

Western Australia

**Revenue Laws Amendment (Assessment) Act
2001**

As at 26 Jun 2001

No. 3 of 2001

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Revenue Laws Amendment (Assessment) Act 2001

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Western Australia

Revenue Laws Amendment (Assessment) Act 2001

No. 3 of 2001

An Act to amend the —

- *Pay-roll Tax Assessment Act 1971*;
 - *Rates and Charges (Rebates and Deferments) Act 1992*; and
 - *Stamp Act 1921*,
- and for related purposes.**

[Assented to 26 June 2001]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Revenue Laws Amendment (Assessment) Act 2001*.

2. Commencement

- (1) Subject to this section, this Act comes into operation on the day on which it receives the Royal Assent.
- (2) If this Act receives the Royal Assent before or on 1 July 2001, Parts 2 and 3 come into operation on 1 July 2001.
- (3) If this Act receives the Royal Assent after 1 July 2001, Parts 2 and 3 are deemed to have come into operation on 1 July 2001.
- (4) If this Act receives the Royal Assent before or on 30 June 2001, Part 4 Division 3 comes into operation on 30 June 2001.
- (5) If this Act receives the Royal Assent after 30 June 2001, Part 4 Division 3 is deemed to have come into operation on 30 June 2001.
- (6) If this Act receives the Royal Assent before or on 1 July 2001, Part 4 Division 4 comes into operation immediately after the coming into operation of Part 5 Division 2 of the *Financial Relations Agreement (Consequential Provisions) Act 1999*.
- (7) If this Act receives the Royal Assent after 1 July 2001, Part 4 Division 4 is deemed to have come into operation immediately after the coming into operation of Part 5 Division 2 of the *Financial Relations Agreement (Consequential Provisions) Act 1999*.

Part 2 — Pay-roll Tax Assessment Act 1971 amended

3. Section 11 inserted

After section 10 of the *Pay-roll Tax Assessment Act 1971** the following section is inserted —

“

11. Special circumstances in which rate of tax may be ascertained on basis of whole or part of financial year

- (1) In this section —
“**financial year**” means the financial year commencing on 1 July 2001 and each financial year thereafter.
- (2) This section applies to an employer if —
 - (a) the employer pays or is liable to pay taxable wages or interstate wages for part only of a financial year; and
 - (b) the Commissioner is satisfied that, because of the employer’s trade or business, the employer’s liability to pay taxable wages or interstate wages fluctuates with different periods of the financial year.
- (3) If the employer has conducted the trade or business in Australia —
 - (a) during the whole of the financial year, the rate of pay-roll tax payable by the employer shall be ascertained in accordance with the relevant section of the *Pay-roll Tax Act 1971* as if the employer had paid or was liable to pay taxable wages or interstate wages during the whole of the year; or
 - (b) during part only of the financial year, the rate of pay-roll tax payable by the employer shall be

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ascertained in accordance with the relevant section of the *Pay-roll Tax Act 1971* as if the employer had paid or was liable to pay taxable wages or interstate wages during that part of the financial year.

”.

[* *Reprinted as at 12 November 1996.*
For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 327-9.]

Part 3 — Rates and Charges (Rebates and Deferments)
Act 1992 amended

4. The Act amended in this Part

The amendments in this Part are to the *Rates and Charges (Rebates and Deferments) Act 1992**.

[* Reprinted as at 19 May 2000.]

5. Section 3 amended

- (1) Section 3(1) is amended by inserting, in the appropriate alphabetical position, the following definition —

“

“Commonwealth seniors health card” means a currently valid card, known by that name, issued on behalf of the Commonwealth to the holder or, where a card of another kind is prescribed specifically for the purpose of this definition, that other card;

”.

- (2) Section 3(1) is amended in the definition of “eligibility” as follows:

- (a) after paragraph (a)(ii) by deleting “or”;
- (b) after paragraph (a)(iii) by inserting —

“

or

- (iv) a Commonwealth seniors health card;

”.

- (3) Section 3(1) is amended by deleting the definition of “rating year” and inserting the following definition instead —

“ **“rating year”** means 1 July to 30 June; ”.

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- (4) Section 3(1) is amended by deleting the definition of “registration date”.

6. Section 23 amended

After section 23(3) the following subsection is inserted —

“

- (4) Subject to this Act, a person is eligible to apply to the administrative authority to have their entitlement as regards any land registered if a prescribed charge is payable on that land, on production to the administrative authority of both a seniors’ card and a Commonwealth seniors health card.

”

7. Section 26 amended

Section 26(1) is amended as follows:

- (a) after paragraph (c) by deleting “or”;
(b) after paragraph (d) by deleting the full stop and inserting —

“

; or

- (e) production of both a seniors’ card and a Commonwealth seniors health card, issued to that person as the holder, as sufficient evidence that the person is a person to whom section 23(4) applies.

”

8. Section 28 amended

Section 28(1)(b) is amended by inserting after “except where section 31(3)(a)” —

“ or (aa) ”.

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(2) After section 33(5) the following subsections are inserted —

“

(6) Despite subsection (3), a registered person in respect of a prescribed charge who is an eligible pensioner may, subject to this Act —

- (a) pay a rebated amount in respect of a prescribed charge of that kind; or
- (b) defer payment of amounts of a prescribed charge of that kind,

if that person and the administrative authority have agreed on an arrangement for the payment of arrears due from that person in respect of the prescribed charge.

(7) If, in respect of a charged period for which the payment of a rebated amount or a deferment is allowed under subsection (6), the registered person does not pay the arrears due to be paid in that charged period under the arrangement, the administrative authority may by written notice given to the registered person require that person to pay the prescribed charge by the date specified in the notice and the registered person ceases to be entitled to pay the rebated amount or to defer payment of the prescribed charge, as the case may be.

(8) Despite section 6.62 of the *Local Government Act 1995*, if an arrangement for the payment of arrears is agreed on under subsection (6) and an amount is paid in respect of the rebated amount, that amount is to be applied for or towards payment of the rebated amount.

”

12. Section 34 repealed

Section 34 is repealed.

13. Section 40 replaced and transitional

- (1) Section 40 is repealed and the following section is inserted instead —

“

40. Rebates to registered persons

- (1) This section applies to a person who —
- (a) at the commencement of the charged period is liable for the payment of a prescribed charge, or in respect of a prescribed charge which is apportioned under section 28, on any land used by that person as their ordinary place of residence; and
 - (b) has —
 - (i) an entitlement as regards that land which is registered by the administrative authority either at the commencement of or during the charged period; or
 - (ii) the right, as a dependant occupying the land in circumstances to which section 31(1) applies, to be allowed the benefit of a rebate.
- (2) The liability of a person to whom this section applies for payment of a prescribed charge, or the proportion that relates to the extent of the entitlement of the eligible person may, subject to this Act, be satisfied by the payment of a rebated amount before the end of the charged period.
- (3) Where, apart from this Act, an administrative authority allows a discount on a prescribed charge, and any conditions applicable to that discount are met, subsection (2) applies as though the liability for payment of the prescribed charge had been reduced by the discount allowed.

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- (4) An administrative authority shall, subject to this Act, allow to any person to whom this section applies a rebate on any prescribed charge, that rebate being calculated in such a manner as to reflect the extent of the entitlement which that person has in the land and, in accordance with section 28, apportioned where appropriate.
- (5) If a person to whom this section applies is an eligible senior and not an eligible pensioner for the whole or a part of the charged period, the rebate to be allowed shall be determined using the following equation —

$$R = PC \times \left(\frac{DS}{CY}\right)$$

where —

R is the rebate to be allowed;

PC is the portion of the prescribed charge calculated under subsection (9)(a);

DS is the number of the days during the charged period that the person is registered as an eligible senior; and

CY is the number of days in the charged period.

- (6) If a person to whom this section applies is an eligible pensioner and not an eligible senior for the whole or a part of the charged period, the rebate to be allowed shall be determined using the following equation —

$$R = PC \times \left(\frac{DP}{CY}\right)$$

where —

R is the rebate to be allowed;

PC is the portion of the prescribed charge calculated under subsection (9)(b);

DP is the number of the days during the charged period that the person is registered as an eligible pensioner; and

CY is the number of days in the charged period.

- (7) If a person to whom this section applies is an eligible senior for a part of the charged period and an eligible pensioner for another part of the charged period, the rebate to be allowed shall be determined using the following equation —

$$R = (PCS \times (\frac{DS}{CY})) + (PCP \times (\frac{DP}{CY}))$$

where —

R is the rebate to be allowed;

PCS is the portion of the prescribed charge calculated under subsection (9)(a);

PCP is the portion of the prescribed charge calculated under subsection (9)(b);

DS is the number of the days during the charged period that the person is registered as an eligible senior;

DP is the number of the days during the charged period that the person is registered as an eligible pensioner; and

CY is the number of days in the charged period.

- (8) Where a person who is authorised to pay a rebated amount, pays an amount in excess of the rebated amount in respect of a prescribed charge, then the administrative authority shall refund, or give credit, for the excess amount.

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- (9) The portion of the prescribed charge to be used in determining the rebate of a person to whom this section applies shall be —
- (a) for an eligible senior, on any prescribed charge by way of rates or for the provision of water supply, sewerage or drainage — 25% of the prescribed charge concerned, up to such limit as is prescribed;
 - (b) for an eligible pensioner, on any prescribed charge by way of rates or for the provision of water supply, sewerage or drainage — 50% of the prescribed charge concerned; and
 - (c) on any other prescribed charge — the prescribed percentage.

”

(2) Regulations —

- (a) that are made under the *Rates and Charges (Rebates and Deferments) Act 1992* as amended by this section; and
- (b) that are made within 6 months after this section receives the Royal Assent,

may come into operation at a time specified in those regulations that is not earlier than 1 July 2001 and may relate to a rebate that an eligible senior is to be allowed on a prescribed charge referred to in section 40(9) of that Act (as inserted by this section).

14. Section 42 amended

- (1) After section 42(2) the following subsection is inserted —

“

- (2a) If subsection (2) applies, the administrative authority shall refund, or give credit for, the amount of the rebate.

”

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Part 3 Rates and Charges (Rebates and Deferments) Act 1992
amended

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- (2) If a person becomes eligible to be registered and is registered on or after 1 July 2001 and on or before 30 September 2001, section 40 (as inserted by section 13) applies to that person as if the person were registered on the day the person became eligible to be registered.

Part 4 — Stamp Act 1921 amended

Division 1 — Preliminary

17. The Act amended in this Part

The amendments in this Part are to the *Stamp Act 1921** unless otherwise indicated.

[* *Reprinted as at 22 October 1999.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 417-24.]

Division 2 — Provisions that commence on Royal Assent

18. Section 63 amended

Section 63(2)(b)(ii) is amended by deleting “or a pooled superannuation trust”.

19. Section 75JB amended

Section 75JB(2)(c) is amended by deleting “for”.

20. Section 76AG amended

Section 76AG(4)(e) is amended by deleting “assets” and inserting instead —

“ property ”.

21. Section 76AN amended

Section 76AN(3)(e) is amended by deleting “assets” and inserting instead —

“ property ”.

Division 3 — Provisions that commence on 30 June 2001

22. Section 95A amended

After section 95A(11) the following subsections are inserted —

“

(12) In subsections (13) and (14) —

“workers’ compensation policy” means a policy of insurance against an employer’s liability to pay compensation under the *Workers’ Compensation and Rehabilitation Act 1981*.

(13) It is a defence to a charge under subsection (10)(b) in relation to a return that relates to a workers’ compensation policy in respect of which duty is paid at the rate provided in item 16(1)(a)(ii) of the Second Schedule to prove that the return was false in a material particular because the person charged had been supplied information which was false as to the liability of the person insured to pay pay-roll tax.

(14) If an approved person is supplied information relating to a workers’ compensation policy —

- (a) which is false in a material particular; and
- (b) which results in the approved person transmitting to the Commissioner less duty than is payable in respect of the policy under item 16(1)(a) of the Second Schedule,

the approved person —

- (c) shall include details of the additional duty payable in the next return that the person lodges under subsection (6);
- (d) shall transmit with the return the additional duty payable; and

- (e) may recover the additional duty from the person insured under the policy in a court of competent jurisdiction.

”

23. Section 97 inserted

After section 96 the following section is inserted —

“

97. Workers' compensation policies, refunds of excess duty

- (1) If on an application made by a person under subsection (2) the Commissioner is satisfied that the person has paid duty at the rate specified in item 16(1)(a)(i) of the Second Schedule but should have paid duty at the rate specified in item 16(1)(a)(ii), the Commissioner may refund the difference.
- (2) An application for a refund under subsection (1) shall —
 - (a) be made within 2 years after the beginning of the relevant insurance policy's cover period;
 - (b) be made in writing, in a form approved by the Commissioner, by the person who issued the policy; and
 - (c) be accompanied by such further information as the Commissioner may require.
- (3) If the Commissioner refunds duty to the person who issued the policy and the duty was originally paid by that person out of money provided by the person insured, the person who issued the policy shall —
 - (a) reimburse the person insured an amount equal to the refund within 90 days after the refund was paid or within any longer period allowed by the Commissioner; and

- (b) if the reimbursement is not made within that period — repay the amount of the refund to the Commissioner within 7 days from the end of that period.
- (4) The Commissioner may recover any amount that should have been, but was not, repaid under subsection (3)(b) as if it were unpaid duty.

”

24. Pay-roll Tax Assessment Act 1971, consequential amendment to

Section 5(2) of the *Pay-roll Tax Assessment Act 1971** is amended by inserting before paragraph (b) the following —

“

- (a) may disclose to an insurance company, for the purposes of the company determining the stamp duty to be paid on a policy of insurance issued or to be issued by it against an employer’s liability to pay compensation under the *Workers’ Compensation and Rehabilitation Act 1981*, whether the employer, in the 12 months immediately preceding the cover period of the policy, was liable to pay tax; and

”

[* *Reprinted as at 12 November 1996.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 327-9.]

Division 4 — Provisions that commence on 1 July 2001

25. Section 76AI amended

Section 76AI(1) is repealed and the following subsections are inserted instead —

“

- (1) This Division applies to a WA company if it is a land-holder within the meaning in subsection (2) unless —
- (a) it is listed on a recognized stock exchange; and
 - (b) the Commissioner is satisfied that its listing was not part of an arrangement or scheme having as its purpose, or one of its purposes, the defeat of the object of this Part.
- (1a) For the purposes of subsection (1)(b) the Commissioner may take into account any matter that the Commissioner considers is relevant but must take into account —
- (a) how long the WA company has been listed on a recognized stock exchange;
 - (b) any conditions or exemptions that apply to the exchange’s approval of the listing of the company;
 - (c) who owns the company’s shares;
 - (d) what proportion of the company’s shares are available to be traded on the exchange; and
 - (e) the turnover of the company’s shares on the exchange.

”

26. Section 76AP amended

- (1) Section 76AP(1) is amended as follows:
- (a) by inserting after paragraph (a) —
“ and ”;
 - (b) by deleting paragraph (b) and “and” following it;
 - (c) by deleting the full stop after paragraph (c) and inserting a comma instead;

(d) by inserting after paragraph (c) the following —

“

unless —

- (d) it is listed on a recognized stock exchange; and
- (e) the Commissioner is satisfied that its listing was not part of an arrangement or scheme having as its purpose, or one of its purposes, the defeat of the object of this Part.

”

(2) After section 76AP(1) the following subsection is inserted —

“

(1a) For the purposes of subsection (1)(e) the Commissioner may take into account any matter that the Commissioner considers is relevant but must take into account —

- (a) how long the corporation has been listed on a recognized stock exchange;
- (b) any conditions or exemptions that apply to the exchange's approval of the listing of the corporation;
- (c) who owns the corporation's shares;
- (d) what proportion of the corporation's shares are available to be traded on the exchange; and
- (e) the turnover of the corporation's shares on the exchange.

”

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