

WESTERN AUSTRALIA.

# PAY-ROLL TAX ASSESSMENT.

No. 10 of 1971.

[As amended by Acts:

- No. 54 of 1973,<sup>1</sup> assented to 6th November, 1973;
- No. 109 of 1975,<sup>2</sup> assented to 1st December, 1975;
- No. 106 of 1976,<sup>3</sup> assented to 17th November, 1976;
- No. 22 of 1977,<sup>4</sup> assented to 27th October, 1977.

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

**AN ACT relating to the assessment and collection  
of a tax upon wages paid by employers.**

[Assented to 30th September, 1971.]

**BE** it enacted—

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Pay-roll Tax Assessment Act, 1971-1977*.

Short title.  
Amended by  
No. 22 of  
1977, s.1.

2. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1-3.

PART II.—ADMINISTRATION—ss. 4-5.

PART III.—LIABILITY TO TAXATION—ss. 6-11.

PART IV.—REGISTRATION AND RETURNS—ss. 12-16.

PART IVA.—GROUPING PROVISIONS—ss. 16A-16L.

Division  
of Act.  
Amended by  
No. 109  
of 1975, s.3.

<sup>1</sup> To operate from 1st September, 1973; see section 2 of Act No. 54 of 1973.

<sup>2</sup> Section 5 deemed to have come into operation on the 1st September, 1971; the balance came into operation on the 1st January, 1976.

<sup>3</sup> To operate from 1st January, 1977; see section 2 of Act No. 106 of 1976.

<sup>4</sup> To operate from 1st December, 1977; see section 2 of Act No. 22 of 1977.

PART V.—COLLECTION AND RECOVERY OF TAX—  
ss. 17-31.

PART VI.—OBJECTIONS AND APPEALS—ss. 32-34.

PART VII.—PENAL PROVISIONS—ss. 35-40.

PART VIII.—MISCELLANEOUS—ss. 41-50.

Interpreta-  
tion.  
Amended by  
No. 109 of  
1975, s.4;  
No. 106 of  
1976, s.4.

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

“agent” includes every person who in Western Australia, for or on behalf of another person outside Western Australia holds or has the management or control of the business of that other person and every person who, by an order of the Commissioner, is declared to be an agent or the sole agent for any other person for the purposes of this Act and on whom notice of that order has been served;

“approved” means approved by the Commissioner;

“Australia” means the States of the Commonwealth;

“Commissioner” means the person holding the office of Commissioner of State Taxation under the Public Service Act, 1904;

“Commonwealth Act” means the Pay-roll Tax Assessment Act, 1941, as subsequently amended of the Commonwealth;

“company” includes all bodies and associations (corporate and unincorporate) and partnerships;

“corporation” has the meaning ascribed to that expression by subsection (1) of section 5 of the Companies Act, 1961;

“corresponding law”, in relation to another State means a law in force in that State relating to the imposition upon employers of a tax on wages paid or payable by them and the assessment and collection of that tax, but does not include the Commonwealth Act;

- “council” has the meaning ascribed thereto by section 6 of the Local Government Act, 1960, and includes a county council and a regional council within the meaning of that Act and a commissioner of a municipality appointed under that Act;
- “designated group employer”, in relation to a group, means the member of that group who, under section 16I of this Act is for the time being the designated member of that group;
- “employer” means any person who pays or is liable to pay any wages and includes the Crown in right of the State of Western Australia;
- “financial year” means each year commencing on the first day of July;
- “foreign wages” means wages that are not taxable wages and are not interstate wages;
- “group” means a group constituted under Part IVA of this Act;
- “interstate wages” means wages that are taxable wages within the meaning of a corresponding law;
- “liquidator” means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company;
- “month” means the month of January, February, March, April, May, June, July, August, September, October, November or December;
- “pay-roll tax” means the pay-roll tax imposed by any Act as assessed under this Act;
- “person” includes a company;
- “return period”, in relation to an employer, means a period relating to which that employer is required to furnish a return under this Act;

*Pay-roll Tax Assessment.*

“State” means a State of the Commonwealth, including the Territories together deemed to be such a State pursuant to subsection (3) of this section;

“tax” means pay-roll tax, and also further tax, additional tax or penal tax imposed by or under this Act;

“taxable wages” means wages that, under section 6 of this Act, are liable to pay-roll tax;

“trustee”, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court or by operation of law, includes—

(a) an executor or administrator, guardian, committee, receiver or liquidator; and

(b) every person having or taking upon himself the administration or control of any real or personal property affected by any express or implied trust, or acting in any fiduciary capacity, or having the possession, control or management of any real or personal property of a person under any legal or other disability;

“voting share” has the meaning ascribed to that expression by subsection (1) of section 5 of the Companies Act, 1961;

“wages” means any wages, salary, commission, bonuses or allowances paid or payable (whether at piece work rates or otherwise and whether paid or payable in cash or in kind) to an employee as such and, without limiting the generality of the foregoing, includes—

(a) any amount paid or payable by way of remuneration to a person holding office under the Crown in right of the State of Western Australia or in the service of the Crown in right of the State of Western Australia;

- (b) any amount paid or payable under any prescribed classes of contracts to the extent to which that payment is attributable to labour;
- (c) any amount paid or payable by a company by way of remuneration to a director or member of the governing body of that company;
- (d) any amount paid or payable by way of commission to an insurance or time-payment canvasser or collector; and
- (e) the provision by the employer of meals or sustenance or the use of premises or quarters as consideration or part consideration for the employee's services.

(2) For the purposes of this Act, meals or sustenance provided by an employer shall be deemed to have a value of one dollar fifty cents per week or, in any particular case or class of cases, such other value as is prescribed in respect of that case or class of cases, and the use of premises or quarters provided by an employer shall be deemed to have a value of fifty cents per week or, in any particular case or class of cases, such other value as is prescribed in respect of that case or class of cases.

(3) For the purposes of this Act, the Australian Capital Territory (including the Jervis Bay Territory) and the Northern Territory of Australia are together deemed to be a State of the Commonwealth.

(4) [*Repealed by No. 106 of 1976, S. 4.*]

(5) [*Repealed by No. 106 of 1976, S. 4.*]

PART II.—ADMINISTRATION.

4. (1) The Commissioner shall have the general administration of this Act.

Functions  
of Com-  
missioner,  
etc.

(2) The Commissioner may by instrument in writing under his hand delegate to the person holding office as the Assistant Commissioner

(Stamp Duties) or to any other officer assisting the Commissioner in the administration of this Act all or any of his powers or functions under this Act, except this power of delegation or his power to issue a certificate under subsection (7) of section 46 of this Act.

(3) A delegation under subsection (2) of this section may be revoked at any time by the Commissioner.

(4) A power or function, the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the delegate.

(5) A delegation under this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the powers or functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(6) Notwithstanding the provisions of subsection (2) of this section or any delegation made under this section, the Commissioner may continue to exercise or perform all or any of the powers or functions conferred or imposed on him by this Act.

(7) Any act or thing done or suffered by a delegate of the Commissioner while acting in the exercise of a delegation under this section, shall have the same force and effect as if the act or thing done had been done or suffered by the Commissioner.

(8) Where the exercise or performance by the Commissioner of any power or function under this Act or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised or performed by a delegate of the Commissioner acting as such in relation to that matter, or that provision may operate, as the case may be, upon the opinion, belief or state of mind of that delegate acting as such.

5. (1) Except as provided by subsection (2) of this section, a person shall not disclose any information or publish any document or part of a document obtained by him in connection with the administration or execution of this Act, unless the disclosure or publication is made—

Disclosure  
of informa-  
tion.

- (a) with the consent of the person from whom the information or document was obtained;
- (b) in connection with the administration or execution of this Act; or
- (c) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings.

Penalty: One thousand dollars.

(2) The Commissioner—

- (a) may communicate any matter which comes to his knowledge in the exercise or performance of his powers and duties under this Act to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth or to the officer or authority administering or executing a corresponding law; or
- (b) shall, where the Treasurer has so approved, furnish to the Commonwealth Statistician or a Deputy Commonwealth Statistician such information (including copies of or extracts from returns made under this Act) obtained in the administration or execution of this Act as the Commonwealth Statistician or a Deputy Commonwealth Statistician may request for the purposes of the Census and Statistics Act 1905, as subsequently amended, of the Commonwealth, or under any Act of the Commonwealth replacing or amending that Act, as so amended, or any Act of the Commonwealth relating to the making of grants of financial assistance to States.

## PART III.—LIABILITY TO TAXATION.

Wages liable  
to pay-roll  
tax.  
Amended by  
No. 106 of  
1976, s.5.

6. (1) Subject to section 10 of this Act, the wages liable to pay-roll tax under this Act are wages that are paid or payable by an employer after the month of August, 1971 (whether in respect of services performed or rendered before, during or after that month), and—

- (a) are wages that are paid or payable in Western Australia, not being wages so paid or payable in respect of services performed or rendered wholly in one other State; or
- (b) are wages that are paid or payable elsewhere than in Western Australia in respect of services performed or rendered wholly in Western Australia.

(2) For the purposes of paragraph (a) of subsection (1) of this section, wages that are payable to a person by his employer, but have not been paid (not being wages that, under the terms of employment, are payable in Western Australia or in another State), shall be deemed—

- (a) where those wages are payable in respect of services performed or rendered wholly in Western Australia—to be wages payable to that person in Western Australia;
- (b) where those wages are not payable in respect of services performed or rendered wholly in Western Australia or wholly in one other State, and the wages last paid or payable to that person by that employer were included or are required to be included in a return under this Act—to be wages payable to that person in Western Australia; or
- (c) where those wages are not deemed, by paragraph (a) or paragraph (b) of this subsection or by any provision in a corresponding law that corresponds with either of those paragraphs, to be wages



payable to that person in Western Australia or in another State—to be wages payable to that person by that employer at the place where that person last performed or rendered any services for that employer before those wages became payable.

(3) For the purposes of this section, where a cheque, bill of exchange, promissory note, money order or postal order issued by a post office or any other instrument is sent or given by an employer to a person or his agent at a place in Australia in payment of wages, those wages shall be deemed to have been paid at that place and to have been paid when the instrument was so sent or given.

7. Subject to, and in accordance with, the provisions of this Act, there shall be charged, levied, collected and paid on all taxable wages pay-roll tax at such rate or rates as Parliament shall from time to time declare and enact.

Pay-roll tax.  
Amended by  
No. 54 of  
1973, s.3.

8. Pay-roll tax shall be paid by the employer by whom the taxable wages are paid or payable.

Employers'  
liability to  
pay tax.

9. [*Repealed by No. 106 of 1976, S. 6.*]

9A. (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  
1st January,  
1976.  
Added by  
No. 109 of  
1975, s.6.  
Amended by  
No. 106 of  
1976, s.7.

*Pay-roll Tax Assessment.*

“prescribed amount”—

- (a) in relation to a return for a return period of one month, means \$3 466; and
- (b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying \$3 466 by the number of months in that return period;

“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, 1975, from the taxable wages included in a return or assessment relating to that return period, 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, 1976.

(3) For the purpose of ascertaining the payroll 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) 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.

(4) For the purpose of ascertaining the payroll 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 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.

(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 payroll 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 (being a return period commencing before, but not before the first day of January, 1976, or after, or the return period in which, the determination is made) from 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) 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 (being a return or an assessment relating to any such return period) 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 as 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, serve notice of the determination on the employer concerned.

Deduction  
from taxable  
wages after  
1st January,  
1977.  
Added by  
No. 106 of  
1976, s. 8.  
Amended by  
No. 22 of  
1977, s. 4.

**9B.** (1) In this section—

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

“minimum amount”—

- (a) in relation to a return for a return period of one month, means the amount of \$2 000; and
- (b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying the amount of \$2 000 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 \$4 000; and
- (b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying \$4 000 by the number of months in that return period;

“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, 1976, from the taxable wages included in a return or assessment relating to that return period, 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 November, 1977.

(3) For the purpose of ascertaining the payroll 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 payroll 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 payroll 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 (being a return period commencing

before, but not before the first day of January, 1977, or after, or the return period in which, the determination is made) from 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) 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 (being a return or an assessment relating to any such return period) 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 as 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.

9C. (1) In this section—

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

“minimum amount”—

- (a) in relation to a return for a return period of one month, means the amount of \$2 250; and
- (b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying the amount of \$2 250 by the number of months in that return period;

Deduction from taxable wages after 1st December, 1977.  
Added by No. 22 of 1977, s.5.

*Pay-roll Tax Assessment.*

“prescribed amount”—

- (a) in relation to a return for a return period of one month, means \$5 000; and
- (b) in relation to a return for a return period of two or more months, means the product ascertained by multiplying \$5 000 by the number of months in that return period;

“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 November, 1977, 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 (being a return period commencing before, but not before the first day of December, 1977, or after, or the return period in which, the determination is made) from 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) 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 (being a return or an assessment relating to any such return period) 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 as 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.

Exemption  
from pay-  
roll tax.

10. The wages liable to pay-roll tax under this Act do not include wages paid or payable—

- (a) by the Governor of a State;
- (b) by a religious or public benevolent institution, or a public hospital;

- (c) by a hospital which is carried on by a society or association otherwise than for the purpose of profit or gain to the individual members of the society or association;
- (d) by a school or college (other than a technical school or a technical college) which—
  - (i) is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association and is not carried on by or on behalf of the State of Western Australia; and
  - (ii) provides education at or below, but not above, the secondary level of education;
- (e) by a council;
- (f) to members of his official staff by—
  - (i) a consular or other representative (other than a diplomatic representative) in Australia of the Government of any other part of Her Majesty's dominions or of any other country; or
  - (ii) a Trade Commissioner representing in Australia any other part of Her Majesty's dominions;
- (g) by the Commonwealth War Graves Commission;
- (h) by the Australian-American Educational Foundation; or
- (i) to a person who is a member of the Defence Force of the Commonwealth or of the armed force of any part of Her Majesty's

dominions, being wages paid or payable by the employer from whose employment the person is on leave by reason of his being such a member.

11. [Repealed by No. 106 of 1976, S. 9.]

"Financial year" for purposes of this section and sections 11B and 11C and "prescribed amount" for purposes of section 11B and 11C.  
Added by No. 109 of 1975, s.8.  
Amended by No. 106 of 1976, s.10; No. 22 of 1977, s.6.

11A. (1) In this section and sections 11B and 11C of this Act—

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

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

(1a) In subsection (3) of this section and in sections 11B and 11C of this Act, "financial year" means the financial year commencing on the first day of July, 1976 and each financial year thereafter.

(2) For the purposes of the financial year commencing on the first day of July, 1976, a reference in sections 11B and 11C of this Act to the "prescribed amount" is, in relation to an employer, a reference to the sum of the amounts calculated in accordance with the following formulae—

$$\frac{\text{TWD}}{(\text{TWD} + \text{IWD})} \left[ \frac{20\,800\text{ A}}{184} - \frac{2}{3} \left\{ \text{TWD} + \text{IWD} - \frac{20\,800\text{ A}}{184} \right\} \right]$$

and

$$\frac{\text{TWJ}}{(\text{TWJ} + \text{IWJ})} \left[ \begin{array}{l} \text{(a) } \frac{24\,000\text{ B}}{181} - \frac{2}{3} \left\{ \text{TWJ} + \text{IWJ} - \frac{24\,000\text{ B}}{181} \right\} \\ \text{or} \\ \text{(b) } \frac{12\,000\text{ B}}{181}, \\ \text{whichever is the greater} \end{array} \right]$$

where—

TWD is the amount of taxable wages paid or payable by the employer during the period

commencing on the first day of July, 1976 and ending on the thirty-first day of December, 1976;

IWD is the amount of interstate wages paid or payable by the employer during the period commencing on the first day of July, 1976 and ending on the thirty-first day of December, 1976;

TWJ is the amount of taxable wages paid or payable by the employer during the period commencing on the first day of January, 1977 and ending on the thirtieth day of June, 1977;

IWJ is the amount of interstate wages paid or payable by the employer during the period commencing on the first day of January, 1977 and ending on the thirtieth day of June, 1977;

A is the number of days in respect of which wages (disregarding foreign wages) were paid or payable by the employer during the period commencing on the first day of July, 1976 and ending on the thirty-first day of December, 1976; and

B is the number of days in respect of which wages (disregarding foreign wages) were paid or payable by the employer during the period commencing on the first day of January, 1977 and ending on the thirtieth day of June, 1977.

(2a) For the purposes of the financial year commencing on the first day of July, 1977, a reference in sections 11B and 11C of this Act to the "prescribed amount" is, in relation to an employer,

*Pay-roll Tax Assessment.*

a reference to the sum of the amounts calculated in accordance with the following formulae—

$$\frac{\text{TWN}}{(\text{TWN} + \text{IWN})} \left[ \begin{array}{l} \text{(a) } \frac{20\,000\text{ A}}{153} - \frac{2}{3} \left\{ \text{TWN} + \text{IWN} - \frac{20\,000\text{ A}}{153} \right\}; \\ \text{or} \\ \text{(b) } \frac{10\,000\text{ A}}{153}, \\ \text{whichever is the greater} \end{array} \right]$$

and

$$\frac{\text{TWY}}{(\text{TWY} + \text{IWY})} \left[ \begin{array}{l} \text{(a) } \frac{35\,000\text{ B}}{212} - \frac{2}{3} \left\{ \text{TWY} + \text{IWY} - \frac{35\,000\text{ B}}{212} \right\}; \\ \text{or} \\ \text{(b) } \frac{15\,750\text{ B}}{212} \\ \text{whichever is the greater.} \end{array} \right]$$

where—

TWN is the amount of taxable wages paid or payable by the employer during the period commencing on the first day of July, 1977 and ending on the thirtieth day of November, 1977;

IWN is the amount of interstate wages paid or payable by the employer during the period commencing on the first day of July, 1977 and ending on the thirtieth day of November, 1977;

TWY is the amount of taxable wages paid or payable by the employer during the period commencing on the first day of December, 1977 and ending on the thirtieth day of June, 1978;

IWY is the amount of interstate wages paid or payable by the employer during the period commencing on the first day of December, 1977 and ending on the thirtieth day of June, 1978;

A is the number of days in respect of which wages (disregarding foreign wages) were paid or payable by the employer during the period commencing on the first day of July, 1977 and ending on the thirtieth day of November, 1977; and

B is the number of days in respect of which wages (disregarding foreign wages) were paid or payable by the employer during the period commencing on the first day of December, 1977 and ending on the thirtieth day of June, 1978.

(2b) For the purposes of the financial year commencing on the first day of July, 1978 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 in accordance with the following formula—

$$\frac{TW}{(TW + IW)} \left[ \begin{array}{l} \text{(a) } \frac{60\,000\ C}{D} - \frac{2}{3} \left\{ TW + IW - \frac{60\,000\ C}{D} \right\}; \\ \text{or} \\ \text{(b) } \frac{27\,000\ C}{D}, \\ \text{whichever is the greater} \end{array} \right]$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year;

IW is the amount of interstate wages paid or payable by the employer during the financial year;

C is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages); and

D is the number of days in the financial year.

(3) Where a person who did not pay and was not liable to pay taxable wages or interstate wages for any part of a financial year satisfies the Commissioner that, by reason of the nature of his trade or business, the taxable wages and interstate wages, if any, paid or payable by him fluctuate with different periods of the financial year, the Commissioner may treat him—

- (a) if he has conducted that trade or business in Australia during the whole of the financial year—as an employer throughout the financial year; or
- (b) if he has conducted that trade or business in Australia during part only of the financial year—as an employer during that lastmentioned part of the financial year.

(4) [*Repealed by No. 106 of 1976, S. 10.*]

Annual  
adjustments.  
Added by  
No. 109 of  
1975, s.8.  
Amended by  
No. 106 of  
1976, s.11.

**11B.** (1) In this section, “annual amount of pay-roll tax”, in relation to an employer, means the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971 to the difference between—

- (a) the total of the taxable wages paid or payable by that employer during a financial year; and
- (b) the prescribed amount, if any.

(2) Where taxable wages are paid or payable by an employer during a financial year—

- (a) the Commissioner shall, on application made by that employer in accordance with subsection (3) of this section, where the amount of pay-roll tax paid or payable by that employer when he made the returns relating to that financial year is greater than the annual amount of pay-roll tax in relation to that employer for that financial year, refund or rebate to that employer an amount equal to the difference, reduced by any amount refunded to him under section 19 of this Act; or



(b) that employer shall, where the amount of pay-roll tax paid or payable by that employer when he made the returns relating to that financial year is less than the annual amount of pay-roll tax in relation to that employer for that financial year, pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.

(3) An application under paragraph (a) of subsection (2) of this section shall, notwithstanding section 19 of this Act, be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

11C. (1) In this section—

“prescribed period”, in relation to an employer who pays or is liable to pay wages, otherwise than as a member of a group, for part only of a financial year, means that part of that financial year;

Adjustment of pay-roll tax when employer ceases to be an employer during a financial year.  
Added by No. 109 of 1975, s.8.

“total amount of pay-roll tax” in relation to an employer, means the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971 to the difference between—

(a) the total of the taxable wages paid or payable by the employer during a prescribed period; and

(b) the prescribed amount, if any;

“wages” does not include foreign wages.

(2) Where in a financial year an employer ceases to pay wages or becomes a member of a group he shall, where the amount of pay-roll tax paid or payable by him when he made returns relating to the prescribed period is less than the total amount

of pay-roll tax—in relation to that employer for that prescribed period, pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act relating to that prescribed period or the last return under this Act relating to that prescribed period, an amount equal to the difference.

(3) Where an employer, who has ceased to pay wages or has become a member of a group, as referred to in subsection (2) of this section, in any financial year, subsequently pays or is liable to pay taxable wages or interstate wages during that financial year otherwise than as a member of a group, section 11B of this Act applies to and in respect of him as if the reference in subsection (2) of section 11B of this Act to the amount of pay-roll tax paid or payable by that employer included a reference to any pay-roll tax paid or payable by that employer under subsection (2) of this section.

Special  
annual  
adjustment.  
Added by  
No. 106 of  
1976, s.11.  
Amended by  
No. 22 of  
1977, s.7.

**11D.** (1) Where an employer or a designated group employer, on application made in the approved form to the Commissioner not later than the thirtieth day of June, 1978, satisfies the Commissioner that the total amount of pay-roll tax paid or payable by him under this Act in respect of the financial year ending on the thirtieth day of June, 1977 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 the Pay-roll Tax Assessment Act Amendment Act, 1976 had not been enacted, the Commissioner shall refund or rebate the amount by which the first-mentioned total amount exceeds the second-mentioned total amount.

(2) Where an employer or a designated group employer, on application made in the approved form to the Commissioner not later than the thirtieth day of June, 1979, satisfies the Commissioner that the total amount of pay-roll tax paid or payable by him under this Act in respect of the financial year ending on the thirtieth day of June, 1978, 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 the Pay-roll Tax Assessment Act Amendment Act, 1977 had not been enacted, the Commissioner shall refund or rebate the amount by which the first-mentioned total amount exceeds the second-mentioned total amount.

PART IV.—REGISTRATION AND RETURNS.

12. (1) An employer (not being an employer who is registered as an employer) who, during a month, pays or is liable to pay, anywhere, wages at a rate in excess of \$1 150 per week, the whole or any part of which is taxable wages or who, being a member of a group, during a month pays or is liable to pay any taxable wages, shall apply, within seven days after the close of that month, to the Commissioner in the approved form and manner, for registration as an employer, and thereupon the Commissioner shall register him as an employer under this Act.

Registration.  
Amended by  
No. 109 of  
1975, s.9;  
No. 106 of  
1976, s.13;  
No. 22 of  
1977, s.8<sup>1</sup>.

(2)<sup>1</sup> The Commissioner may cancel the registration of a person as an employer if—

- (a) that person, not being a member of a group, has ceased to be an employer paying wages as referred to in subsection (1) of this section; or
- (b) that person—
  - (i) ceases to be a member of a group; and
  - (ii) does not pay and is not liable to pay wages as referred to in subsection (1) of this section.

(2a) Where the Commissioner cancels the registration of a person as an employer in any financial year and that person subsequently pays or is liable to pay (otherwise than as a member of a

<sup>1</sup> Subsection (2) of section 8 of Act No. 22 of 1977 reads as follows:—  
(2) The power conferred on the Commissioner by subsection (2) of section 12 of the Pay-roll Tax Assessment Act, 1971 extends to authorising the Commissioner to cancel the registration of a person as an employer where that person was not immediately before the first day of December, 1977, an employer paying wages as referred to in subsection (1) of section 12 of that Act, as amended by subsection (1) of this section.

group) taxable wages during that financial year that person may, notwithstanding that during any month he pays or is liable to pay wages at a rate not in excess of \$1 150 per week, apply to the Commissioner, in the approved form and manner, for registration as an employer and thereupon the Commissioner shall register him as an employer under this Act.

(3) A person, who immediately before the commencement of this Act, was the holder of a certificate in force under the regulations made under the Commonwealth Act to the effect that he was registered as an employer in respect of the State of Western Australia, shall be deemed to be registered as an employer under this Act but, where he is required, by a notice in writing served on him by the Commissioner, to apply to the Commissioner, within the time specified in the notice, for registration as an employer he shall cease to be deemed to be so registered upon the expiration of that time.

**Returns.**

13. (1) Every employer who is registered or required to apply for registration in accordance with the provisions of section 12 of this Act shall, within seven days after the close of each month, furnish to the Commissioner, in accordance with the approved form and manner, a return relating to that month and shall specify in that return any taxable wages that were paid or payable by him during that month.

(2) Where the Commissioner is of the opinion that it would be unduly onerous to require an employer to furnish returns—

(a) within the time specified in subsection (1) of this section, he may, by notice in writing, vary the time within which that employer is required to furnish returns in pursuance of that subsection; or

(b) relating to each month, the Commissioner may, by notice in writing, authorise that employer to furnish returns relating to such periods as may be specified in the notice,

and the employer shall, while that notice remains unrevoked, furnish returns accordingly.

(3) The Commissioner may, at any time, by notice in writing, revoke any notice given in pursuance of subsection (2) of this section.

(4) An employer who, under the Commonwealth Act, was, immediately before the commencement of this Act, required to furnish returns under that Act within a specified time, being longer than seven days, or relating to periods of three months or periods of six months, shall be deemed to have been required by a notice under subsection (2) of this section to furnish returns under this Act within the time so specified or relating to prescribed periods, as the case may be.

(5) For the purposes of subsection (4) of this section, a reference to a prescribed period is, in relation to any employer, a reference to—

(a) the period commencing on the first day of September, 1971, and ending on the thirty-first day of December, 1971; and

(b) where—

(i) that employer was required under the Commonwealth Act to furnish returns relating to periods of three months—to each period of three months; or

(ii) that employer was required under the Commonwealth Act to furnish returns relating to periods of six months—to each period of six months,

that is after the period referred to in paragraph (a) of this subsection.

14. (1) If the Commissioner is of the opinion that tax will not be payable by an employer; or, if paid, would be refunded, he may issue a certificate to that employer exempting him from furnishing monthly returns in accordance with the provisions of section 13 of this Act and any employer to whom

Exemption  
from  
furnishing  
returns.  
Amended by  
No. 109 of  
1975, s.10.

such a certificate is issued may refrain from furnishing monthly returns but shall, unless the contrary is expressed in the certificate, furnish an annual return within twenty-one days after the close of each financial year.

(1a) In subsection (1) of this section, "financial year" includes the period commencing on the first day of July, 1975, and ending on the thirty-first day of December, 1975, and the period commencing on the first day of January, 1976, and ending on the thirtieth day of June, 1976, but does not include the period commencing on the first day of July, 1975, and ending on the thirtieth day of June, 1976.

(2) A certificate issued under subsection (1) of this section may be either unconditional or subject to such conditions as are prescribed or as the Commissioner thinks fit.

(2a) The Commissioner may, at any time, by notice in writing, revoke any certificate issued under subsection (1) of this section.

(3) The issue of a certificate under subsection (1) of this section shall not exempt an employer from the payment of any pay-roll tax, notwithstanding that it may have the effect of postponing the time for payment of any pay-roll tax.

(4) A certificate in force under the Commonwealth Act exempting an employer from furnishing monthly returns shall be deemed to be a certificate issued by the Commissioner under subsection (1) of this section and any conditions to which such a certificate was subject shall be deemed to be conditions imposed by the Commissioner under subsection (2) of this section.

Further  
returns.  
Amended by  
No. 109 of  
1975, s.11.

15. The Commissioner may, by notice in writing, call upon any employer or person to furnish to him, within the time specified in the notice, such return or such further or fuller return, as the Commissioner requires, whether on his own behalf or as an agent or a trustee.

16! (1) The Commissioner may, by notice in writing, require any employer or person—

Power to obtain information and evidence.

(a) to furnish him with such information as he requires; or

(b) to attend and give evidence before him,

for the purpose of inquiring into or ascertaining his or any other person's liability or entitlement under any of the provisions of this Act, and may require him to produce all books, documents and other papers whatsoever in his custody or under his control relating thereto.

(2) The Commissioner may require the information or evidence to be given on oath, and either orally or in writing, or to be given by statutory declaration and for that purpose he may administer an oath.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

PART IVA.—GROUPING PROVISIONS.

Part IVA added by No. 109 of 1975, s.12.

16A. In this Part, "business" includes—

Interpretation.

(a) a trade or profession;

Added by No. 109 of 1975, s.12.

(b) any other activity carried on for fee, gain or reward; and

(c) the activity, carried on by an employer, of employing one or more persons where that person performs or those persons perform duties for or in connection with another business.

16B. For the purposes of this Act, two corporations constitute a group if they are by reason of subsection (5) of section 6 of the Companies Act, 1961, to be deemed, for the purposes of that Act, to be related to each other.

Grouping of corporations. Added by No. 109 of 1975, s.12.

Grouping where employees used in another business. Added by No. 109 of 1975, s.12.

**16C.** For the purposes of this Act, where—

- (a) an employee of an employer, or two or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or
- (b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or those other persons, whether alone or together with another person or other persons,

that employer and—

- (c) each such other person; or
  - (d) both or all of those other persons,
- constitute a group.

Grouping of commonly controlled businesses. Added by No. 109 of 1975, s.12.

**16D.** (1) A reference in this section to two businesses does not include a reference to two businesses both of which are owned by the same person, not being a trustee or by the trustee or trustees of a trust.

(2) For the purposes of this Act, where the same person has, or the same persons have together, a controlling interest, as referred to in subsection (3) of this section, in each of two businesses, the persons who carry on those businesses constitute a group.

(3) For the purposes of subsection (2) of this section, the same person has, or the same persons have together, a controlling interest in each of two businesses if that person has, or those persons have



together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business—

- (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;
- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, fifty per centum or more of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
  - (i) owns, or own together (whether beneficially or not) fifty per centum or more of the capital of the partnership; or
  - (ii) is, or are together, entitled (whether beneficially or not) to fifty per centum or more of any profits of the partnership;
- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary, or those

*Pay-roll Tax Assessment.*

persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of fifty per centum or more of the value of the interests in the trust firstmentioned in this paragraph;

- (e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business or persons, being two or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

(4) Where a corporation has a controlling interest under subsection (3) of this section in a business, it shall be deemed to have a controlling interest in any other business in which another corporation that is, by reason of subsection (5) of section 6 of the Companies Act, 1961, to be deemed, for the purposes of that Act, to be related to it has a controlling interest.

(5) Where—

- (a) a person has, or persons have together, a controlling interest under subsection (3) of this section in a business; and
- (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) of this subsection shall be deemed to have a controlling interest in the business referred to in paragraph (b) of this subsection.

(6) Where—

- (a) a person is a beneficiary under a trust; or
- (b) two or more persons together are beneficiaries under a trust,

in respect of fifty per centum or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) of this section a controlling interest in a

business, that beneficiary or those beneficiaries shall, for the purposes of subsection (3) of this section, be deemed to have a controlling interest in that business.

16E. (1) Notwithstanding any other provision of this Part (except subsection (2) of this section), where a person is, whether or not by virtue of this subsection, a member of two or more groups (each of which is in subsection (2) of this section referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.

Smaller groups subsumed into larger groups. Added by No. 109 of 1975, s.12.

(2) Except for the purpose of determining whether a group is constituted under subsection (1) of this section, a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1) of this section.

16F. The fact that a person is not a member of a group constituted under a provision of this Part does not prevent that person from being a member of a group constituted under another provision of this Part.

Grouping provisions to operate independently. Added by No. 109 of 1975, s.12.

16G. A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust shall be deemed, for the purposes of this Part, to be a beneficiary in respect of fifty per centum or more of the value of the interests in that trust.

Beneficiaries under discretionary trusts. Added by No. 109 of 1975, s.12.

16H. (1) Where the Commissioner is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that he considers relevant, that a business carried on by a member of a group is carried on substantially independently of, and is not substantially connected with the

Exclusion of persons from groups. Added by No. 109 of 1975, s.12.

carrying on of, a business carried on by any other member of that group, the Commissioner may, by order in writing served on that firstmentioned member, exclude him from that group.

(2) The Commissioner shall not, under subsection (1) of this section, 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 subsection (5) of section 6 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.

(3) Notwithstanding any other provision of this Part, an order under subsection (1) of this section 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.

Designated  
group  
employer.  
Added by  
No. 109 of  
1975, s.12.  
Amended by  
No. 106 of  
1976, s.14;  
No. 22 of  
1977, s.9.

. 16I. (1) The members of a group may, by an instrument in writing in the approved form containing the approved particulars, executed by or on behalf of each member of the group and served on the Commissioner, designate one of its members to be the designated group employer in respect of the group for the purposes of this Act and nominate an amount, calculated in the approved manner, not exceeding—

- (a) in relation to a return period ending not later than the thirty-first day of December, 1976, the prescribed amount as defined in subsection (1) of section 9A of this Act;
- (b) in relation to a return period commencing on or after the first day of January, 1977 and ending not later than the thirtieth day

of November, 1977, the prescribed amount as defined in subsection (1) of section 9B of this Act;

- (c) in relation to a return period commencing on or after the first day of December, 1977, the prescribed amount as defined in subsection (1) of section 9C of this Act,

as the deduction to be made for any return period in relation to which that designated group employer is required to furnish returns under this Act.

(2) The designated group employer in respect of a group ceases to be the designated group employer in respect of that group on and from the first day of the return period relating to him during which—

- (a) the composition of the group alters; or
- (b) the members of the group, by an instrument in writing in the approved form containing the approved particulars, executed by or on behalf of each of them who is known to the Commissioner to be a member of the group and served on the Commissioner, revoke the designation,

whichever occurs the earlier.

(3) For the purpose of ascertaining the pay-roll tax payable by a designated group employer, there shall, subject to subsection (4) of this section, be deducted, for a return period (being the return period commencing last before the day on which the instrument under subsection (1) of this section designating him as the designated group employer in respect of the group is served 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 instrument.

*Pay-roll Tax Assessment.*

(4) The Commissioner may, on an application made to him in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or of his own motion in relation to a group, at any time, make a determination specifying an amount, not exceeding—

- (a) in relation to a return period ending not later than the thirty-first day of December, 1976, the prescribed amount as defined in subsection (1) of section 9A of this Act;
- (b) in relation to a return period commencing on or after the first day of January, 1977 and ending not later than the thirtieth day of November, 1977, the prescribed amount as defined in subsection (1) of section 9B of this Act;
- (c) in relation to a return period commencing on or after the first day of December, 1977, the prescribed amount as defined in subsection (1) of section 9C of this Act,

that may be deducted for any such return period specified or referred to in the determination (being a return period commencing before or after, or the return period in which, the determination is made) from the taxable wages included in a return made by, or an assessment relating to, an employer specified in the determination who was, during any such return period, a member of that group 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 (being a return or an assessment relating to any such return period) the amount so specified

(5) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (4) of this section and any such revocation shall have effect as 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.

(6) An employer specified in a determination made under subsection (4) of this section shall, on the first day of the first return period specified or referred to in the determination, be deemed to have been designated under subsection (1) of this section to be the group employer in respect of the group of which he was then a member and shall, subject to subsection (2) of this section, thereafter be the designated group employer in respect of that group.

(7) The Commissioner shall, as soon as practicable after making a determination under subsection (4) of this section, serve notice of the determination on the designated group employer in respect of the group concerned.

16J. (1) For the purposes of the financial year commencing on the first day of July, 1976, 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 sum of the amounts calculated in accordance with the following formulae—

"Prescribed amount" for purposes of sections 16K and 16L.  
 Added by No. 109 of 1975, s.12.  
 Repealed and re-enacted by No. 106 of 1976, s.15.  
 Amended by No. 22 of 1977, s.10.

$$\frac{TWD}{(TWD + IWD)} \left[ \frac{20\,800\ A}{184} - \frac{2}{3} \left\{ TWD + IWD - \frac{20\,800\ A}{184} \right\} \right]$$

and

$$\frac{TWJ}{(TWJ + IWJ)} \left[ \begin{array}{l} \text{(a) } \frac{24\,000\ B}{181} - \frac{2}{3} \left\{ TWJ + IWJ - \frac{24\,000\ B}{181} \right\} \\ \text{or} \\ \text{(b) } \frac{12\,000\ B}{181} \\ \text{whichever is the greater} \end{array} \right]$$

where—

TWD is the amount of taxable wages paid or payable by the members of the group during the period commencing on the first day of July, 1976, and ending on the thirty-first day of December, 1976;

*Pay-roll Tax Assessment.*

IWD is the amount of interstate wages paid or payable by the members of the group during the period commencing on the first day of July, 1976, and ending on the thirty-first day of December, 1976;

TWJ is the amount of taxable wages paid or payable by the members of the group during the period commencing on the first day of January, 1977, and ending on the thirtieth day of June, 1977;

IWJ is the amount of interstate wages paid or payable by the members of the group during the period commencing on the first day of January, 1977, and ending on the thirtieth day of June, 1977;

A is the number of days in that part of the period commencing on the first day of July, 1976, and ending on the thirty-first day of December, 1976, for which that designated group employer was the designated group employer for the group, reduced by the number of days, if any, during that part in respect of which none of the members of the group paid or was liable to pay wages (disregarding foreign wages); and

B is the number of days in that part of the period commencing on the first day of January, 1977, and ending on the thirtieth day of June, 1977, for which that designated group employer was the designated group employer for the group, reduced by the number of days, if any, during that part in respect of which none of the members of the group paid or was liable to pay wages (disregarding foreign wages).

(2) For the purposes of the financial year commencing on the first day of July, 1977, 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 sum of the amounts calculated in accordance with the following formulae—

$$\frac{\text{TWN}}{(\text{TWN} + \text{IWN})} \left[ \begin{array}{l} \text{(a) } \frac{20\,000\text{ A}}{153} - \frac{2}{3} \left\{ \text{TWN} + \text{IWN} - \frac{20\,000\text{ A}}{153} \right\}; \\ \text{or} \\ \text{(b) } \frac{10\,000\text{ A}}{153}, \\ \text{whichever is the greater} \end{array} \right]$$

and

$$\frac{\text{TWY}}{(\text{TWY} + \text{IWY})} \left[ \begin{array}{l} \text{(a) } \frac{35\,000\text{ B}}{212} - \frac{2}{3} \left\{ \text{TWY} + \text{IWY} - \frac{35\,000\text{ B}}{212} \right\}; \\ \text{or} \\ \text{(b) } \frac{15\,750\text{ B}}{212}, \\ \text{whichever is the greater.} \end{array} \right]$$

where—

TWN is the amount of taxable wages paid or payable by the members of the group during the period commencing on the first day of July, 1977 and ending on the thirtieth day of November, 1977;

IWN is the amount of interstate wages paid or payable by the members of the group during the period commencing on the first day of July, 1977 and ending on the thirtieth day of November, 1977;

TWY is the amount of taxable wages paid or payable by the members of the group during the period commencing on the first day of December, 1977 and ending on the thirtieth day of June, 1978;

IWY is the amount of interstate wages paid or payable by the members of the group during the period commencing on the first day of December, 1977 and ending on the thirtieth day of June, 1978;

*Pay-roll Tax Assessment.*

A is the number of days in that part of the period commencing on the first day of July, 1977 and ending on the thirtieth day of November, 1977 for which that designated group employer was the designated group employer for the group, reduced by the number of days, if any, during that part in respect of which none of the members of the group paid or was liable to pay wages (disregarding foreign wages); and

B is the number of days in that part of the period commencing on the first day of December, 1977 and ending on the thirtieth day of June, 1978 for which that designated group employer was the designated group employer for the group, reduced by the number of days, if any, during that part in respect of which none of the members of the group paid or was liable to pay wages (disregarding foreign wages)

(3) For the purposes of the financial year commencing on the first day of July, 1978 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 in accordance with the following formula—

$$\frac{\text{TW}}{\text{(TW + IW)}} \left[ \begin{array}{l} \text{(a) } \frac{60\,000\text{ C}}{\text{D}} - \frac{2}{3} \left\{ \text{TW} + \text{IW} - \frac{60\,000\text{ C}}{\text{D}} \right\}; \\ \text{or} \\ \text{(b) } \frac{27\,000\text{ C}}{\text{D}}, \\ \text{whichever is the greater} \end{array} \right]$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during the financial year;

IW is the amount of interstate wages paid or payable by the members of the group during the financial year;

C is the number of days in that part of the financial year for which that designated group employer was the designated group employer for the group, reduced by the number of days, if any, during that part in respect of which none of the members of the group paid or was liable to pay wages (disregarding foreign wages); and

D is the number of days in the financial year.

16K. (1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages during the whole of a financial year.

Annual adjustment.  
Added by No. 109 of 1975, s.12.  
Amended by No. 106 of 1976, s.16.

(2) A reference in this section to the annual amount of pay-roll tax paid or payable by the members of a group is a reference to the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971, to the amount by which—

(a) the total of the taxable wages paid or payable by the members of that group during a financial year,

exceeds—

(b) where—

(i) during that year there was only one designated group employer in respect of that group—the prescribed amount applicable to that designated group employer;

or

(ii) during that year there were two or more designated group employers in respect of that group—the prescribed amount that, if there had been only one designated group employer in respect of that group during that year, would have been applicable to that designated group employer had he paid all of the taxable wages referred to in paragraph (a) paid or payable during that year.

*Pay-roll Tax Assessment.*

(3) A reference in this section to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of a group is a reference to the amount of pay-roll tax paid or payable when returns were made or required to be made under this Act relating to that financial year, being returns in which the taxable wages referred to in paragraph (a) of subsection (2) of this section were included or required to be included.

(4) Where the actual amount of pay-roll tax paid or payable in respect of a financial year commencing on or after the first day of July, 1976, by the members of a group is greater than the annual amount of pay-roll tax in relation to those members for that financial year, the Commissioner shall, on application made in accordance with subsection (7) of this section by the person who is the designated group employer in respect of that group on the thirtieth day of June in that financial year, refund or rebate to that employer an amount equal to the difference, reduced by the total of any amounts refunded to any member of that group under section 19 of this Act in respect of the tax paid or payable by any such member when returns relating to that year were made or required to be made under this Act by that member.

(5) Where the actual amount of pay-roll tax paid or payable in respect of a financial year commencing on or after the first day of July, 1976, by the members of a group is less than the annual amount of pay-roll tax in relation to those members for that financial year, the person who is the designated group employer in respect of that group on the thirtieth day of June in that financial year shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.

(6) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under subsection (5) of this section in respect of a financial year, every member of the group who

paid or was liable to pay taxable wages during that financial year is liable, jointly and severally, to pay that amount to the Commissioner.

(7) An application under subsection (4) of this section shall, notwithstanding section 19 of this Act, be made within the financial year next following the financial year in respect of which the refund is applied for.

16L. (1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages for part only (being a continuous part) of a financial year and no member of which paid or was liable to pay, as such a member, any such wages during the whole of that year.

Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year. Added by No. 109 of 1975, s.12.

(2) In this section, "prescribed period", in relation to a group, means part only (being a continuous part) of a financial year for which at least one member of the group paid or was liable to pay taxable wages or interstate wages.

(3) A reference in this section to the total amount of pay-roll tax paid or payable for a prescribed period by the members of a group is a reference to the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by the Pay-roll Tax Act, 1971, to the amount by which—

(a) the total of the taxable wages paid or payable by the employers in that group during that prescribed period, exceeds—

(b) where—

- (i) during that prescribed period there was only one designated group employer in respect of that group—the prescribed amount applicable to that designated group employer; or
- (ii) during that prescribed period there were two or more designated group employers in respect of that group—the prescribed amount that, if there

*Pay-roll Tax Assessment.*

had been only one designated group employer in respect of that group during that prescribed period, would have been applicable to that designated group employer had he paid all of the wages referred to in paragraph (a) paid or payable during that prescribed period.

(4) Where, at the expiration of a prescribed period relating to a group, the total amount of pay-roll tax paid or payable when returns were made or required to be made under this Act, being returns in which the taxable wages referred to in paragraph (a) of subsection (3) of this section were included or required to be included, is less than the total amount of pay-roll tax paid or payable for that prescribed period by the members of that group, the person who is the designated group employer in respect of that group on the last day of that prescribed period shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act or the last return under this Act relating to that prescribed period, an amount equal to the difference.

(5) Subsections (4) and (5) of section 16K of this Act apply in relation to a group to which this section applies as if—

- (a) at least one member of the group paid or was liable to pay, as such a member, taxable wages or interstate wages for the whole of that financial year;
- (b) the reference in subsection (3) of section 16K of this Act to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of that group included a reference to any pay-roll tax paid or payable under subsection (4) of this section by a designated group employer in respect of that financial year; and
- (c) the person, if any, who was the designated group employer in respect of that group at the time when the group last ceased in that financial year to have a member who

was paying or was liable to pay, as such a member, taxable wages or interstate wages was the designated group employer in respect of that group on the thirtieth day of June in that financial year.

(6) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under subsection (4) of this section in respect of a period, every member of the group who paid or was liable to pay taxable wages during the financial year that includes that period is liable, jointly and severally, to pay that amount to the Commissioner.

PART V.—COLLECTION AND RECOVERY OF TAX.

17. Every employer liable to pay pay-roll tax shall pay the pay-roll tax within the time within which he is required by this Act to lodge the return of the wages in respect of which the pay-roll tax is payable.

Time for  
payment  
of tax.

18. (1) Where the Commissioner finds in any case that pay-roll tax or further tax is payable by any employer, the Commissioner may—

Assessments.  
Amended by  
No. 109 of  
1975, s.13.

(a) assess the amount of taxable wages or, where relevant, interstate wages paid or payable by the employer; and

(b) calculate the pay-roll tax or further tax payable by the employer.

(2) Where—

(a) any employer fails or neglects duly to furnish any return as and when required by this Act or the regulations or by the Commissioner;

(b) the Commissioner is not satisfied with the return made by any employer; or

(c) the Commissioner has reason to believe or suspect that any employer (though he may not have furnished any return) is liable to pay pay-roll tax,

the Commissioner may cause an assessment to be made of the amount upon which, in his judgment, pay-roll tax or further tax ought to be levied and that person shall be liable to pay pay-roll tax or further tax thereon, except in so far as he establishes on objection or appeal that the assessment is excessive.

(3) Subsection (2) of this section does not operate so as to authorise the Commissioner to cause an assessment to be made as referred to in that subsection by reason that any deduction made from the wages included in any return is not correctly made if the deduction is made in accordance with this Act.

(4) Where the Commissioner makes a determination in respect of a return period ending before the determination is made as to the deduction that may be made from the taxable wages included or required to be included in returns made or required to be made under this Act, the Commissioner may cause an assessment to be made of the further tax that would have been payable by the employer concerned had the deduction been made from the wages included in the return for that month or period at the rate specified in the determination, and that employer shall be liable to pay that further tax, except in so far as he establishes, on objection or appeal, that the amount determined is too little.

(5) Any employer who becomes liable to pay pay-roll tax or further tax by virtue of an assessment made under subsection (2) of this section shall also be liable to pay, by way of additional tax, double the amount of that pay-roll tax or further tax (reduced by the amount of any additional tax for which that employer became liable by reason of his being an employer to whom paragraph (b) of subsection (1) of section 36 of this Act applied and which he has paid in respect of the taxable wages in respect of which the pay-roll tax or further tax was assessed) or the amount of two dollars, whichever is the greater, but the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.



(6) As soon as conveniently may be after an assessment is made under this section, the Commissioner shall cause notice in writing of the assessment and of the pay-roll tax, further tax or additional tax to be served on the employer liable to pay it and such notice shall contain the Commissioner's calculation of the assessment and of the payroll tax, further tax or additional tax and his reasons for such assessment.

(7) The amount of pay-roll tax, further tax or additional tax specified in the notice shall be payable on or before the date specified in the notice together with any other amount which may be payable in accordance with any other provision of this Act.

(8) The omission to give any such notice shall not invalidate the assessment and calculation made by the Commissioner.

19. (1) Subject to subsection (2) of this section, where the Commissioner finds in any case that tax has been overpaid he shall refund to the employer who paid the tax the amount of tax found to be overpaid.

Refunds.

(2) The Commissioner is not obliged to make a refund under subsection (1) of this section unless an application in the approved form is made to him for the refund of the tax overpaid within two years after the overpayment of the tax.

20. When the Commissioner has reason to believe that an employer may leave Australia before any tax becomes due and payable by him, the tax shall be due and payable on such date as the Commissioner fixes and specifies in a notice served on the employer.

Employer leaving Australia.

21. The Commissioner may, in such cases as he thinks fit—

- (a) extend the time for payment of any tax by such period as he considers the circumstances warrant; or
- (b) permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant.

Time to pay—extensions and instalments.

Penal tax.

22. (1) If pay-roll tax, further tax or additional tax assessed under this Part is not paid before the expiration of the time specified in section 17 or 18 of this Act, or such further time as may be allowed by the Commissioner under section 21 of this Act, penal tax shall forthwith be payable—

(a) where it is paid on or before the fourteenth day after that time, at the rate of ten per centum per annum of the pay-roll tax, further tax or additional tax, as the case may be, to be computed from the expiration of the time specified in section 17 or 18 of this Act, or, where further time has been allowed by the Commissioner under section 21 of this Act, from the expiration of that further time, as the case may require;

(b) where—

(i) it is paid within one month after that day, at the rate of ten per centum;

(ii) it is not paid within one month, but is paid within two months, after that day, at the rate of twenty-five per centum; or

(iii) it is not paid as referred to in paragraph (a) of this subsection or subparagraph (i) or (ii) of this paragraph, at the rate of one hundred per centum,

of the pay-roll tax, further tax or additional tax, as the case may be.

(2) The Commissioner may, in any particular case, for reasons which in his discretion he thinks sufficient, remit the penal tax or any part thereof.

Recovery of tax.

23. (1) Tax shall be deemed when it becomes due and payable to be a debt due to Her Majesty and payable to the Commissioner.

(2) Any tax unpaid may be sued for and recovered in any court of competent jurisdiction by the Commissioner suing in his official name.

24. If, in any proceedings against an employer for the recovery of any tax, the defendant—

Substituted  
service.

(a) is absent from Australia and has not, to the knowledge of the Commissioner after reasonable inquiry in that behalf, any attorney or agent in Australia on whom service of process can be effected; or

(b) cannot after reasonable inquiry be found, service of any process in the proceedings may, without leave of the court, be effected on him by posting it or a sealed copy thereof in a letter addressed to him at his last known place of business or abode in Australia.

25. (1) Every person who is liquidator of any company which is being wound-up and which is, or on or after the first day of September, 1971, has been, an employer registered or required to be registered under this Act, shall, within fourteen days after he has become liquidator of that company, serve on the Commissioner notice in writing of his appointment as liquidator.

Liquidator  
to give  
notice.  
Amended by  
No. 109 of  
1975, s.14.

(2) The Commissioner shall, as soon as practicable thereafter, notify to the liquidator the amount which appears to the Commissioner to be sufficient to provide for any tax which then is or will thereafter become payable by the company.

(3) The liquidator—

(a) shall not without leave of the Commissioner part with any of the assets of the company until he has been so notified;

(b) shall set aside out of the assets available for the payment of the tax, assets to the value of the amount so notified, or the whole of the assets so available if they are of less than that value; and

(c) shall, to the extent of the value of the assets which he is so required to set aside, be liable as trustee to pay the tax.

(4) If the liquidator fails to comply with any provision of this section (or fails as trustee duly to pay the tax for which he is liable under subsection (3) of this section), he shall, to the extent of the value of the assets of which he has taken possession and which are, or were at any time, available to him for the payment of the tax, be personally liable to pay the tax, and shall be guilty of an offence.

Penalty: One thousand dollars.

(5) Where more persons than one are appointed liquidators or required by law to carry out the winding-up, the obligations and liabilities attaching to a liquidator under this section shall attach to each of those persons and, where any one of those persons has paid the tax due in respect of the company being wound-up, the other person or persons shall each be liable to pay that person his equal share of the amount of the tax so paid.

(6) Notwithstanding anything contained in this section, all costs, charges and expenses which, in the opinion of the Commissioner, have been properly incurred by the liquidator in the winding-up of a company, including the remuneration of the liquidator, may be paid out of the assets of the company in priority to any tax payable in respect of the company.

(7) Nothing in this section—

- (a) limits the liability of a liquidator under section 42 of this Act or his liability, as a trustee, under Part IVA of this Act; or
- (b) affects any of the provisions of the Companies Act, 1961.

(8) Any notice given by a liquidator under the Commonwealth Act of his appointment as a liquidator shall be deemed to be a notice of his appointment as a liquidator served on the Commissioner in accordance with subsection (1) of this section, and the provisions of this section other than subsection (1) apply to and in relation to a liquidator by whom notice was so given under the Commonwealth Act.

26. (1) Where an agent for an absentee principal has been required by the principal to wind-up the business of his principal he shall, before taking any steps to wind-up the business, notify the Commissioner of his intention so to do, and shall set aside such sum out of the assets of the principal as appears to the Commissioner to be sufficient to provide for any tax that becomes payable.

Agent for  
absentee  
principal  
winding-up  
business.

(2) An agent who fails to give notice to the Commissioner or fails to provide for payment of the tax as required by this section shall be personally liable for any tax that becomes payable in respect of the business of the principal, and shall be guilty of an offence.

Penalty: One thousand dollars.

(3) Any notice given by an agent for an absentee principal under the Commonwealth Act of his intention to wind-up the business of his principal shall be deemed to be a notice of his intention to do so served on the Commissioner in accordance with subsection (1) of this section, and the provisions of subsections (1) and (2) of this section apply to and in relation to an agent for an absentee principal by whom notice was so given under the Commonwealth Act.

27. (1) The following provisions of this section apply where, whether intentionally or not, a person escapes full payment of tax in his lifetime by reason of his not having duly made any, or full, complete and accurate returns.

Where tax  
not paid  
during  
lifetime.

(2) The Commissioner has the same powers and remedies against the trustees of the estate of that person in respect of the liability to which that person was subject as he would have had against that person if he were still living.

(3) The trustees shall make such returns under this Act as the Commissioner requires.

(4) The trustees are subject to tax to the same extent as the deceased person would be subject to tax if he were still living, but the Commissioner may in a particular case, for reasons that, in his discretion, he thinks sufficient, remit any tax or a part thereof.

(5) The amount of any tax payable by the trustees is a charge on all the deceased person's estate in their hands in priority to all other encumbrances.

Provision  
for payment  
of tax by  
executors or  
administra-  
tors.

28. (1) Where, at the time of an employer's death, he had not paid the whole of the tax payable up to the date of his death, the Commissioner shall have the same powers and remedies for the assessment and recovery of tax from the executors and administrators as he would have had against that employer, if he were alive.

(2) The executors or administrators shall furnish such of the returns mentioned in Part IV of this Act as have not been made by the deceased.

(3) Where the executors or administrators are unable or fail to furnish a return, the Commissioner may estimate and make an assessment of the taxable wages on which, in his judgment, pay-roll tax ought to be charged.

(4) Where, in respect of the estate of any deceased employer, probate has not been granted or letters of administration have not been taken out within six months of his death, the Commissioner may cause an assessment to be made of the amount of tax due by the deceased.

(5) The Commissioner shall cause notice of the assessment to be published twice in a daily newspaper circulating in the State of the Commonwealth in which the deceased resided.

(6) Any person claiming an interest in the estate of the deceased may, within forty-two days after the first publication of notice of the assessment, post to or lodge with the Commissioner an objection in writing against the assessment stating fully and in detail the grounds on which he relies and the provisions of this Act relating to objections and appeals shall thereupon apply in relation to the objection as if the person so claiming an interest were the deceased.

(7) Subject to any amendment of the assessment by the Commissioner, or by the Court under section 33 of this Act, the assessment so made shall be conclusive evidence of the indebtedness of the deceased to the Commissioner.

(8) The Commissioner may issue an order in the prescribed form authorising any member of the police force or any other person named therein to levy the amount of tax due by the deceased, with costs, by distress and sale of any property of the deceased.

(9) Upon the issue of any such order the member or person so authorised shall have power to levy that amount in the prescribed manner.

(10) Notwithstanding anything contained in subsections (7), (8) and (9) of this section, if at any time probate of the will of the deceased is, or letters of administration of the estate are, granted to a person, that person may, within forty-two days after the date on which probate was, or letters of administration were, granted, lodge an objection against the assessment, stating fully and in detail the grounds on which he relies, and the Commissioner shall consider any such objection and shall make such amendment (if any) as he considers necessary.

29. Every person who, under the provisions of this Act, pays any tax for or on behalf of any other person shall be entitled to recover the amount so paid from that other person as a debt, together with the costs of recovery, or to retain or deduct that amount out of any money in his hands belonging or payable to that other person.

Recovery of  
tax paid on  
behalf of  
another  
person.

30. Where two or more persons are jointly liable to pay tax they shall each be liable for the whole tax, but any of them who has paid the tax may recover contributions as follows:—

- (a) a person who has paid the tax in respect of any wages may recover by way of contribution from any other person jointly liable to that tax a sum which bears to the tax the same proportion as the share of the taxable wages which that other person paid or was liable to pay bears to the total amount of taxable wages which the persons jointly liable to tax paid or were liable to pay;

- (b) every person entitled to contribution under this section may sue therefor in any court of competent jurisdiction as money paid to the use of the person liable to contribute at his request, or may retain or deduct the amount of the contribution out of any moneys in his hands belonging or payable to the person liable to contribute.

Commis-  
sioner may  
collect tax  
from person  
owing  
money to  
employer.

31. (1) The Commissioner may, by notice in writing (a copy of which shall be served on the employer at his last known place of abode or business), require—

- (a) any person by whom any money is due or accruing or may become due to an employer;
- (b) any person who holds or may subsequently hold money for or on account of an employer;
- (c) any person who holds or may subsequently hold money on account of some other person for payment to an employer; or
- (d) any person having authority from some other person to pay money to an employer,

to pay to him forthwith upon the money becoming due or being held, or within such further time as the Commissioner allows, the money or so much thereof as is sufficient to pay the tax due by the employer or the fines and costs, if any, imposed by a court on him in respect of an offence against this Act.

(2) Any person who fails to comply with any notice under this section shall be guilty of an offence.

Penalty: One thousand dollars.

(3) Where any amount referred to in subsection (1) of this section is less than the amount of tax due by the employer, the person shall pay to the Commissioner in reduction of the amount of tax due the amount payable by that person to the employer.



(4) Any person making any payment in pursuance of this section shall be deemed to have been acting under the authority of the employer and of all other persons concerned, and is hereby indemnified in respect of such payment.

(5) If the tax due by the employer, or the fine and costs, if any, imposed by a court on him, are paid before any payment is made under a notice given in pursuance of this section, the Commissioner shall forthwith give notice to the person of the payment.

(6) In this section "tax" includes any judgment debt and costs in respect of any tax.

PART VI.—OBJECTIONS AND APPEALS.

32. (1) An employer who is dissatisfied with any decision made by the Commissioner under this Act, by which his liability to pay tax is affected, or with any assessment or determination made by the Commissioner under this Act, may, within forty-two days after service of notice of the decision, assessment or determination, as the case may be, post to, or lodge with, the Commissioner an objection in writing stating fully and in detail the grounds on which he relies.

Objections.

(2) Notwithstanding subsection (1) of this section, where an assessment is an amended assessment the person objecting to the assessment shall have no further right of objection than he would have had if the amended assessment had not been made except to the extent to which, by reason of the amended assessment, a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.

(3) The Commissioner shall consider the objection, and may either disallow it, or allow it, either wholly or in part.

(4) If the employer's liability or assessment has been reduced by the Commissioner after considering the objection, the Commissioner shall refund to the employer any amounts paid by him in excess.

(5) The Commissioner shall serve on the objector written notice of his decision on the objection.

Appeal.

33. (1) An employer who is dissatisfied with a decision of the Commissioner on an objection made by that employer may, within thirty days after service on him of notice of that decision or within such further time as the Commissioner may allow, in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly.

(2) The Supreme Court shall hear and determine an appeal forwarded to it under subsection (1) of this section, and for the purposes of this section—

(a) the jurisdiction of the Supreme Court may be exercised by a Judge sitting in chambers; and

(b) Rules of Court may be made for regulating the procedure and practice to be followed on an appeal forwarded to the Supreme Court under subsection (1) of this section.

(3) The employer shall be limited, on the hearing of the appeal, to the grounds stated in his objection.

(4) If the employer's liability or assessment has been reduced on objection, the reduced liability or assessment shall be the liability or assessment appealed against.

Pending  
appeal not  
to delay  
payment of  
tax.

34. (1) The fact that an appeal is pending with respect to any liability or assessment shall not in the meantime interfere with or affect the liability or assessment the subject of that appeal, and the tax may be recovered as if no appeal were pending.

(2) If the liability or assessment is altered on appeal, a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short paid shall be recoverable as arrears.

PART VII.—PENAL PROVISIONS.

35. (1) Any person who—

Offences.

- (a) fails or neglects duly to furnish any return or information or to comply with any requirement of the Commissioner as and when required by this Act, or by the Commissioner;
- (b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner or to answer truly and fully any questions put to him, or to produce any books or papers required of him by the Commissioner;
- (c) makes or delivers a return which is false in any particular or makes any false answer whether orally or in writing; or
- (d) contravenes any provision of this Act for the contravention of which no penalty is expressly provided,

shall be guilty of an offence.

Penalty: One thousand dollars.

(2) Any person who, after conviction for an offence against this section, continues to fail to comply with the requirements in respect of which he was convicted, shall be guilty of an offence and punishable as provided in section 37 of this Act.

(3) Where an offence against this section arises under paragraph (a) or (d) of subsection (1) of this section by reason of the neglect or failure of a person to do anything within a particular period, the offence shall, for the purposes of subsection (2) of this section, be deemed to continue for as long as the thing remains undone, notwithstanding that that period has elapsed.

Additional  
tax in  
certain  
cases.

36. (1) Notwithstanding anything contained in section 35 of this Act, any employer who—

- (a) fails or neglects, otherwise than as referred to in paragraph (b) of this subsection, duly to furnish any return or information as and when required by this Act or by the Commissioner shall be liable to pay additional tax at the rate of ten per centum per annum upon the amount of pay-roll tax payable by him (that percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which an assessment is made under section 18 of this Act, whichever first happens), or the amount of two dollars, whichever is the greater; or
- (b) furnishes a return to the Commissioner, but fails or neglects to include in that return all of the taxable wages required by this Act to be included in that return shall be liable to pay by way of additional tax double the amount of the difference between the pay-roll tax properly payable and the pay-roll tax payable upon the basis of the return furnished, or the amount of two dollars, whichever is the greater,

in addition to any penal tax that is or may become payable under section 22 of this Act.

(2) The Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(3) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by section 35 of this Act, that action may be taken by the Commissioner, and in that case the additional tax payable under this section shall not be charged.

37. Any person who, by any wilful act, default or neglect, or by any fraud, art or contrivance whatever, avoids or attempts to avoid pay-roll tax chargeable under this Act, shall be guilty of an offence.

Avoiding  
taxation.

Penalty: One thousand dollars and treble the amount of pay-roll tax avoided or attempted to be avoided.

38. (1) A prosecution in respect of any offence against section 37 of this Act may be commenced at any time within three years after the commission of the offence.

Time for  
commencing  
prosecu-  
tions.

(2) A prosecution in respect of any offence arising under paragraph (a) or (c) of subsection (1) of section 35 of this Act may be commenced at any time.

39. Payment of penalties under this Act shall not relieve any person from liability to any tax for which he would otherwise be liable.

Penalties  
not to  
relieve  
from tax.

40. Any person who obstructs or hinders any officer of the State Taxation Department acting in the administration of this Act shall be guilty of an offence.

Obstructing  
officers.

Penalty: One thousand dollars.

PART VIII.—MISCELLANEOUS.

41. (1) The Commissioner may, by notice served on a company, require the company to appoint, within such period as is specified in the notice, a public officer (being a natural person whose principal place of residence is in Western Australia) of the company for the purposes of this Act, and to keep the office of public officer constantly filled by such a person.

Public  
officer of  
company.  
Amended by  
No. 109 of  
1975, s.15.

(2) An appointment of a public officer shall be deemed not to be duly made until after notice of the appointment in writing, specifying the name of the officer, has been lodged with the Commissioner.

(3) Service of a document on the public officer of the company is sufficient service on the company for the purposes of this Act, and, if at any time there is no public officer, then service on any person acting or appearing to act in the business of the company is sufficient.

(4) The public officer is answerable for the doing of all such things as are required to be done by the company under this Act, and, in case of default, is liable to the same penalties.

(5) Everything done by the public officer that he is required to do in his representative capacity shall be deemed to have been done by the company and the absence or non-appointment of a public officer does not excuse the company from the necessity of complying, or from any penalty for failure to comply, with any of the provisions of this Act, but the company is liable to comply with the provisions of this Act as if there were no requirement to appoint a public officer.

(6) A notice served on or requisition made upon the public officer shall be deemed to be served on or made upon the company.

(7) Any proceedings under this Act taken against the public officer shall be deemed to have been taken against the company, and the company is liable jointly with the public officer for any penalty imposed upon him.

(8) Notwithstanding anything contained in this section, and without in any way limiting, altering or transferring the liability of the public officer of a company, every notice, process or proceeding that, under this Act may be given to, served on or taken against the company or its public officer may, if the Commissioner thinks fit, be given to, served on or taken against any director, secretary or other

officer of the company or any attorney or agent of the company, and that director, secretary, officer, attorney or agent has the same liability in respect of that notice, process or proceeding as the company or public officer would have had if it had been given to, served on or taken against the company or public officer.

42. (1) With respect to every agent and with respect also to every trustee, the following provisions shall apply:—

Agents and trustees.  
Amended by No. 109 of 1975, s.16.

- (a) He shall be answerable as an employer for the doing of all such things as are required to be done by virtue of this Act in respect of the payment of any wages which are subject to pay-roll tax under this Act.
- (b) He shall, in respect of any such wages, make the returns and be chargeable with pay-roll tax thereon, but in his representative capacity only, and each return shall, except as otherwise provided by this Act, be separate and distinct from any other.
- (c) If he is an executor or administrator, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make.
- (d) Where as agent or trustee he pays tax, he is hereby authorised to recover the amount so paid from the person on whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- (e) He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the tax.
- (f) He is hereby made personally liable for the tax payable if, after the Commissioner has required him to make a return, or while the tax remains unpaid, he, except with the written permission of the Commissioner, disposes of or parts with any fund or money

which comes to him from or out of which tax could legally be paid, but he shall not be otherwise personally liable for the tax.

- (g) He is hereby indemnified for all payments which he makes in pursuance of this Act or by the requirements of the Commissioner.
- (h) For the purpose of ensuring the payment of tax the Commissioner shall have the same remedies against attachable property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the property of any other person in respect of tax, and in as full and ample a manner.

(2) Nothing in subsection (1) of this section affects the operation of Part IVA of this Act in relation to trustees.

*Person in receipt or control of money for absentee.*

43. With respect to every person who has the receipt, control or disposal of money belonging to a person resident out of Australia, who is liable to pay tax under this Act, the following provisions shall, subject to this Act, apply:—

- (a) He shall when required by the Commissioner pay the tax due and payable by the person on whose behalf he has the receipt, control or disposal of money.
- (b) Where he pays tax in accordance with paragraph (a) of this section he is hereby authorised to recover the amount so paid from the person on whose behalf he paid it or to deduct it from any money in his hands belonging to that person.
- (c) He is hereby authorised and required to retain from time to time out of any money which comes to him on behalf of the person resident out of Australia so much as is sufficient to pay the tax which is or will become due by that person.



- (d) He is hereby made personally liable for the tax payable by him on behalf of the person resident out of Australia after the tax becomes payable, or if, after the Commissioner has required him to pay the tax, he, except with the written permission of the Commissioner, disposes of or parts with any fund or money then in his possession, or which comes to him from or out of which the tax could legally be paid, but he shall not be otherwise personally liable for the tax.
- (e) He is hereby indemnified for all payments which he makes in pursuance of this Act or in accordance with the requirements of the Commissioner.

44. (1) Every person who is an employer registered or required to be registered under this Act shall, for the purposes of this Act, keep proper books or accounts and shall preserve those books or accounts, for a period of not less than five years after the completion of the transactions to which they relate.

Books, accounts, etc., to be preserved.

Penalty: One thousand dollars.

(2) This section shall not apply so as to require the preservation of any books, accounts or documents—

- (a) in respect of which the Commissioner has notified the employer that preservation is not required; or
- (b) of a company which has gone into liquidation and which has been finally dissolved.

45. The Commissioner, or any officer authorised by him in that behalf, shall at all reasonable times have full and free access to all buildings, places, books, documents and other papers for any of the purposes of this Act and for any such purpose may make extracts from or copies of any such books, documents or papers.

Access to books, etc.

Evidence.

46. (1) For the purposes of any proceedings against a person for the recovery of tax, a certificate purporting to be signed by the Commissioner certifying that—

- (a) the employer named in the certificate was liable to tax in respect of the period specified in the certificate;
- (b) an assessment of tax was duly made against him;
- (c) the particulars of the assessment are as stated in the certificate;
- (d) notice of the assessment was duly served upon the employer; or
- (e) the amount specified in the certificate was at the date of the certificate payable as tax by the employer named in the certificate,

shall be *prima facie* evidence of the matters so certified.

(2) The production of any document or a copy of a document under the hand or purporting to be under the hand of the Commissioner, or purporting to have been issued by the Commissioner (that document or copy purporting to be a notice or a copy of a notice specifying any liability or entitlement of an employer under this Act, or to be a copy of a determination made under this Act), shall be conclusive evidence of the due exercise of any act required by this Act to be done or performed by the Commissioner for the purpose of ascertaining the liability or entitlement so specified or making the determination and (except in proceedings on appeal when it shall be *prima facie* evidence only) shall be conclusive evidence of the correctness of any calculations upon which that liability or entitlement is ascertained or on which that determination is based.

(3) The production of any document purporting to be under the hand of the Commissioner (that document purporting to be a copy of or extract from any document or return furnished to, or of any

document issued by, the Commissioner), shall for all purposes be sufficient evidence of the matter therein set forth, without producing the original.

(4) In any proceedings against a person for failing or neglecting duly to furnish a return, a certificate in writing purporting to be signed by the Commissioner certifying that the return has not been received from that person shall be *prima facie* evidence that the defendant has failed or neglected duly to furnish the return.

(5) In any proceedings against a person for failing or neglecting duly to furnish the Commissioner with any information required by the Commissioner in pursuance of section 16 of this Act, a certificate purporting to be signed by the Commissioner certifying that—

- (a) the defendant was so required to furnish the Commissioner with the information of the nature specified in the certificate; and
- (b) the defendant failed or neglected duly to furnish the information as and when required by the Commissioner,

shall be *prima facie* evidence of the matters so certified.

(6) In any proceedings against a person for failing or neglecting duly to register as an employer, a certificate in writing purporting to be signed by the Commissioner certifying that on a day specified in the certificate a person was not duly registered as an employer shall be *prima facie* evidence of the matter so certified.

(7) A certificate, purporting to be under the hand of the Commissioner certifying that on a day specified in the certificate a person named in the certificate was a delegate of the Commissioner under section 4 of this Act to whom such powers and functions of the Commissioner as are specified in the certificate had been delegated on terms, if any, so specified shall be *prima facie* evidence of the matters so certified.

Service of documents by the Commissioner. Amended by No. 22 of 1977, s.11.

47. (1) Any certificate, notice, form or other document required or authorised by this Act to be served or given by the Commissioner shall be deemed to have been duly served upon or given to a person—

- (a) if delivered personally to, or if left at his address as shown on the return last furnished by him, with some person apparently in his employment; or
- (b) if sent by prepaid letter post, addressed to the person at his address as shown on the last return furnished by him.

(2) Service of a certificate, notice, form or other document in accordance with paragraph (b) of subsection (1) of this section shall *prima facie* be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

(3) The provisions of this section are in addition to and not in derogation of any other provisions of this Act relating to the service of documents, the Interpretation Act, 1918, or the provisions of section 362 of the Companies Act, 1961.

Service of documents on the Commissioner.

48. Any notice, summons, writ or other process and any return, application, notice, statement or form to be served on the Commissioner for the purposes of this Act may be served by being lodged at the office of the Commissioner.

Institution of prosecutions.

49. (1) A complaint for an offence against any provision of this Act may be laid in the name of the Commissioner by any officer of the State Taxation Department employed in the administration of this Act and authorised to lay complaints on behalf of the Commissioner, and any prosecution instituted in the name of the Commissioner shall, in the absence of evidence to the contrary, be deemed to have been instituted by his authority.

(2) An officer referred to in subsection (1) of this section may appear on behalf of the Commissioner in any proceedings for an offence against any provision of this Act.

50. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to—

Regulations.  
Amended by  
No. 109 of  
1975, s.17.

- (a) the evidence that the Commissioner may require for the purpose of determining whether or not an employer was an employer for part only of a financial year, whether or not a person was or was not a member of a group or whether or not a notice under subsection (2) of section 13, or a certificate under subsection (1) of section 14, of this Act should be given.
  - (b) the furnishing and signing of returns, applications, notices, statements or forms by or on behalf of employers and deeming any return, application, notice, statement or form signed on behalf of an employer to have been signed by the employer;
  - (c) the authentication of any certificate, notice or other document issued for the purpose of this Act or any regulation;
  - (d) the manner of notifying the appointment of a public officer of a company; or
  - (e) prescribing any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations—
- (a) may be so made as to have a different application according to such factors as may be specified in the regulations; and
  - (b) may impose a penalty not exceeding five hundred dollars for any offence against the regulations.