

PAY-ROLL TAX BILL 2001

EXPLANATORY MEMORANDUM

This Explanatory Memorandum provides detailed notes on the operation of each clause of the Pay-roll Tax Bill 2001. This Bill will replace the existing Pay-roll Tax Act 1971. The repeal and where relevant, saving, of the Pay-roll Tax Act 1971 can be found in the Taxation Administration (Consequential Provisions) Bill 2001.

The attachment to this document includes a table of cross-referenced sections, showing the Pay-roll Tax Act 1971 provisions with equivalent Pay-roll Tax Bill 2001 provisions. A reversed table is also attached.

PART 1 - PRELIMINARY

Clause 1: Short title

This clause provides that the Act is to be cited as the Pay-roll Tax Act 2001.

Clause 2: Commencement

This clause provides for the Act to operate on the day on which the Taxation Administration Act 2001 comes into operation. A combined operation date for both Acts is necessary as the Taxation Administration Bill contains the relevant administrative provisions applicable to pay-roll tax. It is intended that the commencement date of the Taxation Administration Act 2001 will be 1 July 2002.

Clause 3: Relationship with other Acts

This provision is a general interpretation provision relevant to the application of the Pay-roll Tax Act 2001.

This clause combines this Act with the Taxation Administration Act 2001 and the Pay-roll Tax Assessment Act 2001, so that they can be read as if they constituted one Act.

Clause 4: Meaning of terms

This clause provides the status of the Glossaries at the end of the Taxation Administration Act and the Pay-roll Tax Assessment Act, insofar as they include terms that are used in this Act or affect the meaning of this Act. It also notes that the Glossaries may affect the operation of other provisions.

PART 2 – IMPOSITION OF PAY-ROLL TAX

Division 1 - Imposition

Clause 5: Imposition of pay-roll tax

This clause imposes pay-roll tax in accordance with the requirements set down by section 46(7) of the Constitution Acts Amendment Act 1899, which requires that “ Bills imposing taxation shall deal only with the imposition of taxation” .

The clause identifies that the pay-roll tax rates are set out in three Divisions.

Paragraph (a) relates to local non-group employers and provides that pay-roll tax is imposed on such employers at the rates set out in Division 2.

Paragraph (b) relates to interstate non-group employers and provides that pay-roll tax is imposed on such employers at the rates set out in Division 3.

Paragraph (c) relates to group employers and provides that pay-roll tax is imposed on such employers at the rates set out in Division 4.

The terms “ local non-group employer” , “ interstate non-group employer” and “ group” are defined in the Glossary to the Pay-roll Tax Assessment Act 2001.

The pay-roll tax scheme operates on the basis that an employer remits pay-roll tax each month with a monthly return. At the end of the financial year, the pay-roll tax liability is recalculated on an annual basis. Accordingly, methods for calculating monthly tax remittances and pay-roll tax liability for an assessment year are provided for each of the three categories of employers.

Division 2 – Local non-group employers

Clause 6: Monthly rate

This clause provides for the calculation of the rate of pay-roll tax for a monthly return period for a local non-group employer.

Subclause (1) sets out where the calculation for the different wage levels can be found.

Subclause (2) provides for calculating the rate where wages are more than \$225,000 (apportioned for part of a month) but less than \$375,000 (apportioned for part of a month). In this wage

range, the rate will be in the range 3.65% to 4.60%. The calculation in subclause (2) takes this sliding rate scale into account.

Subclause (3) provides for calculating the rate where wages are not less than \$375,000 (apportioned for part of a month) but less than \$468,750 (apportioned for part of a month). In this wage range, the rate will be in the range 4.60% to 6.0%. The calculation in subclause (3) takes this sliding rate scale into account.

Subclause (4) provides that the rates determined under subclauses (2) and (3) are to be calculated to 4 decimal places.

Subclause (5) provides the meanings of variables " D" , " M" and " W" used in this clause.

" D" is the number of days in the month that an employer is a local non-group employer and is the number of days in the month, or part of the month, during which WA taxable wages are paid or payable.

" M" is the number of days in the month.

" W" is the amount of WA taxable wages paid or payable during the month or part-month.

Clause 7: Annual rate

This clause provides a method of calculating the rate of pay-roll tax for the year or part of the year. As a local non-group employer may pay pay-roll tax at a different rate each month, based upon wages paid during that month, this clause allows for a reconciliation process to determine the rate for the year or part-year.

Subclause (1) sets out where the calculation for the different wage levels can be found.

Subclause (2) provides for calculating the rate where wages are more than \$2,700,000 (apportioned for part of a year) but less than \$4,500,000 (apportioned for part of a year). In this wage range, the rate will be in the range 3.65% to 4.60%. The calculation in subclause (2) takes this sliding rate scale into account.

Subclause (3) provides for calculating the rate where wages are not less than \$4,500,000 (apportioned for part of a year) but less than \$5,625,000 (apportioned for part of a year). In this wage range, the rate will be in the range 4.60% to 6.0%. The calculation in subclause (3) takes this sliding rate scale into account.

Subclause (4) provides that the rates determined under subclauses (2) and (3) are to be calculated to 4 decimal places.

Subclause (5) provides the meaning for variables " D" , " Y" and " W" used in this clause.

" D" is the number of days in the year that an employer is a local non-group employer and is the number of days in the year, or part-year during which WA taxable wages were paid or payable.

" Y" is the number of days in the year.

" W" is the amount of WA taxable wages paid or payable during the year or part-year.

Division 3 – Interstate non-group employers

Clause 8: Annual rate

This clause provides a method of calculating the rate of pay-roll tax for the year or part of the year for an interstate non-group employer. As an interstate non-group employer pays pay-roll tax each month at a rate based upon an estimate of wages likely to be paid or payable throughout Australia during the year, this clause allows for a reconciliation process to determine the rate for the year or relevant part of the year once actual wages paid or payable are known.

Subclause (1) sets out where the calculation for the different wage levels can be found.

Subclause (2) provides for calculating the rate where WA taxable wages and interstate taxable wages are more than \$2,700,000 (apportioned for part of a year) but less than \$4,500,000 (apportioned for part of a year). In this wage range, the rate will be in the range 3.65% to 4.60%. The calculation in subclause (2) takes this sliding rate scale into account.

Subclause (3) provides for calculating the rate where WA taxable wages and interstate taxable wages are not less than \$4,500,000 (apportioned for part of a year) but less than \$5,625,000 (apportioned for part of a year). In this wage range, the rate will be in the range 4.60% to 6.0%. The calculation in subclause (3) takes this sliding rate scale into account.

Subclause (4) provides that the rates determined under subclauses (2) and (3) are to be calculated to 4 decimal places.

Subclause (5) provides the meaning for variables " D" , " Y" , " W" and " I" used in this clause.

" D " is the number of days in the year that an employer is an interstate non-group employer and is the number of days in the year, or part-year during which WA taxable wages or interstate taxable wages were paid or payable.

" Y " is the number of days in the year.

" W " is the amount of WA taxable wages paid or payable during the year or part-year.

" I " is the amount of interstate taxable wages paid or payable during the year or part-year.

Subclause (6) provides that if an employer fails to provide details of actual interstate taxable wages paid or payable during the year or part-year in accordance with the requirements of section 27 of the Pay-roll Tax Assessment Act 2001, the rate of pay-roll tax will be the maximum rate of 6.0%.

Clause 9: Monthly rate based on estimates

This clause provides for the calculation of the rate of pay-roll tax for a monthly return period for an interstate non-group employer. Because of the logistical problems in performing the aggregation of WA taxable wages and interstate taxable wages each month in order to calculate the rate of pay-tax each month, this clause provides a simplified calculation process. The simplified process provides for the rate to be determined on the basis of an estimate of the wages expected to be paid in WA and throughout Australia during the year. This rate is to be used for each return lodged during the year. At the end of the financial year, when actual Australia wide wages are known, a calculation is made in accordance with clause 8 based on actual WA taxable wages and interstate taxable wages paid or payable.

Paragraph (a) provides that an interstate non-group employer will pay pay-roll tax at the top rate of 6.0% each month unless paragraph (b) applies.

Paragraph (b) provides that if a determination is in force under section 9 of the Pay-roll Tax Assessment Act 2001, the rate of pay-roll tax each month will be calculated in accordance with clause 8. However, the calculation will be based on estimated WA taxable wages and interstate taxable wages and the estimated number of days in the financial year during which WA taxable wages or interstate taxable wages will be paid or payable. For the purpose of lodging monthly returns, the rate will only be calculated to 2 decimal places.

Section 9 of the Pay-roll Tax Assessment Act 2001 allows the Commissioner to determine that a rate of tax less than the maximum rate is payable each month based on estimates of WA taxable wages and interstate taxable wages likely to be paid or payable during the financial year or part year.

Division 4 – Group employers

Clause 10: Annual rate

This clause provides a method of calculating the rate of pay-roll tax for the year or part-year for each member of a group. As a member of a group pays pay-roll tax each month at a rate based upon an estimate of wages likely to be paid or payable throughout Australia by all members of the group for the year, this clause allows for a reconciliation process to determine the rate for the year or relevant part-year once actual wages paid or payable are known.

Subclause (1) sets out where the calculation for the different wage levels can be found.

Subclause (2) provides for calculating the rate where WA taxable wages and interstate taxable wages for all members of the group are more than \$2,700,000 (apportioned for part of a year) but less than \$4,500,000 (apportioned for part of a year). In this wage range, the rate will be in the range 3.65% to 4.60%. The calculation in subclause (2) takes this sliding rate scale into account.

Subclause (3) provides for calculating the rate where WA taxable wages and interstate taxable wages for all members of the group are not less than \$4,500,000 (apportioned for part of a year) but less than \$5,625,000 (apportioned for part of a year). In this wage range, the rate will be in the range 4.60% to 6.0%. The calculation in subclause (3) takes this sliding rate scale into account.

Subclause (4) provides that the rates determined under subclauses (2) and (3) are to be calculated to 4 decimal places.

Subclause (5) provides that if a member of the group fails to provide details of actual interstate taxable wages paid or payable for the year or part-year in accordance with the requirements of section 27 of the Pay-roll Tax Assessment Act 2001, the rate of pay-roll tax for all members of the group will be the maximum rate of 6.0%

Subclause (6) provides the meaning for the variables " D " , " Y " , " W " and " I " used in this clause.

" D " is the number of days in the year during which WA taxable wages or interstate taxable wages were paid or payable by a member of the group.

" Y " is the number of days in the year.

"W" is the amount of WA taxable wages paid or payable during the year or part-year by all members of the group.

"I" is the amount of interstate taxable wages paid or payable during the year or part-year by all members of the group.

Clause 11: Monthly rate based on estimates

This clause provides for the calculation of the rate of pay-roll tax for a monthly return period for each member of a group. Because of the logistical problems that would be experienced by a group in performing the aggregation of WA taxable wages and interstate taxable wages for all members of the group each month in order to calculate the rate of pay-tax, this clause provides a simplified calculation process. The simplified process provides for the rate to be determined on the basis of an estimate of the wages expected to be paid in WA and throughout Australia during the year. This rate is to be used for each return lodged during the year. At the end of the financial year, when actual Australia wide wages are known, a calculation is made in accordance with clause 10 based on actual WA taxable wages and interstate taxable wages paid or payable during the year.

Paragraph (a) provides that each member of the group will pay pay-roll tax at the top rate of 6.0% each month unless paragraph (b) applies.

Paragraph (b) provides that if a determination is in force under section 9 of the Pay-roll Tax Assessment Act 2001, the rate of pay-roll tax each month will be calculated in accordance with clause 10. However, the calculation will be based on estimated WA taxable wages and interstate taxable wages and the estimated number of days in the financial year during which WA taxable wages or interstate taxable wages will be paid or payable by members of the group. For the purpose of lodging monthly returns, the rate will only be calculated to 2 decimal places.

Section 9 of the Pay-roll Tax Assessment Act 2001 allows the Commissioner to determine that a rate of tax less than the maximum rate is payable each month based on estimates of WA taxable wages and interstate taxable wages likely to be paid or payable during the financial year or part-year by all members of the group.

CONVERSION TABLE – PAY-ROLL TAX ACT 1971 TO PAY-ROLL TAX BILL 2001

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
Short title	1	Short title	1
Incorporation of Pay-roll Tax Assessment Act 1971	2	Relationship with other Acts	3
Imposition of pay-roll tax	3	Imposition of pay-roll tax	5
Rates for employers other than group employers or payers of interstate wages	5	Local non-group employers	Part 2 Division 2
Rates for employers who pay interstate wages but are not group members	6	Interstate non-group employers	Part 2 Division 3
Rates for group employers	7	Group employers	Part 2 Division 4

CONVERSION TABLE – PAY-ROLL TAX BILL 2001 TO PAY-ROLL TAX ACT 1971

NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
Short title	1	Short title	1
Commencement	2	No equivalent provision	N/A
Relationship with other Acts	3	Incorporation of Pay-roll Tax Assessment Act 1971	2
Meaning of terms	4	No equivalent provision	N/A
Imposition of pay-roll tax	5	Imposition of pay-roll tax	3
Monthly rate	6	Rates for employers other than group employers or payers of interstate wages	5
Annual rate	7	Rates for employers	5

		other than group employers or payers of interstate wages	
Annual rate	8	Rates for employers who pay interstate wages but are not group members	6
Monthly rate based on estimates	9	Rates for employers who pay interstate wages but are not group members	6
NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
Annual rate	10	Rates for group employers	7
Monthly rate based on estimates	11	Rates for group employers	7