

PAY-ROLL TAX ASSESSMENT.

No. 80 of 1981.

**AN ACT to amend the Pay-roll Tax Assessment Act
1971-1979.**

[Assented to 9 November 1981.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Pay-roll Tax Assessment Amendment Act 1981*. Short title.
and citation.

(2) In this Act the Pay-roll Tax Assessment Act 1971-1979 is referred to as the principal Act. Reprinted as
approved 15
December
1978 and
amended
by Act No. 40
of 1979.

(3) The principal Act as amended by this Act may be cited as the Pay-roll Tax Assessment Act 1971-1981.

Commence-
ment.

2. This Act shall come into operation on 1 January 1982.

Section 3
amended.

3. Section 3 of the principal Act is amended in subsection (1)—

(a) in the definition of “Commissioner”, by deleting “, 1904” and substituting the following—

“ 1978 ” ; and

(b) in the definition of “wages”—

(i) by deleting “or allowances” and substituting the following—

“ , allowances, or other benefits ” ; and

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

“ (ca) the provision of any wages, salary, commission, bonuses, allowances, or other benefits whether in cash or in kind to or in relation to an employee by any person acting for or in concert or under an arrangement or undertaking, whether formal or informal and whether expressed or implied, with the employer; ” .

Section 9D
amended.

4. Section 9D of the principal Act is amended—

(a) in subsection (2), by inserting after “period” in the second place where it occurs the following—

“ , but does not apply so as to authorise a deduction to be made in accordance with this section in respect of any return period that commences after the month of December 1981 ” ; and

- (b) in subsection (7), by deleting “, 1980, or after” and substituting the following—

“ 1980 or after the thirty-first day of December 1981 ” .

5. After section 9D of the principal Act the following section is inserted—

Section 9E
inserted.

“ 9E. (1) In this section—

“interstate wages” does not include interstate wages paid or payable by a member of a group;

Deduction
from
taxable
wages
after 31
December
1981.

“minimum amount”—

(a) in relation to a return for a return period of one month, means the amount specified for the purposes of this definition in Schedule 1 of this Act; and

(b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying the amount specified for the purposes of this definition in Schedule 1 of this Act by the number of months in that return period;

“prescribed amount”—

(a) in relation to a return for a return period of one month, means the amount specified for the purposes of this definition in Schedule 1 of this Act; and

(b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying the amount specified for the purposes of this definition in

Schedule 1 of this Act by the number of months in that return period; and

“taxable wages” does not include taxable wages paid or payable by a member of a group.

(2) This section applies only so as to authorise a deduction to be made for a return period that is after the month of December 1981 from the taxable wages included in a return or assessment relating to that return period.

(3) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay taxable wages for the whole of a return period but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to that return period)—

(a) the prescribed amount, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the prescribed amount; or

(b) the minimum amount,
whichever is the greater.

(4) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay wages during a return period and pays or is liable to pay taxable wages for part only of that return period but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that return period, from the amount of the taxable

wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to that return period) the amount—

- (a) that bears to the prescribed amount the same proportion as the number of days in that part of that return period bears to the total number of days in that return period, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the same proportion of the prescribed amount; or
- (b) (in whole dollars) that bears to the minimum amount the same proportion as the number of days in that part of that return period bears to the total number of days in that return period,

whichever is the greater.

(5) An employer who during any return period pays or is liable to pay taxable wages and interstate wages may, by notice in writing in the approved form containing the approved particulars, served on the Commissioner, nominate an amount, calculated in the approved manner, not exceeding the prescribed amount, as the deduction that he claims to be entitled to make for that return period and for subsequent return periods.

(6) For the purpose of ascertaining the pay-roll tax payable by an employer who has served on the Commissioner a notice under subsection (5) of this section, there shall, subject to subsection (7) of this section, be deducted, for a return period (being the return period ending last before the day on which he served that notice on the Commissioner or any subsequent return period) from the amount of the taxable

wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) the amount nominated in that notice.

(7) The Commissioner may, on an application made to him in writing by an employer who pays or is liable to pay taxable wages and interstate wages during any return period or of his own motion in relation to such an employer, at any time, make a determination specifying an amount, not exceeding the prescribed amount that may be deducted for any return period specified or referred to in the determination from the taxable wages included in a return made by, or an assessment relating to, that employer and there shall be deducted, for any such return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer the amount so specified.

(8) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (7) of this section and any such revocation shall have effect on and from the first day of the return period specified in the instrument, whether that return period is before, but not before the date of the determination, or after, or the return period in which, the instrument is executed by him.

(9) The Commissioner shall, as soon as practicable after making a determination under subsection (7) of this section or a revocation under subsection (8) of this section, serve notice of the determination or revocation on the employer concerned.

Section 10
amended.

6. Section 10 of the principal Act is amended—

(a) by inserting after the section designation "10." the subsection designation "(1)";

(b) in subsection (1), by deleting “The wages” and substituting the following—

“ Subject to subsection (2) of this section, the wages ” ; and

(c) by inserting the following subsection—

“ (2) Subsection (1) of this section has effect only—

- (a) in the case of a religious institution, to wages paid or payable in respect of time when the employee is engaged in the religious work of the institution;
- (b) in the case of a public benevolent institution, to wages paid or payable in respect of time when the employee is engaged in work of a public benevolent nature;
- (c) in the case of a public hospital, to wages paid or payable in respect of time when the employee is engaged in work of a kind ordinarily performed in connection with the conduct of public hospitals;
- (d) in the case of a hospital of the kind referred to in subsection (1) (c) of this section, to wages paid or payable in respect of time when the employee is engaged in work of a kind ordinarily performed in connection with the conduct of hospitals; and
- (e) in the case of a school or college (other than a technical school or a technical college) of the kind referred to in subsection (1) (d) of this section, to wages paid or payable in respect of time when the employee is engaged in work

of a kind ordinarily performed in connection with the conduct of schools or colleges (other than technical schools or colleges). ” .

Section 11A
amended.

7. Section 11A of the principal Act is amended—

(a) in subsection (2d) by deleting “and each financial year thereafter,” ; and

(b) by inserting after subsection (2d) the following subsection—

“ (2e) For the purposes of the financial year commencing on the first day of July 1981 and each financial year thereafter, a reference in sections 11B and 11C of this Act to the prescribed amount is, in relation to an employer, a reference to the amount calculated for the purposes of the relevant financial year in accordance with Schedule 1 of this Act. ” .

Section 11D
amended.

8. Section 11D of the principal Act is amended by inserting after subsection (3) the following subsection—

“ (4) Where an employer or a designated group employer, on application made in the approved form to the Commissioner within 12 months after the end of a financial year, satisfies the Commissioner that the total amount of pay-roll tax paid or payable by him under this Act in respect of that financial year exceeds by more than \$10 the total amount of pay-roll tax which would have been paid or payable in respect of that financial year if this Act had not been amended with respect to that year, the Commissioner shall refund or rebate the amount by which the first-mentioned total amount exceeds the second-mentioned total amount. ” .

9. Section 12 of the principal Act is amended— Section 12 amended.
- (a) in subsection (1), by deleting “\$1 380 per week” and substituting the following—
- “ the amount per week prescribed for the purposes of this section in Schedule 1 of this Act ” ;
- (b) in subsection (2), by inserting after paragraph (a) the following paragraph—
- “ (aa) immediately before the coming into operation of an Act amending the amount prescribed for the purposes of this section, that person is not an employer paying wages as referred to in subsection (1) at the rate as so amended; or ” ; and
- (c) in subsection (2a), by deleting “\$1 380 per week” and substituting the following—
- “ the amount per week prescribed for the purposes of this section in Schedule 1 of this Act ” .
10. Section 13 of the principal Act is amended— Section 13 amended.
- (a) in subsection (1), by inserting after “close of each month” the following—
- “ or such other period as the Commissioner may by notice in writing in a particular case direct ” ; and
- (b) by repealing subsections (2), (3), (4) and (5) and substituting the following subsections—
- “ (2) An employer may apply in writing to the Commissioner for approval to furnish a return under subsection (1) on an annual basis and if the Commissioner is satisfied that the requirement to furnish a monthly return under

subsection (1) would in the circumstances of that employer be unduly onerous, the Commissioner may by notice in writing grant approval to that employer to furnish an annual return and where such approval is granted and remains in force, the employer shall furnish a return under subsection (1) within 21 days after the close of each financial year.

(3) The Commissioner may at any time by notice in writing revoke a notice given by him to an employer under subsection (1) or (2). ” .

Section 14
amended.

11. Section 14 of the principal Act is amended by repealing subsections (1a) and (4).

Section 16C
amended.

12. Section 16C of the principal Act is amended by—

(a) inserting after the section designation “16C.” the subsection designation “(1)”;
and

(b) inserting the following subsection—

“ (2) Where the Commissioner is satisfied, having regard to the nature and degree of the duties referred to in subsection (1) of this section and to any other matters that he considers relevant, that it would not be just and reasonable to include as a member of a group a person or persons carrying on a business, the Commissioner may, by order in writing served on that person or persons, exclude him or them from the group. ” .

13. Section 16D of the principal Act is amended by inserting after subsection (6) the following subsection—

Section 16D
amended.

“ (7) Where the Commissioner is satisfied, having regard to the nature and degree of ownership or control of the business and to any other matters that he considers relevant, that it would not be just and reasonable to include as a member of a group a person or persons carrying on a business, the Commissioner may, by order in writing served on that person or persons, exclude him or them from the group. ” .

14. Section 16E of the principal Act is amended by inserting after subsection (2) the following subsection—

Section 16E
amended.

“ (3) Where the Commissioner is satisfied, having regard to any matters that he considers relevant, that it would not be just and reasonable to include as members of one group the members of two or more groups, the Commissioner may, by order in writing served on the person or persons who are members of those groups, exclude them from that one group. ” .

15. Section 16H of the principal Act is repealed and the following section is substituted—

Section 16H
repealed and
substituted.

“ 16H. (1) The Commissioner shall not under section 16C, 16D or 16E of this Act make an order so as to exclude a person from a group on and from a date if that person is or was on that date a corporation which, by reason of section 6 (5) of the Companies Act 1961, is to be deemed for the purposes of that Act to be related to another corporation which is a member of that group.

Exclusion
of persons
from
groups.

(2) A person who is excluded from a group by order of the Commissioner under section 16C, 16D or 16E of this Act shall inform the Commissioner in writing immediately if the circumstances which were prevailing at the time of the exclusion order, as made known to the Commissioner prior to the making of the order, change in a material respect.

(3) The Commissioner may at any time, by order in writing served on the person or persons excluded from a group, revoke an order made under section 16C, 16D or 16E of this Act.

(4) Notwithstanding any other provision of this Part, an order under section 16C (2), 16D (7) or 16E (3) of this Act shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to. ” .

Section 16I
amended.

16. Section 16I of the principal Act is amended—

(a) in subsection (1), by deleting paragraph (d) and substituting the following paragraphs—

“ (d) in relation to a return period commencing on or after 1 January 1980 and ending not later than 31 December 1981 the prescribed amount as defined in subsection (1) of section 9D of this Act;

(e) in relation to a return period commencing on or after 1 January 1982 the prescribed

amount as defined in subsection (1) of section 9E of this Act, ” ; and

- (b) in subsection (4), by deleting paragraph (d) and substituting the following paragraphs—

“ (d) in relation to a return period commencing on or after 1 January 1980 and ending not later than 31 December 1981, the prescribed amount as defined in subsection (1) of section 9D of this Act;

(e) in relation to a return period commencing on or after 1 January 1982, the prescribed amount as defined in subsection (1) of section 9E of this Act, ” .

17. Section 16J of the principal Act is amended— Section 16J amended.

- (a) in subsection (5), by deleting “and each financial year thereafter,” ; and

- (b) by inserting after subsection (5) the following subsection—

“ (6) For the purposes of the financial year commencing on 1 July 1981 and each financial year thereafter a reference in sections 16K and 16L of this Act to the prescribed amount is, in relation to a designated group employer, a reference to the amount calculated for the purposes of the relevant financial year in accordance with Schedule 1 of this Act. ” .

Section 23
amended.

18. Section 23 of the principal Act is amended by inserting after subsection (2) the following subsection—

“ (3) Any tax payable under this Act by a member or members of a group is a debt due jointly and severally by every person who is a member of the group during the period in which the tax becomes due. ” .

Section 32
amended.

19. Section 32 of the principal Act is amended—

(a) in subsection (1) by inserting after “forty-two days” the following—

“ , or such longer period as the Commissioner may in writing allow, ” ; and

(b) by inserting after subsection (5) the following subsection—

“ (6) In this section, “employer” includes a member of a group other than the member of the group who is the designated group employer. ” .

Section 33
amended.

20. Section 33 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) When an employer who has objected under section 32 of this Act to a decision made by the Commissioner under this Act by which his liability to pay tax is affected or to any assessment or determination made by the Commissioner under this Act is dissatisfied with the decision of the Commissioner on that objection, he may, within 42 days after the service on him of notice of that decision or such longer period after that service as the Supreme Court may allow, appeal to the Supreme Court against that decision. ” ;

(b) in subsection (2)—

(i) by deleting “forwarded to it”; and

(ii) by deleting “forwarded” where it occurs in paragraph (b); and

(c) by inserting after subsection (4) the following subsection—

“ (5) In this section, “employer” includes a member of a group other than the member of the group who is the designated group employer. ”

21. After section 33 of the principal Act the following section is inserted— Section 33A inserted.

“ 33A. (1) The Commissioner may state a case on any question of law arising with regard to any decision, assessment or determination made by the Commissioner under this Act and forward that case to the Supreme Court for its opinion thereon. Commissioner may state case.

(2) The Supreme Court shall give its opinion on any case forwarded to it under subsection (1) of this section and cause the Commissioner to be notified of that opinion. ” .

22. Section 45 of the principal Act is amended by deleting “in that behalf, shall at all reasonable times” and substituting the following— Section 45 amended.

“ in writing, whether generally or in a specific case, shall ” .

23. Section 49 of the principal Act is amended in subsection (1) by deleting “employed in the administration of this Act and”. Section 49 amended.

Schedule 1
inserted.

24. The principal Act is amended by adding, at the end, the following Schedule—

“ SCHEDULE 1. [ss. 9E, 11A, 12, and 16J].

Minimum amount for s. 9E. 1. The amount specified for the purposes of the definition of “minimum amount” in section 9E (1) of this Act is \$3 000.

Prescribed amount for s. 9E. 2. The amount specified for the purposes of the definition of “prescribed amount” in section 9E (1) of this Act is \$8 500.

Prescribed amount for 1981-82 for ss. 11A and 16J. 3. For the purposes of section 11A (2e) and 16J (6) of this Act, the amount shall be calculated for the purposes of the financial year commencing on 1 July 1981 in accordance with the following formulae—

$$\text{For the Period} \quad \frac{A}{A+B}$$

1 July 1981 to
31 December 1981

$$\frac{\frac{36000C}{184} - \frac{2}{3} \left\{ A + B - \frac{36000C}{184} \right\}}{16200C}$$

or

$$\frac{184}{\text{whichever is the greater}}$$

AND

$$\text{For the Period} \quad \frac{A}{A+B}$$

1 January 1982
to 30 June 1982

$$\frac{\frac{51000C}{181} - \frac{2}{3} \left\{ A + B - \frac{51000C}{181} \right\}}{18000C}$$

or

$$\frac{181}{\text{whichever is the greater}}$$

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 in which wages were paid or payable during the period by an employer, or in the case of a group, by the members of that group.

Prescribed amount for 1982 onwards for ss. 11A and 16J. 4. For the purposes of sections 11A (2e) and 16J (6) of this Act the amount shall be calculated for the purposes of the financial year commencing on 1 July 1982 and every succeeding financial year in accordance with the following formulae—

$$\frac{A}{A+B} \left[\frac{102000C}{D} - \frac{2}{3} \left\{ A+B - \frac{102000C}{D} \right\}; \right. \\ \left. \frac{36000C}{D} \right. \\ \left. \text{whichever is the greater} \right]$$

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.

5. The amount per week prescribed for the purposes of section 12 of this Act is \$1 960. " .

Prescribed
amount for
s. 12.