

Western Australia

## **Business Tax Review (Assessment) Act 2003**

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As at 30 Jun 2003

No. 40 of 2003

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## **Business Tax Review (Assessment) Act 2003**

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Western Australia

## **Business Tax Review (Assessment) Act 2003**

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**No. 40 of 2003**

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**An Act to amend —**

- the *Land Tax Assessment Act 2002*;
  - the *Land Tax Assessment Act 1976*; and
  - the *Pay-roll Tax Assessment Act 2002*,
- and for related purposes.**

[Assented to 30 June 2003]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Business Tax Review (Assessment) Act 2003*.

### **2. Commencement**

- (1) Subject to this section, this Act comes into operation on 1 July 2003.
- (2) Section 8 is taken to have come into operation immediately after the *Land Tax Assessment Act 2002* came into operation.
- (3) Section 9 is taken to have come into operation on 1 July 2002.

## **Part 2 — Land tax exemption for newly subdivided land**

**3. The Act amended**

The amendments in this Part are to the *Land Tax Assessment Act 2002*\*.

[\* *Act No. 52 of 2002.*]

**4. Section 13 amended**

Section 13(3) is repealed.

**5. Section 41 repealed**

Section 41 is repealed.

**6. Glossary amended**

Clause 1 of the Glossary is amended as follows:

- (a) by deleting the definitions of “concessional unimproved value” and “original lot”;
- (b) in the definition of “unimproved value” —
  - (i) by inserting after paragraph (a) —  
“ and ”;
  - (ii) at the end of paragraph (b) by deleting “; and” and inserting a full stop instead; and
  - (iii) by deleting paragraph (c).

**7. Financial years before the commencement day**

- (1) Despite the amendments effected by this Part, the *Land Tax Assessment Act 2002*, as in force immediately before the commencement day, continues to apply in relation to land tax payable for financial years that commence before the commencement day.

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(2) In this section —

**“commencement day”** means the day on which this Part comes into operation.

## **Part 3 — Land tax exemption for life tenants**

### **8.      *Land Tax Assessment Act 2002* amended**

- (1) The amendments in this section are to the *Land Tax Assessment Act 2002*\*.

[\* *Act No. 52 of 2002.*]

- (2) Section 22(b) and “and” after it are deleted and the following is inserted instead —

“

- (b) an individual identified in the will —

- (i) is entitled under the will to the property as a tenant for life; or
- (ii) has a right under the will to use the property as a place of residence for as long as he or she wishes, but is not entitled under the will to any estate of freehold in possession of the property;

and

”.

### **9.      *Land Tax Assessment Act 1976* amended**

- (1) The amendments in this section are to the *Land Tax Assessment Act 1976*\*.

[\* *Reprinted as at 23 Feb 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 200.*

*The Land Tax Assessment Act 1976 is to be repealed by the Taxation Administration (Consequential Provisions) Act 2002. However the amendments effected by this section are to operate retrospectively from a date prior to that repeal.]*

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(2) The Schedule is amended as follows:

- (a) by inserting the following paragraph after clause 9(a)(x) —

“

- (xa) the owner of which is an executor as trustee, or the owners of which are executors as trustees, of a will under which a natural person whose identity is specified in the will is entitled to the property as a tenant for life and that person uses the land solely or principally as his or her sole or principal place of residence;

”;

- (b) in clause 9(a)(xi)(I) by inserting after “paragraph (x)” —

“ or (xa) ”;

- (c) in clause 9(b)(ib)(III) by inserting after

“paragraph (a)(x),” —

“ (xa), ”;

- (d) in clause 9(b)(iva)(I) by inserting after

“paragraph (a)(x)” —

“ or (xa) ”.

**10. Requirement to reassess**

The Commissioner of State Revenue must make any reassessment necessary to give effect to the amendments effected by this Part.

## **Part 4 — Single marginal rate of pay-roll tax**

### **11. The *Pay-roll Tax Assessment Act 2002* amended**

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

[\* *Act No. 48 of 2002.*]

### **12. Section 8 amended**

- (1) Section 8(1) is amended by deleting “2002 is \$675 000” and inserting instead —

“2003 is \$750 000”.

- (2) Section 8(2) is amended by deleting “2002 is \$56 250” and inserting instead —

“2003 is \$62 500”.

### **13. Section 9 repealed**

Section 9 is repealed.

### **14. Section 10 amended**

- (1) Section 10(1) is amended as follows:

- (a) by deleting “appropriate rate of pay-roll tax” and inserting instead —

“pay-roll tax rate”;

- (b) by deleting paragraph (b) and inserting the following paragraph instead —

“

- (b) the annual threshold amount for the assessment year.

”.

**s. 15**

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(2) Section 10(2) is amended as follows:

- (a) by deleting “appropriate rate of pay-roll tax” and inserting instead —  
“ pay-roll tax rate ”;
- (b) by deleting paragraph (b) and inserting the following paragraph instead —  
“  
(b) the apportioned threshold amount for that part of the assessment year calculated in accordance with section 12(1).

”.

**15. Section 11 amended**

Section 11 is amended as follows:

- (a) by deleting “appropriate rate of pay-roll tax” and inserting instead —  
“ pay-roll tax rate ”;
- (b) by deleting paragraph (b) and inserting the following paragraph instead —  
“  
(b) the apportioned threshold amount for the month or part of the month calculated in accordance with section 12(2).

”.

**16. Section 12 replaced**

Section 12 is repealed and the following section is inserted instead —

“

**12. Apportioned threshold amount — local non-group employers**

- (1) For the purposes of section 10(2)(b), the apportioned threshold amount for part of an assessment year is A in the formula —

$$A = T \times \left( \frac{P}{Y} \right)$$

where —

- T is the annual threshold amount for the assessment year;  
P is the number of days in that part of the assessment year;  
Y is the number of days in the assessment year.

- (2) For the purposes of section 11(b), the apportioned threshold amount for a month or part of a month is A in the formula —

$$A = T \times \left( \frac{D}{M} \right)$$

where —

- T is the monthly threshold amount for the assessment year;  
D is the number of days in the month, or part of the month, during which WA taxable wages were paid or payable by the employer;  
M is the number of days in the month.

”

**17.      Section 13 amended**

(1) Section 13(1) is amended as follows:

- (a) by deleting “appropriate rate of pay-roll tax” and inserting instead —  
“    pay-roll tax rate    ”;
- (b) by deleting paragraph (b) and inserting instead the following paragraph —  
“  
(b)    the apportioned threshold amount for the assessment year calculated in accordance with section 14(1).  
”.

(2) Section 13(2) is amended as follows:

- (a) by deleting “appropriate rate of pay-roll tax” and inserting instead —  
“    pay-roll tax rate    ”;
- (b) by deleting paragraph (b) and inserting instead the following paragraph —  
“  
(b)    the apportioned threshold amount for that part of the assessment year worked out in accordance with section 14(2).  
”.

**18. Section 14 replaced**

Section 14 is repealed and the following section is inserted instead —

“

**14. Apportioned threshold amounts — interstate non-group employers**

- (1) For the purposes of section 13(1)(b), the apportioned threshold amount for an assessment year is A in the formula —

$$A = T \times \left[ \frac{W}{(W + I)} \right]$$

where —

- T is the annual threshold amount for the assessment year;  
W is the total amount of WA taxable wages paid or payable by the employer during the assessment year;  
I is the total amount of interstate taxable wages paid or payable by the employer during the assessment year.

- (2) For the purposes of section 13(2)(b), the apportioned threshold amount for a part of the assessment year is A in the formula —

$$A = T \times \left[ \frac{W}{(W + I)} \right] \times \left[ \frac{P}{Y} \right]$$

where —

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

**s. 19**

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- I    is the total amount of interstate taxable wages paid or payable by the employer during that part of the assessment year;
- P    is the number of days in that part of the assessment year;
- Y    is the number of days in the assessment year.

”.

**19.        Section 15 amended**

- (1)    Section 15(1) is amended as follows:
  - (a)    by deleting “appropriate rate of pay-roll tax” and inserting instead —  
          “    pay-roll tax rate    ”;
  - (b)    in paragraph (b) by deleting “or (4)”.
- (2)    Section 15(2), (3), (4) and (5) are repealed and the following subsections are inserted instead —  
      “
  - (2)    The employer’s nominated deduction for an assessment year is —
    - (a)    the amount nominated by the Commissioner having regard to the amounts of WA taxable wages and interstate taxable wages previously paid or payable by the employer and any other relevant matters; or
    - (b)    any other amount nominated by the Commissioner, at his or her discretion, on the request of the employer under subsection (3).
  - (3)    The employer may ask the Commissioner to nominate a different amount if the employer expects that the amounts of WA taxable wages and interstate taxable wages payable by the employer for the assessment year will vary significantly from the amounts of WA taxable

wages and interstate taxable wages previously paid or payable by the employer.

”.

**20. Section 17 amended**

(1) Section 17(2) is amended as follows:

(a) by deleting “appropriate rate of pay-roll tax” and inserting instead —

“ pay-roll tax rate ”;

(b) by deleting paragraph (b) and inserting instead the following paragraph —

“

(b) the apportioned threshold amount for the assessment year calculated in accordance with section 18(1).

”.

(2) Section 17(4) is amended as follows:

(a) by deleting “appropriate rate of pay-roll tax” and inserting instead —

“ pay-roll tax rate ”;

(b) by deleting paragraph (b) and inserting the following paragraph instead —

“

(b) the apportioned threshold amount for that part of the assessment year calculated in accordance with section 18(2).

”.

**21. Section 18 replaced**

Section 18 is repealed and the following section is inserted instead —

“

**18. Apportioned threshold amounts — groups**

- (1) For the purposes of section 17(2)(b), the apportioned threshold amount for an assessment year is A in the formula —

$$A = T \times \left[ \frac{W}{(W + I)} \right]$$

where —

T is the annual threshold amount for the assessment year;

W is the total amount of WA taxable wages paid or payable by the group for the assessment year;

I is the total amount of interstate taxable wages paid or payable by the group during the assessment year.

- (2) For the purposes of section 17(4)(b), the apportioned threshold amount for part of the assessment year is A in the formula —

$$A = T \times \left[ \frac{W}{(W + I)} \right] \times \left[ \frac{P}{Y} \right]$$

where —

T is the annual threshold amount for the assessment year;

W is the total amount of WA taxable wages paid or payable by the group for that part of the assessment year;

I is the total amount of interstate taxable wages paid or payable by the group during that part of the assessment year;

- P is the number of days in that part of the assessment year;  
Y is the number of days in the assessment year.

”.

**22. Section 19 amended**

- (1) Section 19(1) is amended by deleting “appropriate rate of pay-roll tax” and inserting instead —  
“ pay-roll tax rate ”.
- (2) Section 19(2) is amended as follows:
  - (a) by deleting “appropriate rate of pay-roll tax” and inserting instead —  
“ pay-roll tax rate ”;
  - (b) in paragraph (b) by deleting “or 5”.
- (3) Section 19(3), (4), (5) and (6) are repealed and the following subsections are inserted instead —  
“
  - (3) The group’s nominated deduction for an assessment year is —
    - (a) the amount nominated by the Commissioner having regard to the amounts of WA taxable wages and interstate taxable wages previously paid or payable by the group and any other relevant matters; or
    - (b) any other amount nominated by the Commissioner, at his or her discretion, on the request of a member of the group under subsection (4).
  - (4) A member of the group may ask the Commissioner to nominate a different amount if the member expects that the amounts of WA taxable wages and interstate taxable wages payable by the group for the assessment”.

**s. 23**

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year will vary significantly from the amounts of WA taxable wages and interstate taxable wages previously paid or payable by the group.

”

**23.        Section 23 amended**

Section 23(2) and (3) are repealed and the following subsections are inserted instead —

“

- (2) If the employer conducted the trade or business in Australia during the whole of the assessment year, then the employer’s liability to pay pay-roll tax is to be assessed as if the employer had paid or been liable to pay wages throughout the assessment year.
- (3) If the employer has conducted the trade or business in Australia during part only of the assessment year, then the employer’s liability is to be assessed as if the employer had paid or been liable to pay wages only during that part of the assessment year.

”

**24.        Section 27 amended**

Section 27(1) is repealed and the following subsections are inserted instead —

“

- (1) If a non-group employer who lodges monthly returns pays or is liable to pay any interstate taxable wages for an assessment year, then the employer must also lodge an additional return for the assessment year specifying the amount of interstate taxable wages paid or payable by the employer for the whole assessment year.
- (1a) If any member of a group pays or is liable to pay interstate taxable wages for an assessment year, the DGE of the group must lodge an additional return for

the assessment year specifying the amount of interstate taxable wages paid or payable by each member of the group for the whole assessment year.

”

**25. Section 29 amended**

Section 29(2) is amended by deleting all the words and punctuation after “lodge” and inserting instead —

“ monthly returns. ”.

**26. The Glossary amended**

The Glossary is amended in clause 1 as follows:

- (a) by deleting the definitions of “allowable deduction” and “appropriate rate”;
- (b) by inserting the following definitions in their appropriate alphabetical positions —

“

**“apportioned threshold amount”** means —

- (a) in relation to a group — the amount calculated in accordance with section 18;
- (b) in relation to an interstate non-group employer — the amount calculated in accordance with section 14;
- (c) in relation to a local non-group employer — the amount calculated in accordance with section 12;

**“pay-roll tax rate”**, in relation to an assessment year or return period, means the rate of pay-roll tax fixed for the year or the return period by the *Pay-roll Tax Act 2002*;

”

## **Part 5 — Eligible termination payments**

### **27.     The *Pay-roll Tax Assessment Act 2002* amended**

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

[\* *Act No. 48 of 2002.*]

### **28.     The Glossary amended**

- (1) The Glossary is amended in clause 1 by inserting the following definitions in their appropriate alphabetical positions —

“

“**assessable income**”, in relation to an eligible termination payment paid or payable to a person, means the assessable income of the person under Part III, Division 2, Subdivision AA of the *Income Tax Assessment Act 1936* of the Commonwealth;

“**eligible termination payment**” has the meaning given in section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth;

”.

- (2) The Glossary is amended in clause 2(1) as follows:

- (a) after paragraph (h) by deleting “and”;
- (b) after paragraph (i) by deleting the full stop and inserting —

“

; and

- (j) so much of an eligible termination payment that is paid or payable by an employer as a consequence of the retirement from, or termination of, any office or employment of a person (the “**retiree**”), (whether or not the payment is made to the retiree or to any other person or body) as would be included in the assessable income of the retiree if the whole of

the eligible termination payment had been paid  
to the retiree.

”

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