

Western Australia

**Revenue Laws Amendment (Tax Relief) Act
2004**

As at 08 Dec 2004

No. 82 of 2004

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Revenue Laws Amendment (Tax Relief) Act 2004

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Western Australia

Revenue Laws Amendment (Tax Relief) Act 2004

No. 82 of 2004

An Act to amend the —

- *Pay-roll Tax Assessment Act 2002; and*
 - *Taxation Administration Act 2003,*
- and for other purposes.**

[Assented to 8 December 2004]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Revenue Laws Amendment (Tax Relief) Act 2004*.

2. Commencement

- (1) Subject to subsections (2) and (3), this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Part 2 Divisions 1 and 2 come into operation on 1 January 2005.
- (3) Part 2 Division 3 comes into operation on 1 July 2006.

Part 2 — Pay-roll Tax Assessment Act 2002 amended

Division 1 — The Act amended

3. The Act amended

The amendments in this Part are to the *Pay-roll Tax Assessment Act 2002**.

[* *Act No. 48 of 2002.*

For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 281 and Act No. 12 of 2004.]

Division 2 — Amendments commencing on 1 January 2005

4. Section 22A inserted

After section 22 the following section is inserted —

“

22A. Effect of change in tax rate during 2004/5 year

- (1) The purpose of this section is to modify provisions of this Act that operate by reference to the pay-roll tax rate, and related provisions, to the extent that they apply to the assessment year commencing on 1 July 2004 (the “**2004/5 year**”).
- (2) The modifications are required because the rate of pay-roll tax (the “**old rate**”) for the first 6 months of the 2004/5 year (the “**first period**”) differs from the rate of pay-roll tax (the “**new rate**”) for the last 6 months of that year (the “**second period**”).
- (3) When using a provision of this Act to calculate the amount of pay-roll tax payable for —
 - (a) the whole or part of a progressive return period that is during the 2004/5 year and before the

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- second period commences, a reference to the pay-roll tax rate means the old rate;
- (b) the whole or part of a progressive return period that is during the 2004/5 year and after the first period ends, a reference to the pay-roll tax rate means the new rate.
- (4) To calculate the amount of pay-roll tax payable by an employer or group for a period (the **“tax period”**) that is the whole or part of the 2004/5 year —
- (a) separate amounts are to be calculated, as described in subsection (5), for —
- (i) any part of the tax period that is before 1 January 2005 (the **“first part of the tax period”**); and
- (ii) any part of the tax period that is after 31 December 2004 (the **“second part of the tax period”**);
- and
- (b) the amount, if any, calculated for the second part of the tax period is to be added to the amount, if any, calculated for the first part of the tax period to give the total amount payable for the tax period.
- (5) To calculate the amount for the first part of the tax period or the second part of the tax period (the **“relevant part period”**), the provision that applies for the calculation of the amount of pay-roll tax payable for the tax period is to be used, but in using that provision —
- (a) a reference to the tax period is to be taken to refer to the relevant part period, except in a reference to an annual threshold amount or an apportioned threshold amount;

- (b) a reference to the pay-roll tax rate means —
- (i) if the relevant part period is the first part of the tax period, the old rate; and
 - (ii) if the relevant part period is the second part of the tax period, the new rate;
- (c) if the provision is section 10(1), the amount referred to in section 10(1)(b) is to be multiplied by the part period factor, as defined in subsection (6); and
- (d) if the provision refers to an apportioned threshold amount, the calculation of the apportioned threshold amount for the tax period under section 12(1), 14, or 18, as the case requires, (the “**calculation provision**”) is modified by multiplying the amount that T represents in the formula in the calculation provision by the part period factor, as defined in subsection (6).
- (6) In subsection (5)(c) and (d) —
- “**part period factor**” means the amount represented by F in the formula —

$$F = \frac{W_p}{W}$$

where —

W_p is the total amount of WA taxable wages paid or payable by the employer or group during the relevant part period;

W is the total amount of WA taxable wages paid or payable by the employer or group during the tax period.

”.

5. Section 29 amended and transitional provision

- (1) Section 29(1) is amended by deleting “An employer may” and inserting instead —

“

A non-group employer may, or a DGE on behalf of all the members of a group may,

”

- (2) After section 29(1) the following subsections are inserted —

“

- (1a) Except as stated in subsection (1c) or (1d), the Commissioner has to give an exemption on receiving an application from an employer having, or the DGE of a group having, an expected pay-roll tax liability for the assessment year that is less than —

- (a) \$20 000; or
- (b) a greater amount prescribed for the purpose of this subsection by the regulations.

- (1b) In subsection (1a) —

“expected pay-roll tax liability” means the amount of pay-roll tax for which the employer or group would be liable in the assessment year if, during that year, the employer, or the employers of the group between them, paid or were liable to pay WA taxable wages and interstate taxable wages —

- (a) equal to those that the employer paid or was liable to pay, or the employers of the group between them paid or were liable to pay, during the immediately preceding assessment year; or
- (b) if the Commissioner is satisfied that applying paragraph (a) would not result in a reasonable approximation of the wages to be

paid in the assessment year, as reasonably assessed by the employer or, in the case of a group, the DGE.

- (1c) The Commissioner may decline to give an exemption until the applicant provides to the Commissioner sufficient information to justify any assessment under paragraph (b) of the definition of “expected pay-roll tax liability” in subsection (1b).
- (1d) The Commissioner may decline to give an exemption if the Commissioner considers that the effect of the exemption would create an unacceptable risk of a person failing to satisfy a liability in accordance with this Act.

”.

- (3) Section 29(2) is amended by inserting after “may” —

“ , in any other circumstances, ”.

- (4) After section 29(4) the following subsections are inserted —

“

- (4a) An exemption for the members of a group has to apply to every member of the group, and has to result in each member of the group lodging returns at the same frequency.
- (4b) An exemption under subsection (1a) cannot exclude the operation of subsection (8)(a).

”.

- (5) Section 29(6) is amended by inserting after “revocation” —

“

except that the Commissioner cannot revoke an exemption that subsection (1a) would oblige the Commissioner to give if an application were made for the exemption unless —

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- (a) the person having the benefit of the exemption consents; or
- (b) the Commissioner considers that the effect of the exemption would create an unacceptable risk of a person failing to satisfy a liability in accordance with this Act.

”

- (6) The amendments made by this section do not affect an exemption given before the coming into operation of this section.

6. Glossary amended

- (1) The amendments in this section are to the Glossary at the end of the Act.
- (2) Clause 1 is amended as follows:
 - (a) in the definition of “pay-roll tax rate” —
 - (i) by inserting before “return period” in the first place where it occurs —
“ progressive ”; and
 - (ii) by deleting “return” before “period” in the second place where it occurs;
 - (b) by inserting in the appropriate alphabetical position the following definition —

“

“progressive return period” means a period for which an employer is required by section 26, or by a condition of an exemption under section 29, to lodge a return;

”

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7. Section 11 amended

Section 11 is amended as follows:

- (a) by deleting “monthly” and inserting instead —
“ progressive ”;
- (b) by deleting “month” in the first place where it occurs and inserting instead —
“ progressive return period ”;
- (c) by deleting “month” in each place where it occurs in paragraph (a) or (b) and inserting instead —
“ period ”.

8. Section 12 amended

Section 12(2) is amended as follows:

- (a) by deleting “month” in the first 2 places where it occurs and inserting instead —
“ progressive return period ”;
- (b) in the formula —
 - (i) by inserting before “T” —
“ N x ”; and
 - (ii) by deleting “M” and inserting instead —
“ P ”;
- (c) by inserting before the description of “T” —
“
N is the number of months in the period;
”.
- (d) in the description of “D”, by deleting “month” in both places where it occurs and inserting instead —
“ period ”;

- (e) by deleting the description of “M” and inserting instead —

“

P is the number of days in the period.

”

9. Section 15 amended

- (1) Section 15(1) is amended as follows:

- (a) by deleting “month” in the first place where it occurs and inserting instead —

“ progressive return period ”;

- (b) in paragraph (a), by deleting “month” and inserting instead —

“ period ”.

- (2) Section 15(8) is amended by inserting before “return period” —

“ progressive ”.

10. Section 16 amended

Section 16(1) and (2) are each amended by inserting before “return periods” —

“ progressive ”.

11. Section 19 amended

- (1) Section 19(1) is amended as follows:

- (a) by deleting “monthly” and inserting instead —

“ progressive ”;

- (b) by deleting “return” before “period.” at the end of the subsection.

- (2) Section 19(2) is amended as follows:

- (a) by deleting “monthly” and inserting instead —

“ progressive ”;

- (b) by deleting “return” before “period;” at the end of paragraph (a).

12. Section 20 amended

Section 20(1) and (2) are each amended by inserting before “return periods” —

“ progressive ”.

13. Section 27 amended

Section 27(1) is amended by deleting “monthly returns” and inserting instead —

“ returns for progressive return periods ”.

14. Section 28A inserted

After section 28 the following section is inserted —

“

28A. Manner of lodging and paying in certain cases

- (1) In a circumstance described in subsection (2), a return referred to in that subsection must be lodged, and payment of any pay-roll tax that is due on the last day for lodging the return must be made, in the manner prescribed in the regulations.
- (2) Subsection (1) applies if —
- (a) an employer —
- (i) has, or is a member of a group that has, an expected pay-roll tax liability for an assessment year that is not less than the amount applying under section 29(1aa)(a) or (b); and

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(ii) is required to lodge a return for a progressive return period in that assessment year or, to lodge an additional return under section 27 for that year;

or

(b) a condition of an exemption under section 29 requires a return to be lodged in accordance with this section.

(3) In subsection (2)(a)(i) —

“**expected pay-roll tax liability**” has the meaning given to that term in section 29(1b).

”.

15. Section 29 amended and transitional provision

(1) After section 29(1a) the following subsection is inserted —

“

(1aa) Except as stated in subsection (1c) or (1d), the Commissioner has to give an exemption on receiving an application from an employer having, or the DGE of a group having, an expected pay-roll tax liability for the assessment year that is not less than the amount applying under subsection (1a)(a) or (b) but is less than —

(a) \$100 000; or

(b) a greater amount prescribed for the purpose of this subsection by the regulations.

”.

(2) Section 29(1b) is amended by deleting “subsection (1a)” and inserting instead —

“ subsections (1a) and (1aa) ”.

(3) Section 29(4) is amended as follows:

- (a) by deleting “prescribed”;
 - (b) by inserting after “(if any)” in the first place where it occurs —
“ prescribed in the regulations ”.
- (4) After section 29(4b) the following subsections are inserted —
- “
- (4c) Without limiting any other conditions that can be prescribed or specified, an exemption under subsection (1aa) is on the conditions that —
 - (a) a return is lodged for each quarter, and the lodging of the return, the form of it, and the information specified in it, are as section 26 would describe if a reference in that section to a month referred to a quarter;
 - (b) the return is lodged in accordance with section 28A; and
 - (c) any return under section 27 is also lodged in accordance with section 28A.
 - (4d) In subsection (4c) —
“**quarter**” means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April.
”.
- (5) Section 29(6) is amended by inserting after “subsection (1a)” —
“ or (1aa) ”.
- (6) Section 29(8) is amended as follows:
- (a) in paragraph (a), by deleting “the notice of” and inserting instead —
“ a condition of the ”;
 - (b) by deleting paragraph (b) and inserting instead the following paragraph —

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“

- (b) if a condition of the exemption requires returns to be lodged more frequently than annually, lodge returns as the condition requires.

”

- (7) The amendments made by this section do not affect an exemption given before the coming into operation of this section.

16. Section 45 amended

After section 45(2)(f) the following paragraph is inserted —

“

- (fa) the manner of lodging a return or making a payment in a circumstance in which section 28A(1) applies, which may include lodgment or payment by electronic means;

”

17. Glossary amended

- (1) The amendments in this section are to the Glossary at the end of the Act.
- (2) Clause 1 is amended in the definition of “return period” by deleting paragraph (c) and inserting instead —

“

- (c) if the employer is exempt under section 29 from lodging monthly returns —
 - (i) unless subparagraph (ii) applies, an assessment year;
 - (ii) if a condition of the exemption requires returns to be lodged more frequently than annually, a progressive return period;

”

Part 3 — Taxation Administration Act 2003 amended

18. The Act amended

The amendment in this Part is to the *Taxation Administration Act 2003**.

[* *Act No. 1 of 2003.*

For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 385 and Acts Nos. 66 of 2003 and 12 of 2004.]

19. Section 23 amended

Section 23(2)(c) is amended by inserting after “2002” —

“

or land tax imposed under the *Land Tax Act 2002* is waived under section 56

”.

Part 4 — Reassessment

20. Certain instruments to be assessed again

(1) In this section —

“**Commissioner**” means the Commissioner of State Revenue appointed in accordance with the *Taxation Administration Act 2003* section 6;

“**duty**” means duty payable under the *Stamp Act 1921*;

“**former provisions**” means the provisions of the *Stamp Act 1921* that are amended by the *Revenue Laws Amendment (Tax Relief) Act (No. 2) 2004* Part 4, as those provisions were enacted immediately before 29 October 2004;

“**instrument**” means a conveyance or transfer of property or a contract, agreement or other instrument that is chargeable with duty as a conveyance or transfer of property;

“**new provisions**” means the provisions of the *Stamp Act 1921* as amended by the *Revenue Laws Amendment (Tax Relief) Act (No. 2) 2004* Part 4.

(2) The Commissioner must make an assessment under the new provisions of the duty on any instrument —

(a) which was first executed on or after 29 October 2004;
and

(b) on which duty has been assessed under the former provisions.

(3) Subsection (2) does not authorise the Commissioner to make an assessment under the new provisions of the duty on an instrument to the extent (if any) to which the former provisions apply in relation to it under the *Revenue Laws Amendment (Tax Relief) Act (No. 2) 2004* section 9(2)(b).

- (4) The *Taxation Administration Act 2003* sections 18 and 54(1)(a) apply in relation to an assessment under subsection (2) as if it were a reassessment under section 16 of that Act.

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