

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL 2010

Second Reading

MR T.R. BUSWELL (Vasse — Treasurer) [4.29 pm]: I move —

That the bill be now read a second time.

The Pay-roll Tax Assessment Amendment Bill 2010 seeks to implement a package of measures aimed at achieving a greater level of harmonisation between Western Australia and the other states and territories in a number of areas of the payroll tax regime; two new exemptions that were announced in the 2009–10 budget for wages paid in relation to parental or adoption leave and leave taken by specified emergency service volunteers; and new nexus arrangements that govern where tax is to be paid when services are provided in more than one jurisdiction in a month.

Turning, firstly, to harmonisation amendments: the differences in payroll tax arrangements that exist between states and territories have been commented on 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 a number of areas of payroll tax administration. These areas were: the timing of the lodgement of returns; motor vehicle allowance exemptions; accommodation allowance exemptions; treatment of fringe benefits; treatment of employee share acquisition schemes; treatment of services performed outside a jurisdiction; treatment of superannuation contributions; and, grouping of commonly controlled businesses. The final recommendations to adopt harmonised provisions and definitions in these key areas were endorsed by state and territory Treasurers in March 2007.

The Pay-roll Tax Assessment Amendment Bill 2008 was introduced in May 2008 to legislate for the above changes and was passed in this place; however, the bill lapsed when Parliament was prorogued at the time the election was called in 2008. The bill has not been reintroduced since that time, pending consideration of finalisation of a number of government decisions that required additional amendments to the bill. These included the exemptions announced as part of the 2009–10 budget; the design and drafting of new nexus arrangements; and a delay in the start date of the harmonised grouping provisions as announced in the midyear review of the 2009–10 budget. In the interim period the harmonisation measures have become the subject of commitments under the Council of Australian Governments' reform agenda associated with business regulation and competition. More specifically, they are part of the "National Partnership Agreement to Deliver a Seamless National Economy", signed in December 2008. Further areas of harmonisation are still being considered as part of this reform program. It is also notable that in introducing these harmonisation measures, 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 provide a unique benefit in Western Australia; provisions for 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 that 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.

One change has been made to the superannuation provisions previously introduced in 2008. This was to correct a minor anomaly and to ensure that superannuation payments paid or payable on behalf of all non-executive directors are included in the assessment of payroll tax. Prior to the change, the provisions had the unintended effect of capturing only those superannuation contributions made on behalf of non-executive directors who had also received shares or options as remuneration. With the exception of the deferral of the amendments to the grouping provisions to 1 July 2012, the harmonisation amendments are scheduled to commence on the day of royal assent, but are applied with effect from 1 July 2009 by virtue of the transitional arrangements in the bill. Keeping to the 1 July 2008 commencement date originally proposed for most of the measures would have caused significant compliance and administration costs as taxpayers and the Office of State Revenue would have had to repeat the annual reconciliation process for the 2008–09 year. Moreover, commencing the amendments part way through the year was not a desirable option. This is because payroll tax is an annual tax, albeit usually paid on a monthly basis, and midyear commencement causes significant complications from a taxpayer, legislative and administrative perspective. Accordingly, these amendments are to apply from 1 July 2009. These minor adjustments are capable of being administered as part of the 2009–10 end-of-year reconciliation process to ensure that taxpayers are not put to undue trouble. Alternatively, once these measures are enacted, taxpayers are able to apply to the commissioner for a refund of any tax that may be owed to them before the end-of-year

reconciliation is done. The estimated cost to revenue of the consistency measures included in this bill is \$71 million over four years to 2012–13, \$69 million of which is attributed to the amendments to the grouping provisions that will take effect in 2012–13.

I now turn to the exemptions that were announced in the 2009–10 budget for wages paid in relation to parental and adoption leave, and leave for employees undertaking certain volunteer emergency services functions. These exemptions form part of the further harmonisation measures that were required to be considered as part of the Council of Australian Governments' reform agenda. New South Wales, Victoria, South Australia and Tasmania provide a payroll tax exemption for wages paid for adoption and maternity leave periods for up to a maximum of 14 weeks. In enacting their exemptions, the Northern Territory and Queensland also extended the scope to include paternal leave for fathers over the same period. The exemption in this bill is largely consistent with the exemption available in the Australian Capital Territory, on the basis that it is the broadest. The Western Australian exemption will be available for 14 weeks' leave taken for maternity and adoption leave, as well as paternity leave taken by male and female partners of a pregnant female.

The exemption for employees who engage in volunteer emergency services work will cover volunteers under the Fire Brigades Act 1942, the Bush Fires Act 1954, and the Fire and Emergency Services Authority of Western Australia Act 1998. Specifically, this exemption covers volunteer firefighters, State Emergency Service volunteers, and Volunteer Marine Rescue Services volunteers. The exemption available in all other jurisdictions is reasonably consistent. The estimated cost of the exemption on wages paid for parental leave and to emergency services volunteers is \$2 million over four years. These amendments are to commence on the date of royal assent, but would also apply for the whole of the 2009–10 year, on the basis of the transitional provisions.

The third initiative in this bill introduces new nexus arrangements that determine when wages are taxable in Western Australia in circumstances where services are provided by a person in more than one jurisdiction. All jurisdictions have announced an intention to legislate common nexus provisions that will determine when wages are taxable in their jurisdiction. The Pay-roll Tax Assessment Act 2002 currently provides that wages paid to an employee who has provided services in more than one jurisdiction are regarded as being liable for payroll tax in the jurisdiction where the wages are paid. This is usually the location of the employee's bank account into which the payment of the wages is made. However, a recent examination of this issue by revenue officers across Australia has questioned the appropriateness and ongoing viability of the current payroll tax nexus in these circumstances both from a revenue perspective and in terms of increasing administrative complexity being encountered by affected taxpayers. The design of the new nexus arrangements uses a series of conceptually simple and logical rules that allow taxpayers to determine the jurisdiction to which payroll tax is to be paid. It is worth noting that these changes will only affect employers who have employees who provide services in more than one jurisdiction in the course of a month. Where that is the case, the employer is to determine where the tax is payable by reference to the principal place of residence of the relevant employee. A number of further provisions have been inserted into the nexus arrangements to deal with situations where the employee's principal place of residence is not located in Australia. While these further provisions add a degree of complexity to the legislation, the number of taxpayers who will be affected by them is likely to be small. As previously foreshadowed, the new nexus arrangements will commence on the date of royal assent; however, the transitional provisions apply these changes as if the provisions had commenced on 1 July 2009. It is expected that the nexus change will have a negligible impact on revenue collections.

On a more general note, the majority of changes in the bill will be favourable to taxpayers; however, the new nexus arrangements in particular will require a limited number of taxpayers to change the jurisdiction to which they pay some amounts of payroll tax. Where taxpayers are required to make adjustments to their tax liabilities, they will have the choice of applying for a reassessment after the bill receives royal assent. This can be done using the reassessment process set out in the Taxation Administration Act 2003, or waiting until the end of the 2009–10 financial year and making the required adjustments as part of the usual annual reconciliation process.

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, the bill may be referred to the Uniform Legislation and Statutes Review Committee of the other place under standing order 230A. An explanatory memorandum has been prepared using detailed examples to highlight how many of the new provisions will operate.

I commend the bill to the house.

Debate adjourned, on motion by **Mr D.A. Templeman**.