- (2) An entity and a corporation form part of a group if the entity has a controlling interest in the corporation.
- (3) An entity has a controlling interest in a corporation if the corporation has share capital and —
- (a) the entity has a direct interest in the corporation the value of which exceeds 50%; or
 - (b) the entity has an indirect interest in the corporation the value of which exceeds 50%; or
 - (c) the entity has an aggregate interest in the corporation the value of which exceeds 50%.
- (4) The Commissioner may exclude an entity from a group in accordance with section 38.

35B. Direct interests

- (1) An entity has a *direct interest* in a corporation if —
- (a) in the case of an entity that is a person — the person can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power

attached to any voting shares issued by the corporation; or

- (b) in the case of an entity that is 2 or more persons who are associated persons — each of the associated persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation.
- (2) The value of the direct interest of the entity in the corporation is the proportion (expressed as a percentage) of the voting power of all voting shares issued by the corporation that —
- (a) in the case of an entity that is a person — the person can directly or indirectly exercise, control the exercise of, or substantially influence the exercise of; or
 - (b) in the case of an entity that is 2 or more persons who are associated persons — the associated persons can, if acting together, directly or indirectly exercise, control the exercise of, or substantially influence the exercise of.

35C. Indirect interests

- (1) An entity has an *indirect interest* in a corporation if the corporation is linked to another corporation (the *directly controlled corporation*) in which the entity has a direct interest.
- (2) A corporation is linked to a directly controlled corporation if the corporation is part of a chain of corporations —
 - (a) that starts with the directly controlled corporation; and

- (b) in which a link in the chain is formed if a corporation has a direct interest in the next corporation in the chain.
- (3) The value of the indirect interest of an entity in a corporation (an *indirectly controlled corporation*) that is linked to a directly controlled corporation is calculated by multiplying together the following —
 - (a) the value of the direct interest of the entity in the directly controlled corporation;
 - (b) the value of each direct interest that forms a link in the chain of corporations by which the indirectly controlled corporation is linked to the directly controlled corporation.
- (4) If an entity has more than one indirect interest in a corporation, the value of those interests is worked out under section 35D.

35D. Aggregate interests

- (1) An entity has an *aggregate interest* in a corporation if —
 - (a) the entity has a direct interest and one or more indirect interests in the corporation; or
 - (b) the entity has more than one indirect interest in the corporation.
- (2) The value of the aggregate interest of an entity in a corporation is the sum of the following —
 - (a) the value of the direct interest (if any) of the entity in the corporation;
 - (b) the value of each indirect interest of the entity in the corporation.

24. Section 36 amended

- (1) In section 36(3) delete the passage that begins with “Act except” and continues to the end of the subsection and insert:

Act.

- (2) After section 36(3) insert:

- (4) The Commissioner may exclude a person from a group in accordance with section 38.

25. Section 38 amended

Delete section 38(1) and insert:

- (1) The Commissioner may exclude a person from a group under section 31(4), 32(3), 35A(3) or 36(4) in relation to a business carried on by the person if satisfied that the business is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member of the group, having regard to —
- (a) the nature and degree of ownership and control of the businesses; and
 - (b) the nature of the businesses; and
 - (c) any other matters the Commissioner considers relevant.

26. Schedule 1 amended

After Schedule 1 clause 3 insert:

Division 2 — Provisions for the *Pay-roll Tax Assessment Amendment Act 2010* in relation to grouping of employers

4. Exclusion, from a group, in force before 1 July 2012

If the Commissioner has excluded a person from a group under section 31(4) or 32(3) (as in force before 1 July 2012) and that exclusion was in force immediately before 1 July 2012, that exclusion has effect, according to its terms, on and after 1 July 2012, as if it had been granted under Part 4 (as in force on and after 1 July 2012).

5. Exclusion, from a group, granted on or after 1 July 2012

An exclusion of a person from a group under Part 4 (as in force on and after 1 July 2012) cannot have effect before 1 July 2012 despite section 38(5).

6. Exclusion, from a group, having effect before 1 July 2012

The Commissioner may, on and after 1 July 2012, exclude a person from a group for a period that is before 1 July 2012 but not on or after 1 July 2012, and may do so as if the *Pay-roll Tax Assessment Amendment Act 2010* Part 2 Division 3 had not come into operation.

27. Glossary amended

(1) In the Glossary clause 1 delete the definition of *related corporation*.

(2) In the Glossary clause 1 insert in alphabetical order:

related body corporate has the meaning given in section 9 of the Corporations Act;

**Part 3 — Pay-roll Tax Assessment Regulations 2003
amended**

28. Regulations amended

This Part amends the *Pay-roll Tax Assessment Regulations 2003*.

29. Regulation 5 amended

In regulation 5 delete “clause 2(1)(e) in the Glossary to” and insert:

section 9AA(1)(c) of

30. Regulation 12 amended

In regulation 12 delete “clause 6 in the Glossary to” and insert:

section 9BI of

31. Regulation 14 amended

In regulation 14 delete “clause 6 in the Glossary to” and insert:

section 9BI of

32. Regulations 16 to 18 deleted

Delete regulations 16, 17 and 18.

33. Regulations 19 to 26 deleted

Delete regulations 19, 20, 21, 22, 23, 24, 25 and 26.

34. Part 3 heading replaced

Delete the heading to Part 3 and insert:

Part 3 — Allowances

35. Regulations 28 and 29 deleted

Delete regulations 28 and 29.

36. Regulation 30 amended

In regulation 30 delete “The number” and insert:

For the purposes of section 9FA(2) of the Act, the number

37. Regulation 31 deleted

Delete regulation 31.

38. Part 3 Division 2 deleted

Delete Part 3 Division 2.

39. Regulation 41 amended

In regulation 41(1) delete “If an amount contributed to a superannuation scheme is taken by clause 8 in the Glossary to the Act to be paid” and insert:

If a superannuation contribution to a superannuation fund is taken by section 9CB of the Act to be wages paid

s. 40

40. Regulation 42 amended

- (1) In regulation 42(1) delete “participant” and insert:

member of a fund

- (2) In regulation 42(2) delete “participants in a scheme” and insert:

members

- (3) In regulation 42(3) delete “participant” and insert:

member

- (4) In regulation 42(4) delete “participants in a scheme” and insert:

members

Note: The heading to amended regulation 42 is to read:

Categories of members

41. Regulation 43 deleted

Delete regulation 43.

42. Regulation 44 amended

- (1) In regulation 44(1):

- (a) delete “participant,” and insert:

member,

- (b) delete “participants,” and insert:

member,

- (2) In regulation 44(2):
 - (a) delete “participant,” and insert:

member,

 - (b) delete “participants,” and insert:

member,

- (3) In regulation 44(3):
 - (a) delete “participant,” and insert:

member,

 - (b) delete “participants,” and insert:

member,

- (4) In regulation 44(4)(b) delete “participant” and insert:

member

43. Regulation 46 amended

(1) In regulation 46(1):

(a) delete “an employer is required to keep —” and insert:

the following are prescribed —

(b) in paragraph (a) delete “subregulation (2); and” and insert:

subregulation (2);

(c) in paragraph (b) delete “benefits.” and insert:

benefits;

(d) after paragraph (b) insert:

(c) other documents and records that the employer is required by this regulation to keep.

(2) In regulation 46(2):

(a) delete paragraph (c) and insert:

(c) the value of a share or option taken to be wages under section 9DA or 9DG;

(b) delete paragraph (e) and insert:

(e) a motor vehicle allowance;

- (c) in paragraph (f) delete “allowance, if any part of the allowance is exempt under regulation 39;” and insert:

allowance;

- (d) delete paragraphs (g) and (h) and insert:

(g) an amount taken to be wages under section 9CB of the Act.

- (3) After regulation 46(2) insert:

(3A) An employer who claims an exemption under section 41A(2) of the Act must keep —
 - (a) for wages paid or payable for maternity leave — a medical certificate for the employee stating —
 - (i) that the employee is or was pregnant; or
 - (ii) that the employee has given birth and the date of the birth;

 - or
 - (b) for wages paid or payable for parental leave — a statutory declaration by the employee stating —
 - (i) that a female is or was pregnant with the employee’s unborn child; or
 - (ii) that the employee’s child has been born and the date of the birth;

 - or

- (c) for wages paid or payable for adoption leave —
a statutory declaration by the employee —
 - (i) that a child has been placed in the custody of the employee pending the making of an adoption order; or
 - (ii) that an adoption order has been made or recognised in favour of the employee and the date of the order or recognition.

- (4) In regulation 46(3) delete “Western Australia” and insert:

WA

44. Glossary amended

- (1) In the Glossary clause 1 delete the definitions of:

actual value method

adjustment period

contribution day

employee share acquisition scheme

estimated value method

FBT year

fringe benefits tax

grossed-up value

motor vehicle allowance

qualified valuer

recognised financial market

unlisted public unit trust

WA fringe benefits

- (2) In the Glossary clause 1 in the definition of *redundancy benefits scheme* delete “fund as defined in clause 1 in the Glossary to the Act)” and insert:

fund)

- (3) In the Glossary clause 1 in the definition of *vehicle* delete “vehicle;” and insert:

vehicle.

45. Power to amend or repeal regulations unaffected

This Part does not prevent the *Pay-roll Tax Assessment Regulations 2003* from being amended or repealed under the *Pay-roll Tax Assessment Act 2002*.

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