



Western Australia

## **Pay-roll Tax Act 2002**

Compare between:

[05 Feb 2007, 00-c0-13] and [14 Dec 2017, 00-d0-02]



Western Australia

## **Pay-roll Tax Act 2002**

**An Act to impose pay-roll tax.**

~~**[Part heading deleted by 1 — Preliminary**~~

~~*[Heading inserted: No. 41 19 of 2003 2017 s. 64.]*~~

**1. Short title**

This Act may be cited as the *Pay-roll Tax Act 2002*.

**2. Commencement**

This Act comes into operation on the day on which the *Taxation Administration Act 2003* comes into operation.

**3. Relationship with other Acts**

The *Pay-roll Tax Assessment Act 2002* and the *Taxation Administration Act 2003* are to be read with this Act as if they formed a single Act.

**4. Meaning of terms**

The Glossaries at the ends of the *Pay-roll Tax Assessment Act 2002* and the *Taxation Administration Act 2003* define or affect the meaning of some of the words and expressions used in this Act and also affect the operation of other provisions.

~~*[Part 2 heading deleted by No. 41 of 2003 s. 7.]*~~

~~*[Division 1 heading deleted by No. 41 of 2003 s. 7.]*~~

~~*5. — [4A.<sup>1M</sup> Modification, to insert section 4A, to have effect under the Commonwealth Places (Mirror Taxes Administration) Act 1999 s. 7, see Commonwealth Places (Mirror Taxes Administration) Regulations 2007 r. 26 and endnote 1M.]*~~

~~*[4A.<sup>1MC</sup> Modification, to insert section 4A, to have effect under the Commonwealth Places (Mirror Taxes) Act 1998 (Commonwealth) s. 8, see Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007 cl. 27 and endnote 1MC.]*~~

## Part 2 — Imposition of pay-roll tax

*[Heading inserted: No. 19 of 2017 s. 5.]*

### 5. Imposition of pay-roll tax

- (1) Pay-roll tax on wages paid or payable before 1 January 2005 is imposed at the rate of 6%.
- (2) Pay-roll tax on wages paid or payable during the period that begins on ~~or after~~ 1 January 2005 and ends on 30 June 2018 is imposed at the rate of 5.5%.
- (3) Pay-roll tax on wages paid or payable during the period that begins on 1 July 2018 and ends on 30 June 2023 (the *sliding scale period*) is imposed at the rates determined under —
  - (a) for local non-group employers — Part 3 Division 1; or
  - (b) for interstate non-group employers — Part 3 Division 2;  
or
  - (c) for employers who are members of groups — Part 3 Division 3.
- (4) Pay-roll tax on wages paid or payable on or after 1 July 2023 is imposed at the rate of 5.5%.

*[Section 5 inserted ~~by~~: No. 41 of 2003 s. 7; amended ~~by~~: No. 83 of 2004 s. 6; No. 19 of 2017 s. 6.]*

**Pay-roll Tax Act 2002**

**Part 3** Rates of pay-roll tax for period from 1 July 2018 to 30 June 2023

**Division** Rates for local non-group employers

**s. 6**

**Part 3 — Rates of pay-roll tax for period from 1 July 2018 to 30 June 2023**

*[Heading inserted: No. 19 of 2017 s. 7.]*

**Division 2 (s. 6, 7) deleted by 1 — Rates for local non-group employers**

*[Heading inserted: No. 41 19 of 2003 2017 s. 7.]*

*[Division 3 (s. 8, 9) deleted by No. 41 of 2003 s. 7.]*

**Division 4 (6. Rates for whole or part of assessment year**

- (1) If an employer is a local non-group employer for the whole of an assessment year, or only part of an assessment year (the *part-year*), in the sliding scale period, the rate of pay-roll tax payable by the employer for the year or part-year is the rate set out in, or determined under, the Table according to the amount of WA taxable wages paid or payable by the employer during the year or part-year.

**Table**

	<b><u>Amount of WA taxable wages</u></b>	<b><u>Rate (%)</u></b>
<b><u>1.</u></b>	<b><u>Not more than \$100 000 000 × Y</u></b>	<b><u>5.5</u></b>
<b><u>2.</u></b>	<b><u>More than \$100 000 000 × Y but not more than \$1 500 000 000 × Y</u></b>	<b><u>Rate calculated under subsection (2)</u></b>
<b><u>3.</u></b>	<b><u>More than \$1 500 000 000 × Y</u></b>	<b><u>Rate calculated under subsection (3)</u></b>

(2) For the purposes of item 2 in the Table to subsection (1), the rate is to be calculated as follows —

$$\frac{(5\,500\,000 \times Y) + 0.06 (W - (100\,000\,000 \times Y))}{W} \times 100$$

(3) For the purposes of item 3 in the Table to subsection (1), the rate is to be calculated as follows —

$$\frac{(89\,500\,000 \times Y) + 0.065 (W - (1\,500\,000\,000 \times Y))}{W} \times 100$$

(4) In this section —

W is the total amount of WA taxable wages paid or payable by the employer during the assessment year or part-year;

Y is the number of days in the assessment year during which WA taxable wages were paid or payable by the employer, divided by the number of days in the assessment year.

(5) The rates calculated under subsections (2) and (3) are to be calculated to 4 decimal places.

[Section 6 inserted: No. 19 of 2017 s. 7.]

## 7. Rates for progressive return period or part of period

(1) The rate of pay-roll tax payable by a local non-group employer for a progressive return period or for part of a progressive return period (the *period or part-period*) in the sliding scale period is the rate set out in, or determined under, the Table according to the amount of WA taxable wages paid or payable by the employer during the period or part-period.

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Table

	<u>Amount of WA taxable wages</u>	<u>Rate (%)</u>
<u>1.</u>	<u>Not more than</u> <u><math>\\$100\,000\,000 \times M \times P</math></u>	<u>5.5</u>
<u>2.</u>	<u>More than</u> <u><math>\\$100\,000\,000 \times M \times P</math> but</u> <u>not more than</u> <u><math>\\$1\,500\,000\,000 \times M \times P</math></u>	<u>Rate calculated</u> <u>under</u> <u>subsection (2)</u>
<u>3.</u>	<u>More than</u> <u><math>\\$1\,500\,000\,000 \times M \times P</math></u>	<u>Rate calculated</u> <u>under</u> <u>subsection (3)</u>

(2) For the purposes of item 2 in the Table to subsection (1), the rate is to be calculated as follows —

$$\frac{(5\,500\,000 \times M \times P) + 0.06 (W - (100\,000\,000 \times M \times P))}{W} \times 100$$

(3) For the purposes of item 3 in the Table to subsection (1), the rate is to be calculated as follows —

$$\frac{(89\,500\,000 \times M \times P) + 0.065 (W - (1\,500\,000\,000 \times M \times P))}{W} \times 100$$

(4) In this section —

M is the number of months in the progressive return period, divided by 12;

P is the number of days in the progressive return period during which WA taxable wages were paid or payable by the employer, divided by the total number of days in the progressive return period;



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

(5) The rates calculated under subsections (2) and (3) are to be calculated to 4 decimal places.

*[Section 7 inserted: No. 19 of 2017 s. 7.]*

## Division 2 — Rates for interstate non-group employers

*[Heading inserted: No. 19 of 2017 s. 7.]*

### 8. Rates for whole or part of assessment year

(1) If an employer is an interstate non-group employer for the whole of an assessment year, or only part of an assessment year (the *part-year*), in the sliding scale period, the rate of pay-roll tax payable by the employer for the year or part-year is the rate set out in, or determined under, the Table according to the amount of Australian taxable wages paid or payable by the employer during the year or part-year.

Table

	<u>Amount of Australian taxable wages</u>	<u>Rate (%)</u>
<u>1.</u>	<u>Not more than</u> <u>\$100 000 000 × Y</u>	<u>5.5</u>
<u>2.</u>	<u>More than</u> <u>\$100 000 000 × Y</u> <u>but not more than</u> <u>\$1 500 000 000 × Y</u>	<u>Rate calculated</u> <u>under</u> <u>subsection (2)</u>
<u>3.</u>	<u>More than</u> <u>\$1 500 000 000 × Y</u>	<u>Rate calculated</u> <u>under</u> <u>subsection (3)</u>

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(2) For the purposes of item 2 in the Table to subsection (1), the rate is to be calculated as follows —

$$\frac{(5\,500\,000 \times Y) + 0.06 (W - (100\,000\,000 \times Y))}{W} \times 100$$

(3) For the purposes of item 3 in the Table to subsection (1), the rate is to be calculated as follows —

$$\frac{(89\,500\,000 \times Y) + 0.065 (W - (1\,500\,000\,000 \times Y))}{W} \times 100$$

(4) In this section —

W is the total amount of Australian taxable wages paid or payable by the employer during the assessment year or part-year;

Y is the number of days in the assessment year during which Australian taxable wages were paid or payable by the employer, divided by the total number of days in the assessment year.

(5) The rates calculated under subsections (2) and (3) are to be calculated to 4 decimal places.

(6) Despite subsections (1) to (5), if the employer fails to comply with a requirement under the *Pay-roll Tax Assessment Act 2002* section 27(1) to lodge an additional return for the assessment year within the period referred to in section 27(2)(c) of that Act, the rate of pay-roll tax payable by the employer for the year or part-year is 6.5%.

(7) Subsection (6) does not apply if the Commissioner has made a determination under the *Pay-roll Tax Assessment Act 2002* section 23C in relation to the employer and the year or part-year.

[Section 8 inserted: No. 19 of 2017 s. 7.]

**9. Rates for progressive return period**

The rate of pay-roll tax payable by an interstate non-group employer for a progressive return period in an assessment year in the sliding scale period is —

(a) if a nomination under the *Pay-roll Tax Assessment Act 2002* section 23A(1)(a) applies in relation to the employer and the progressive return period — the rate that would be determined under section 8(1) to (5) of this Act if —

(i) the nominated amount of Australian taxable wages were the actual amount of Australian taxable wages paid or payable by the employer during the year; and

(ii) the nominated number of days were the actual number of days in the year during which Australian taxable wages were paid or payable by the employer;

or

(b) otherwise — 6.5%.

[Section 9 inserted: No. 19 of 2017 s. 7.]

**Division 3 — Rates for group employers**

[Heading inserted: No. 19 of 2017 s. 7.]

**10. Rates for whole or part of assessment year**

(1) This section applies to a group —

(a) if at all times during an assessment year in the sliding scale period there is at least 1 member of the group who pays or is liable to pay Australian taxable wages as a group member (whether or not any member of the group pays or is liable to pay Australian taxable wages as a group member throughout the whole assessment year);  
or

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(b) if —

(i) during part only of an assessment year (the *part-year*) in the sliding scale period there is at least 1 member of the group who pays or is liable to pay Australian taxable wages as a group member (whether or not that member or any other member of the group pays or is liable to pay Australian taxable wages as a group member throughout the part-year); and

(ii) during the remainder of the assessment year there is no member of the group who pays or is liable to pay Australian taxable wages as a group member.

(2) The rate of pay-roll tax payable by the group for the year or part-year is the rate set out in, or determined under, the Table according to the amount of Australian taxable wages paid or payable by all members of the group during the year or part-year.

**Table**

	<b><u>Amount of Australian taxable wages</u></b>	<b><u>Rate (%)</u></b>
<u>1.</u>	<u>Not more than \$100 000 000 × Y</u>	<u>5.5</u>
<u>2.</u>	<u>More than \$100 000 000 × Y but not more than \$1 500 000 000 × Y</u>	<u>Rate calculated under subsection (3)</u>
<u>3.</u>	<u>More than \$1 500 000 000 × Y</u>	<u>Rate calculated under subsection (4)</u>

(3) For the purposes of item 2 in the Table to subsection (2), the rate is to be calculated as follows —

$$\frac{(5\,500\,000 \times Y) + 0.06 (W - (100\,000\,000 \times Y))}{W} \times 100$$

(4) For the purposes of item 3 in the Table to subsection (2), the rate is to be calculated as follows —

$$\frac{(89\,500\,000 \times Y) + 0.065 (W - (1\,500\,000\,000 \times Y))}{W} \times 100$$

(5) In this section —

W is the total amount of Australian taxable wages paid or payable by all members of the group during the assessment year or part-year;

Y is the number of days in the assessment year during which Australian taxable wages were paid or payable by at least 1 member of the group, divided by the total number of days in the assessment year.

(6) The rates calculated under subsections (3) and (4) are to be calculated to 4 decimal places.

(7) Despite subsections (1) to (6), if the DGE of the group fails to comply with a requirement under the *Pay-roll Tax Assessment Act 2002* section 27(1a) to lodge an additional return for the assessment year within the period referred to in section 27(2)(c) of that Act, the rate of pay-roll tax payable by the group for the year or part-year is 6.5%.

(8) Subsection (7) does not apply if the Commissioner has made a determination under the *Pay-roll Tax Assessment Act 2002* section 23C in relation to the group and the year or part-year.

[Section 10 inserted: No. 19 of 2017 s. 7.]

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**Division 3** Rates for group employers

**s. 11**

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**11) ~~deleted by No. 41 of 2003 s.~~ Rates for progressive return period**

The rate of pay-roll tax payable by a member of a group for a progressive return period in an assessment year in the sliding scale period is —

(a) if a nomination under the *Pay-roll Tax Assessment Act 2002* section 23A(1)(b) applies in relation to the group and the progressive return period — the rate that would be determined under section 10(1) to (6) of this Act if —

(i) the nominated amount of Australian taxable wages were the actual amount of Australian taxable wages paid or payable by all members of the group during the year; and

(ii) the nominated number of days were the actual number of days in the year during which Australian taxable wages were paid or payable by at least 1 member of the group;

or

(b) otherwise — 6.5%.

[Section 11 inserted: No. 19 of 2017 s. 7.]

### Notes

<sup>1</sup> ~~\_\_\_\_\_~~ This is a compilation of the *Pay-roll Tax Act 2002* and includes ~~the~~ amendments made by ~~the other written laws referred to in the following~~. [For provisions that have come into operation see the compilation table](#)<sup>2,3</sup>.

### Compilation table

Short title	Number and <del>Year</del> <a href="#">Year</a>	Assent	Commencement
<i>Pay-roll Tax Act 2002</i>	47 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Business Tax Review (Taxing) Act 2003 Pt. 3</i>	41 of 2003	30 Jun 2003	1 Jul 2003 (see s. 2)
<i>Revenue Laws Amendment (Tax Relief) Act (No. 2) 2004 Pt. 3</i>	83 of 2004	8 Dec 2004	8 Dec 2004 (see s. 2)
<sup>2</sup> <a href="#">Pay-roll Tax Amendment (Debt and Deficit Remediation) Act 2017</a>	<a href="#">19 of 2017</a>	<a href="#">13 Dec 2017</a>	<a href="#">s. 1 and 2: 13 Dec 2017 (see s. 2(a)); Act other than s. 1 and 2: 14 Dec 2017 (see s. 2(b))</a>

<sup>1M</sup> Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. ~~7~~ [this Act is to be read and construed with any <sup>7</sup>](#), modifications ~~referred to in subsection (1) of that section and, in particular, with the modifications set out in to State taxing laws may be prescribed. Modifications are prescribed in the Commonwealth Places (Mirror Taxes Administration) Regulations 2007, r. 14 and Pt. 5 Div. 1 of those regulations read as follows: 1.~~

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**1. ~~\_\_\_\_\_~~ Citation**

~~\_\_\_\_\_~~ These regulations are ~~\_\_\_\_\_~~ If a modification is to:

- [replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number;](#)
- [amend a numbered provision, the amended provision is identified by the superscript 1M appearing after the provision number.](#)

<sup>1MC</sup> ~~Under the Commonwealth Places (Mirror Taxes Administration) Regulations 2007.~~

~~2. Commencement~~

~~These regulations come into operation on the day on which) [Act 1998 \(Commonwealth\) s. 8, modifications to State taxing laws, in their application as Commonwealth laws in Commonwealth places in Western Australia, may be prescribed. Modifications are prescribed in the Commonwealth Places \(Mirror Taxes\) \(Modification\) Modifications of Applied Laws \(WA\)\) Notice 2007 comes into operation.](#)~~

~~3. When certain modifications have effect~~

~~(1) The modifications prescribed in Part 2, Part 3, Part [\(Commonwealth\) Pt. 5, Part 6 Division 2 and Part 7 have effect on and from 1 July 2003. Div. 1.](#)~~

~~(2) The modifications prescribed in Part 4 have effect on and from 9 April 2006 and prevail over the modifications in the Commonwealth Places (Mirror Taxes Administration) Regulations 2002 Part 5 to the extent of any inconsistency.~~

~~Note:~~

~~Modifications prescribed for the purposes of section 7(2) of the Act may be expressed to take effect from a date that is earlier than the date on which the modifications are published in the Gazette, see section 7(3) of the Act.~~

~~4. Modification of State taxing laws~~

~~(1) For the purposes of section 7(2) of the Act, each State taxing law is taken to be modified to the extent necessary to give effect to subregulation (2).~~

~~(2) If~~

~~(a) a State taxing law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding applied law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction; and~~

~~(b) a person is required or permitted, or could be required or permitted, to take an action under both the State taxing law and the corresponding applied law in relation to the event, state of affairs or transaction; and~~

~~(c) the person has taken the action in accordance with the corresponding applied law; and~~

~~(d) the Commissioner of State Revenue has sufficient information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the State taxing law or the corresponding applied law or both, as the case requires,~~

~~then~~



- ~~— (e) — the person is not required to take the action under the State taxing law; and~~
- ~~— (f) — the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the State taxing law in relation to the event, state of affairs or transaction.~~
- ~~— (3) — The particular modifications set out in these regulations of certain State taxing laws have effect for the purposes of section 7(2) of the Act.~~

## **Part 5 — Pay-roll tax**

### **Division 1 — The *Pay-roll Tax Act 2002***

#### **25. — ~~Modification of the *Pay-roll Tax Act 2002*~~**

~~— This Division sets out modifications of the *Pay-roll Tax Act 2002* in its application as a law of Western Australia.~~

#### **26. — ~~Section 4A inserted~~**

~~— After section 4 the following section is inserted —~~

“

#### **4A. — ~~Application of Act in non-Commonwealth places~~**

- ~~— (1) — In this Act, unless the contrary intention appears —~~
  - ~~— (a) — a reference to this Act is to be read as a reference to this Act in its application as a law of Western Australia; and~~
  - ~~— (b) — a reference to the *Pay-roll Tax Assessment Act 2002* is to be read as a reference to that Act in its application as a law of Western Australia.~~
- ~~— (2) — This Act is to be read with the applied Pay-roll Tax Act as a single body of law.~~

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”

<sup>3</sup> ~~— Under the *Commonwealth Places (Mirror Taxes) Act 1998* s. 8(2) of the Commonwealth, this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*. r. 1-5 and Pt. 5 Div. 1 of that notice read as follows:~~

“

**1. Citation**

This notice is the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*.

**2. Commencement**

This notice comes into operation on the day after the day on which it is registered under the *Legislative Instruments Act 2003* of the Commonwealth.

**3. When certain modifications have effect**

(1) The modifications prescribed in Part 2, Part 3, Part 5, Part 6 Division 2 and Part 7 have effect on and from 1 July 2003.

(2) The modifications prescribed in Part 4 have effect on and from 9 April 2006 and prevail over the modifications in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002* Part 5 to the extent of any inconsistency.

Note:

Modifications prescribed in a notice under section 8 of the Act may be expressed to take effect from a date that is earlier than the date on which the modifications are published in the Commonwealth of Australia Gazette, see section 8(5) of the Act.

**4. Definitions**

In this notice —

*applied WA law* means the provisions of a State taxing law of Western Australia that apply or are taken to have applied in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

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

*Commonwealth Mirror Taxes Act* means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth.

**5. Modification of applied WA laws**

(1) For the purposes of the Commonwealth Mirror Taxes Act section 8, each applied WA law is taken to be modified to the extent necessary to give effect to subclause (2).

(2) If —

(a) an applied WA law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding State taxing law also applies, or

could apply, to any extent, to or in relation to the same event, state of affairs or transaction; and

~~—(b)— a person is required or permitted, or could be required or permitted, to take an action under both the applied WA law and the corresponding State taxing law in relation to the event, state of affairs or transaction; and~~

~~—(c)— the person has taken the action in accordance with the corresponding State taxing law; and~~

~~—(d)— the Commissioner of State Revenue has sufficient information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the applied WA law or the corresponding State taxing law or both, as the case requires;~~

~~— then —~~

~~—(e)— the person is not required to take the action under the applied WA law; and~~

~~—(f)— the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the applied WA law in relation to the event, state of affairs or transaction.~~

~~—(3)— The particular modifications set out in this notice of certain applied WA laws have effect for the purposes of the Commonwealth Mirror Taxes Act section 8.~~

## **Part 5 — Pay-roll tax**

### **Division 1 — The applied *Pay-roll Tax Act 2002***

#### **26. — Modification of the applied *Pay-roll Tax Act 2002***

~~— This Division sets out modifications of the *Pay-roll Tax Act 2002* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia.~~

#### **27. — Section 4A inserted**

~~— After section 4 the following section is inserted —~~

“

#### **4A. — Application of Act in Commonwealth places**

~~—(1)— In this Act, unless the contrary intention appears—~~

~~—(a)— a reference to this Act is to be read as a reference to this Act in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia~~

in accordance with the *Commonwealth Places (Mirror Taxes) Act 1998*; and

—(b)— a reference to the *Pay-roll Tax Assessment Act 2002* is to be read as a reference to the *Pay-roll Tax Assessment Act 2002* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the *Commonwealth Places (Mirror Taxes) Act 1998*; and

—(c)— a reference to the *Taxation Administration Act 2003* is to be read as a reference to the *Taxation Administration Act 2003* of Western Australia in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the *Commonwealth Places (Mirror Taxes) Act 1998*.

—(2)— This Act is to be read with the corresponding Pay-roll Tax Act as a single body of law.

—(3)— In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2007*, this Act is deemed to be further modified to any extent that is necessary or convenient—

—(a)— to enable this Act to operate effectively as a law of the Commonwealth; and

—(b)— to ensure that the combined liability of a taxpayer under this Act and the corresponding Pay-roll Tax Act is as nearly as possible the same as the taxpayer's liability would be under the corresponding Pay-roll Tax Act alone if the Commonwealth places in Western Australia were not Commonwealth places.

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If a modification is to:

- replace or insert a numbered provision, the new provision is identified by the superscript IMC appearing after the provision number;
- amend a numbered provision, the amended provision is identified by the superscript IMC appearing after the provision number.