

WESTERN AUSTRALIA

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# PAY-ROLL TAX ASSESSMENT AMENDMENT ACT 1993

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No. 22 of 1993

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**AN ACT to amend the *Pay-roll Tax Assessment Act 1971*  
and for related purposes.**

[Assented to 9 December 1993.]

The Parliament of Western Australia enacts as follows:

## **Short title**

1. This Act may be cited as the *Pay-roll Tax Assessment Amendment Act 1993*.

## **Commencement**

2. (1) Subject to subsections (2) and (3), this Act comes into operation on the day on which it receives the Royal Assent.

(2) Sections 4 (a) and 9 come into operation on 1 January 1994.

(3) Sections 4 (b) and 10 come into operation on such day as is fixed by proclamation.

## **Principal Act**

3. In this Act the *Pay-roll Tax Assessment Act 1971\** is referred to as the principal Act.

[\* Reprinted as at 1 June 1988.

*[For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 156 and Act No. 6 of 1993.]*

## **Section 10 amended**

4. Section 10 (1) of the principal Act is amended —

  - (a) in paragraph (j) by deleting “in respect of the period of 12 months calculated from and including the first day of the person’s employment as an apprentice, or of his earlier appointment on probation”; and
  - (b) in paragraph (m) by deleting “specified in Schedule 2” and substituting the following —

“  
prescribed for the purposes of this  
paragraph

**Section 13 amended**

5. Section 13 (4) of the principal Act is amended by deleting "1 July 1992 to 30 November 1992" and substituting the following —

" 1 July 1993 to 31 December 1993 ".

**Section 16D amended**

6. After section 16D (7) of the principal Act the following subsections are inserted —

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(8) For the purposes of subsection (7) —

- (a) a controlling interest under subsection (3)  
(b) is to be regarded as conferring a degree of control equal to the percentage of the voting power attached to voting shares issued by the corporation that the person or persons with the controlling interest may exercise, control the exercise of, or substantially influence the exercise of;
- (b) a controlling interest under subsection (3)  
(c) (i) is to be regarded as conferring a degree of control equal to the percentage of the capital of the partnership owned by the person or persons with the controlling interest;
- (c) a controlling interest under subsection (3)  
(c) (ii) is to be regarded as conferring a degree of control equal to the percentage of the profits of the partnership to which the person or persons with the controlling interest is or are entitled;

- (d) a controlling interest under subsection (3) (d) is to be regarded as conferring a degree of control equal to the percentage of the value of the interests in the trust in respect of which the person or persons with the controlling interest is or are the beneficiaries;
- (e) a controlling interest under subsection (3) (e) is to be regarded as conferring a degree of control of more than 50 per centum.

(9) Where a member of a group is included in that group by reason of carrying on a business in which a person has, or persons have together, a controlling interest under subsection (3) (d) or subsection (6) as the beneficiary or beneficiaries under a discretionary trust, the Commissioner may, by order in writing served on the person or persons who is or are that member, exclude him or them from that group if after considering —

- (a) the nature and degree of ownership and control of the businesses;
- (b) the nature of the businesses; and
- (c) any other matter that the Commissioner considers relevant,

the Commissioner is satisfied that the business is carried on by him or them substantially independently of the business carried on by any other member of the group and that it is just and reasonable for him or them to be excluded from the group.

(10) The operation of subsection (9) is additional to, and is not affected by, the operation of subsection (7).

**Section 16G amended**

7. Section 16G of the principal Act is amended by deleting "this Part" and substituting the following —

" section 16D ".

**Section 16H amended**

8. Section 16H (6) of the principal Act is amended by inserting after "16D (7)" the following —

" , 16D (9) ".

**Schedule 1 repealed and a schedule substituted**

9. Schedule 1 to the principal Act is repealed and the following schedule is substituted —

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**SCHEDULE 1**

[Sections 9E, 11A, 12 and 16J]

**Prescribed amount for s. 9E**

1. The amount specified for the purposes of the definition of "prescribed amount" in section 9E (1) is \$37 500.

**Prescribed amount for 1993-94 for ss. 11A and 16J**

2. For the purposes of sections 11A (2e) and 16J (6), the amount shall be calculated for the purposes of the financial year commencing on 1 July 1993 in accordance with the formulae set out in this clause. The amount shall be calculated separately for each period. If the calculated amount for a period, or part of a period, exceeds the total

taxable wages for that period, or part of a period, the prescribed amount for that period is an amount equal to such total taxable wages.

Formula for the period 1 July 1993 to 31 December 1993 —

$$\frac{A}{A + B} \left[ \frac{187\ 500C}{184} - \frac{1}{3} \left\{ A + B - \frac{187\ 500C}{184} \right\} \right]$$

Formula for the period 1 January 1994 to 30 June 1994 —

$$\frac{A}{A + B} \left[ \frac{225\ 000C}{181} - \frac{1}{3} \left\{ A + B - \frac{225\ 000C}{181} \right\} \right]$$

Where —

*A* = Taxable wages paid or payable during the period by an employer, or in the case of a group, by the members of that group.

*B* = Interstate wages paid or payable during the period by an employer, or in the case of a group, by the members of that group.

*C* = Number of days during the period in respect of which wages were paid or payable by an employer, or in the case of a group, by the members of that group.

**Prescribed amounts for 1994-95 onwards for ss. 11A and 16J**

3. For the purposes of sections 11A (2e) and 16J (6), the amount shall be calculated for the purposes of the financial

year commencing on 1 July 1994 and every succeeding financial year in accordance with the following formula —

$$\frac{A}{A + B} \left[ \frac{450\ 000C}{D} - \frac{1}{3} \left\{ A + B - \frac{450\ 000C}{D} \right\} \right]$$

Where —

*A* = Taxable wages paid or payable during the financial year by an employer, or in the case of a group, by the members of that group.

*B* = Interstate wages paid or payable during the financial year by an employer, or in the case of a group, by the members of that group.

*C* = Number of days during the financial year in which wages were paid or payable by an employer, or in the case of a group, by the members of that group.

*D* = Number of days in the financial year.

#### **Prescribed amount for s. 12**

4. The amount per week prescribed for the purposes of section 12 is \$8 654.

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#### **Schedule 2 repealed**

10. Schedule 2 to the principal Act is repealed.

#### **Saving**

11. (1) Without limiting the operation of the *Interpretation Act 1984* —

(a) clauses 1 and 4 of Schedule 1 as in force immediately before the commencement of section 9 continue to

have effect with respect to months or other periods before January 1994; and

- (b) clause 2 of Schedule 1 as in force immediately before the commencement of section 9 continues to have effect with respect to the financial year that commenced on 1 July 1992.

(2) In subsection (1), “Schedule 1” means Schedule 1 to the principal Act.