

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL 2008

Introduction and First Reading

Bill introduced, on motion by **Mr E.S. Ripper (Treasurer)**, and read a first time.

Explanatory memorandum presented by the Treasurer.

Second Reading

MR E.S. RIPPER (Belmont — Treasurer) [12.30 pm]: I move —

That the bill be now read a second time.

The Pay-roll Tax Assessment Amendment Bill 2008 seeks to implement a package of measures aimed at achieving a greater level of consistency in eight specific areas of the payroll tax regime between Western Australia and the other states and territories. The differences in payroll tax arrangements that currently exist between states and territories have been raised regularly by business as increasing compliance costs, particularly for businesses that operate in more than one jurisdiction.

In March 2006, state and territory Treasurers endorsed Western Australia leading a major project with other states and territories to examine the feasibility of achieving greater levels of consistency in eight areas of payroll tax administration. These eight areas are the timing of the lodgement of returns; the motor vehicle allowances exemption; the accommodation allowances exemption; the treatment of fringe benefits; the treatment of employee share acquisition schemes; the treatment of services performed outside a jurisdiction; the treatment of superannuation contributions; and grouping. The final recommendations to adopt consistent provisions and definitions in the eight key areas were endorsed by state and territory Treasurers in March 2007 and were included in the new business regulation reform agenda of the Council of Australian Governments. Over the next 12 months, the government will be considering further consistency measures as part of this reform program.

In addition, the state tax review's final report included a recommendation for the continued involvement of Western Australia in the process to implement increased interstate consistency in the area of payroll tax. These changes are focused on reducing compliance costs and red tape for Western Australian businesses operating in more than one state. It should be noted that the consistency initiative specifically excludes tax rates and thresholds. All jurisdictions have recognised a need for policy autonomy in these areas to allow a jurisdiction to maintain flexibility to respond to its state-specific budgetary needs. Nonetheless, in Western Australia, the adoption of the recommendations had to be considered in the context of the 2008-09 budget, as alignment with the position of other jurisdictions was not a cost-neutral exercise. The estimated cost to revenue of the measures included in this bill is \$164 million over four years to 2011-12, \$156 million of which is attributable to changes being adopted in the grouping provisions. The cost of the remaining measures is around \$2 million per annum.

The bill seeks to make a number of changes to the grouping provisions. The grouping provisions ensure that employers do not avoid payroll tax by splitting payroll tax liability over several entities, each of which might otherwise claim the benefit of the \$750 000 threshold. Employers are grouped under a number of tests that are based on the relationship, control and connection between the businesses. The changes include the extension of the commissioner's discretion to exclude all commonly controlled businesses from a group, except for related bodies corporate under the Corporations Act; the removal of grouping of employers when a parent or head business exercises managerial control over a branch, agency or subsidiary business; adopting tracing rules that take account of direct and indirect interests to address complex business structures that avoid grouping; and amendments to the matters that the commissioner is to consider when determining whether businesses should be excluded from the grouping provisions. It is estimated that approximately 2 900 of the businesses that are currently grouped under the existing common control provisions may benefit from harmonisation of these arrangements with other states. The current grouping provisions, including those that operate to group parent or head businesses with branch businesses, will continue to apply to affected Western Australian businesses until 30 June 2009. Any businesses currently grouped under the existing provisions will continue to be liable for payroll tax on the basis of the grouping until the amendments become effective on 1 July 2009. This delayed introduction of the amended grouping provisions will assist in ensuring that processes are in place to achieve maximum administrative consistency with other states.

It should be noted that a number of other states and territories have adopted template legislation. This was not the preferred implementation approach in Western Australia, primarily because a number of jurisdictionally specific aspects of the Western Australian payroll tax regime have been maintained. These include the retention of quarterly and annual return provisions, which provide consistent lodgement requirements with the commonwealth and which have only recently been completed and provide a unique benefit in Western Australia; provisions facilitating electronic lodgement processes that support the revenue online system operated by the Office of State Revenue; specific superannuation provisions that outline the treatment of defined benefit

schemes, which have been praised by practitioners and business in the past for their clarity and ease of operation; and the exemption of payments made for remote area housing benefits, which recognise Western Australia's extensive and unique regional industries.

However, while template provisions have not been adopted, the objectives of achieving greater levels of consistency with other jurisdictions have been met as a result of the amendments being proposed in this bill. The benefits of greater consistency will not be limited to businesses operating in multiple states. Those businesses operating in Western Australia will share the benefits of streamlined compliance processes and potentially reduced payroll tax liabilities.

As the amendments to the Pay-roll Tax Assessment Act 2002 made by this bill introduce provisions that are consistent with those of other jurisdictions across Australia, it is considered that the bill may be referred to the Standing Committee on Uniform Legislation and Statutes Review of the other house under standing order 230A. With the exception of the amendments relating to the grouping provisions that commence from 1 July 2009, the amendments commence with effect from 1 July 2008. Given the likely referral of the bill to the Standing Committee on Uniform Legislation and Statutes Review, it is unlikely that the passage of this bill will have occurred by 1 July 2008. As a consequence, payroll tax will continue to be collected under the existing provisions, with any adjustments being made after the bill receives the royal assent using the reassessment processes set out in the Taxation Administration Act 2003 or the annual reconciliation processes at the end of the 2008-09 financial year.

A comprehensive explanatory memorandum has been prepared to accompany this bill. I commend the bill to the house.

Debate adjourned, on motion by **Dr S.C. Thomas**.