

Western Australia

## **Pay-roll Tax Rebate Act 2012**

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As at 03 Sep 2012

No. 26 of 2012

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



## Pay-roll Tax Rebate Act 2012

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**Defined Terms**

Western Australia

## **Pay-roll Tax Rebate Act 2012**

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**No. 26 of 2012**

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**An Act to provide a rebate on pay-roll tax for the 2012/13 assessment year and for related matters.**

*[Assented to 3 September 2012]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Pay-roll Tax Rebate Act 2012*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 other than sections 3, 4 and 5 — 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) 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.
- (2) In this Act —
  - 2012/13 assessment year** means the assessment year commencing on 1 July 2012;
  - Australia-wide wages** means WA taxable wages and interstate taxable wages;
  - eligible employer** has the meaning given in section 7;
  - WA indigenous wages** has the meaning given in the *Pay-roll Tax (Indigenous Wages) Rebate Act 2012* section 3(2);
  - WA taxable wages** means WA taxable wages that are not also WA indigenous wages in respect of which a rebate is payable under the *Pay-roll Tax (Indigenous Wages) Rebate Act 2012*.

**4. Pro rata amounts**

In this Act, 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 total number of days in the period or periods.

**5. 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 of this Act were a taxpayer;
  - (b) Part 5 Division 1 and Part 6 Division 1 apply as if —
    - (i) an overpaid amount under section 9 of this Act were tax; and
    - (ii) a person liable to repay an overpaid amount under section 9 of this Act were a taxpayer.
- (2) An objection to or review of a decision under this Act cannot be made or sought under the *Taxation Administration Act 2003* Part 4 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**

### **6. Rebate for the 2012/13 assessment year**

- (1) An eligible employer is entitled to a rebate of pay-roll tax for the 2012/13 assessment year.
- (2) The rebate for the year is calculated in accordance with section 8.
- (3) Subject to section 11(2), the rebate to which an eligible employer is entitled is to be paid by the Commissioner to the eligible employer.

### **7. Eligible employer**

- (1) An employer is an eligible employer if —
  - (a) the employer was registered during the whole or part of the 2012/13 assessment year; and
  - (b) the employer meets the threshold requirement in subsection (2); 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 2013.
- (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 for the whole of the year — the employer paid or was liable to pay Australia-wide wages during the year of less than \$3.0 million;
  - (b) if the employer was a non-group employer for only part of the year — the employer paid or was liable to pay Australia-wide wages during the period or periods, in the year, during which the employer was a non-group employer of less than \$3.0 million pro rata;

- (c) if the employer was a member of a particular group for the whole of the year — the group paid or was liable to pay Australia-wide wages during the year of less than \$3.0 million;
  - (d) if the employer was a member of a particular group for only part of the year — the group paid or was liable to pay Australia-wide wages during the period, in the year, during which the group existed of less than \$3.0 million pro rata.
- (3) For the purposes of subsection (1)(a), an employer is to be taken to have been registered during a month in the 2012/13 assessment year if —
- (a) under the *Pay-roll Tax Assessment Act 2002* section 24(1) or (2), the employer was required to apply for registration on the basis of the wages that the employer paid or was liable to pay during the month; and
  - (b) the employer has made an application for registration under section 24 of that Act.

## **8. Calculation of the rebate**

- (1) If an eligible employer —
- (a) was a non-group employer for the whole of the 2012/13 assessment year and paid or was liable to pay Australia-wide wages during the year of not more than \$1.5 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 during the year of not more than \$1.5 million,

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 WA taxable wages paid or payable during the year.

- (2) If an eligible employer —
- (a) was a non-group employer for the whole of the 2012/13 assessment year and paid or was liable to pay Australia-wide wages during the year of more than \$1.5 million but less than \$3.0 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 during the year of more than \$1.5 million but less than \$3.0 million,

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

$$\left[ 2 - \frac{W_{\text{AWW}}}{1\,500\,000} \right] \times 41\,250 \times \frac{W_{\text{WA}}}{W_{\text{AWW}}}$$

where —

- $W_{\text{AWW}}$  is the amount of Australia-wide wages paid or payable by the eligible employer or the group during the year;
- $W_{\text{WA}}$  is the amount of WA taxable wages paid or payable by the eligible employer or the group during the year.

- (3) If an eligible employer —
- (a) was a non-group employer for only part of the 2012/13 assessment year; and
  - (b) paid or was liable to pay Australia-wide wages during 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 \$1.5 million pro rata,

the rebate for the employer for the period or periods is equal to the amount of pay-roll tax that the employer was liable to pay for WA taxable wages paid or payable during the period or periods.

- (4) If an eligible employer —
- (a) was a non-group employer for only part of the 2012/13 assessment year; and
  - (b) paid or was liable to pay Australia-wide wages during the period or periods, in the year, during which the employer was a non-group employer of a total amount that is more than \$1.5 million pro rata but less than \$3.0 million pro rata,

the rebate for the employer for the period or periods is calculated using the formula —

$$\left[ 2 - \frac{W_{AWW} \times 365}{1\,500\,000 \times D} \right] \times 41\,250 \times \frac{W_{WA}}{W_{AWW}} \times \frac{D}{365}$$

where —

- D** is the total number of days, in the year, during which the employer was a non-group employer;
- W<sub>AWW</sub>** is the total amount of Australia-wide wages paid or payable by the eligible employer during the period or periods;
- W<sub>WA</sub>** is the total amount of WA taxable wages paid or payable by the eligible employer during the period or periods.

- (5) If an eligible employer —
- (a) was a member of a particular group for only part of the 2012/13 assessment year; and
  - (b) the group paid or was liable to pay Australia-wide wages during the period, in the year, during which the group existed of not more than \$1.5 million pro rata,

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 WA taxable wages paid or payable during the period.

- (6) If an eligible employer —
- (a) was a member of a particular group for only part of the 2012/13 assessment year; and
  - (b) the group paid or was liable to pay Australia-wide wages during the period, in the year, during which the group existed of more than \$1.5 million pro rata but less than \$3.0 million pro rata,

the rebate for the group for the period is calculated using the formula —

$$\left[ 2 - \frac{W_{AWW} \times 365}{1\,500\,000 \times D} \right] \times 41\,250 \times \frac{W_{WA}}{W_{AWW}} \times \frac{D}{365}$$

where —

- D is the number of days in the period;
- $W_{AWW}$  is the amount of Australia-wide wages paid or payable by the group during the period;
- $W_{WA}$  is the amount of WA taxable wages paid or payable by the group during the period.

- (7) If, in relation to an eligible employer who was a member of a particular group for a period in the 2012/13 assessment year (which may be the whole of the year), a rebate is calculated for the group, the employer is entitled to the same proportion of the rebate as the employer's liability to pay-roll tax for WA taxable wages paid or payable during the period bears to the group's liability to pay-roll tax for WA taxable wages paid or payable during 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 2012/13 assessment year.
- (9) Despite anything else in this section, the rebate for an eligible employer for the 2012/13 assessment year cannot exceed \$41 250.

## 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) a rebate has been paid to a person who was not entitled to a rebate; or
  - (b) a rebate has been overpaid to an eligible employer,  
the person to whom the rebate was paid must repay the overpaid amount except to the extent to which, within 30 days after the day on which notice of the overpayment is issued under section 13, the Commissioner credits the overpaid amount under section 11(3).
- (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; or
  - (b) in accordance with a tax payment arrangement.
- (3) A reference in subsection (1) to a rebate paid, or overpaid, to a person includes a reference to amounts credited under section 11(2) in relation to the person.

### 10. Underpayment of rebate

If the Commissioner is satisfied, whether as a result of an assessment or otherwise, that an eligible employer has been paid less than the amount of rebate to which the employer is entitled, the Commissioner must pay, or credit under section 11(2), the employer with 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.

(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 rebate or amount against —

- (a) any existing unpaid pay-roll tax liability of that employer; or
- (b) any overpaid amount of rebate to be repaid by the person to the Commissioner under the *Pay-roll Tax Rebate Act 2010* or the *Pay-roll Tax (Indigenous Wages) Rebate Act 2012*.

(3) Instead of —

- (a) refunding pay-roll tax overpaid by a person in accordance with the *Taxation Administration Act 2003* section 54(1); or
- (b) paying a rebate under the *Pay-roll Tax Rebate Act 2010*, or any additional amount under section 10 of that Act; or
- (c) paying a rebate under the *Pay-roll Tax (Indigenous Wages) Rebate Act 2012*, or any additional amount under section 11 of that Act,

the Commissioner may credit all or part of the refund, rebate or amount against any overpaid amount (of rebate) otherwise to be repaid by the person under section 9 of this Act.

## **Part 4 — Miscellaneous**

### **12. Wages prepaid before 1 July 2013**

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

- (a) the employer paid wages before 1 July 2013; and
- (b) the employer was not liable to pay the wages until on or after 1 July 2013; and
- (c) if the employer had paid the wages on or after 1 July 2013, the amount of rebate otherwise payable to the employer would be reduced,

the amount of rebate payable to the employer must be calculated as if the wages were paid on 1 July 2013.

### **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; or
  - (b) if satisfied 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; and
  - (c) if an amount is to be repaid by the person 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 credit made under section 11.

### **14. Regulations**

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

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

- (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>
2012/13 assessment year .....	3(2)
Australia-wide wages .....	3(2)
eligible employer .....	3(2)
pay-roll tax liability .....	11(1)
WA indigenous wages .....	3(2)
WA taxable wages .....	3(2)