

Taxation Legislation Amendment Bill 2015

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Western Australia

LEGISLATIVE ASSEMBLY

Taxation Legislation Amendment Bill 2015

A Bill for

An Act to amend the following Acts —

- **the *Duties Act 2008*;**
- **the *Land Tax Assessment Act 2002*;**
- **the *Pay-roll Tax Assessment Act 2002*.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Taxation Legislation Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 4 —
 - (i) comes into operation on 1 July 2015 if assent day is not later than that day; or
 - (ii) is deemed to have come into operation on 1 July 2015 if assent day is later than that day;
- (c) the rest of the Act — on the day after assent day.

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Part 2 — Duties Act 2008 amended

3. Act amended

This Part amends the *Duties Act 2008*.

4. Sections 122 and 123 replaced

Delete sections 122 and 123 and insert:

122. Relevant superannuation transactions for consideration

- (1) Nominal duty is chargeable on a relevant superannuation transaction if there is, or will be, consideration for the transaction.
- (2) A reference in this section to a relevant superannuation transaction is to a transfer of, or an agreement for the transfer of, dutiable property by a person (the *transferor*) to a trustee, or a custodian of a trustee, of a superannuation fund that meets the following criteria (an *approved superannuation fund*) —
 - (a) either of the following apply to the superannuation fund —
 - (i) only the transferor can be a member of the superannuation fund;
 - (ii) property can only be held in the superannuation fund specifically for the transferor and cannot be pooled with the contributions or other assets of another member and no other member can obtain an interest in the property;
 - (b) property can only be held in the superannuation fund to be provided to the transferor as a retirement benefit.

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- 1 (3) In subsection (2)(a)(ii) and (b) —
2 *property* —
3 (a) means —
4 (i) dutiable property the subject of a
5 relevant superannuation transaction; or
6 (ii) if such dutiable property is sold so that
7 the proceeds can be provided to the
8 transferor as a retirement benefit, those
9 proceeds;
10 and
11 (b) includes any net income from property referred
12 to in paragraph (a), including income retained
13 by a trustee of a superannuation fund while
14 legal ownership of the property is held by a
15 custodian of a trustee of the fund.
16 (4) An application for assessment or reassessment under
17 this section must be made in the approved form.

18 **123. Subsequent liability in certain circumstances**

- 19 (1) A reference in this section to a subsequent event in
20 relation to a superannuation fund is to an event the
21 effect of which is that the superannuation fund ceases
22 to be an approved superannuation fund, as defined in
23 section 122(2).
24 (2) Subsection (3) applies if, after a transaction is duty
25 endorsed under section 122, a subsequent event takes
26 place in relation to the superannuation fund while the
27 dutiable property the subject of the transaction (the
28 *original dutiable property*), or part of it, is held —
29 (a) by a custodian of a trustee of the
30 superannuation fund; or
31 (b) in the superannuation fund.

- 1 (3) A subsequent event is taken to be a transfer of the
2 original dutiable property and is liable to duty
3 accordingly.
- 4 (4) Not later than 2 months after the day on which a
5 subsequent event takes place a trustee, or a custodian
6 of a trustee, of the superannuation fund, as is relevant,
7 is to lodge a transfer duty statement for the event.
8 Penalty: a fine of \$20 000.
- 9 (5) The person liable to pay the duty is a trustee, or a
10 custodian of a trustee, of the superannuation fund, as is
11 relevant.
12

13 **5. Section 126 amended**

14 In section 126(1) in the definition of *relevant entity* delete
15 “relation a” and insert:

16

17 relation to a
18

1 **Part 3 — *Land Tax Assessment Act 2002* amended**

2 **6. Act amended**

3 This Part amends the *Land Tax Assessment Act 2002*.

4 **7. Section 14 amended**

5 In section 14(1):

6 (a) in paragraph (b) delete “hectares.” and insert:

7

8 hectares; and

9

10 (b) after paragraph (b) insert:

11

12 (c) the subdivision was not carried out only for the
13 purpose of defining an area of land to be taken
14 or resumed under an enactment relating to the
15 compulsory acquisition of land.

16

17 **8. Section 43A amended**

18 Delete section 43A(4).

19 **9. Section 45A amended**

20 (1) In section 45A(1) delete “Act.” and insert:

21

22 Act on and from the creation of the interest.

23

24 (2) In section 45A(4) delete “determination and the reasons for the
25 determination.” and insert:

26

27 determination, the reasons for the determination and the effect
28 of the determination as described in section 45B.

29

1 **10. Section 45B replaced**

2 Delete section 45B and insert:

3

4 **45B. Effect of determination under s. 45A**

5 (1) If the Commissioner makes a determination under
6 section 45A that an interest in a lot or parcel of land is
7 an interest that is to be disregarded for the purposes of
8 this Act on and from the creation of the interest, then,
9 on and from the creation of the interest —

10 (a) the owner of the interest is to be taken not to be
11 an owner of the lot or parcel of land for the
12 purposes of this Act; and

13 (b) the land is to be taken to be wholly owned by
14 the owner of the land who does not have an
15 interest the subject of a determination.

16 (2) The Commissioner is to make any assessment, or
17 reassessment, necessary to give effect to a
18 determination.

19 (3) However, a reassessment cannot be made for an
20 assessment year that is 5 or more years before the
21 assessment year during which the determination was
22 made.

23 (4) Subsection (3) —

24 (a) does not affect the operation of the *Taxation*
25 *Administration Act 2003* section 17(2); and

26 (b) applies despite the *Taxation Administration*
27 *Act 2003* section 17(4).
28

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1 **11. Glossary amended**

2 Delete the Glossary clause 3(1)(d)(ii) and insert:

3

- 4 (ii) if not — an occupancy permit or a building
5 approval certificate required under the
6 *Strata Titles Act 1985* section 5B(2) is
7 granted under an application mentioned in
8 the *Building Act 2011* section 50(1)(a)
9 or (b);

10

1 **Part 4 — *Pay-roll Tax Assessment Act 2002* amended**

2 **12. Act amended**

3 This Part amends the *Pay-roll Tax Assessment Act 2002*.

4 **13. Section 8 amended**

5 After section 8(2) insert:

6

7 (3) The upper threshold amount is \$7 500 000.

8 (4) The tapering value for a financial year is to be
9 calculated as follows —

10
$$\frac{AT}{UT - AT}$$

11 where —

12 AT is the annual threshold amount for the year;

13 UT is the upper threshold amount.

14

15 Note: The heading to amended section 8 is to read:

16 **Tax thresholds and tapering value**

17 **14. Sections 10 to 14 replaced**

18 Delete sections 10 to 14 and insert:

19

20 **10. Annual tax liability: local non-group employers**

21 (1) If an employer is a local non-group employer for the
22 whole of an assessment year, the amount of pay-roll
23 tax payable by the employer for the year is —

24 (a) if the total amount of WA taxable wages paid
25 or payable by the employer during the year is

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- 1 less than or equal to the annual threshold
2 amount for the year — nil;
- 3 (b) if the total amount of WA taxable wages paid
4 or payable by the employer during the year is
5 equal to or greater than the upper threshold
6 amount — the amount calculated by applying
7 the pay-roll tax rate to the total amount of WA
8 taxable wages paid or payable by the employer
9 during the year;
- 10 (c) otherwise — the amount calculated by applying
11 the pay-roll tax rate to the amount equal to the
12 difference between —
- 13 (i) the total amount of WA taxable wages
14 paid or payable by the employer during
15 the year; and
- 16 (ii) the deductible amount for the employer
17 for the year calculated in accordance
18 with subsection (2).
- 19 (2) For the purposes of subsection (1)(c)(ii), the deductible
20 amount for the employer for the year is to be calculated
21 as follows —
- 22
$$AT - [(W - AT) \times TV]$$
- 23 where —
- 24 AT is the annual threshold amount for the year;
- 25 TV is the tapering value for the year;
- 26 W is the total amount of WA taxable wages paid or
27 payable by the employer during the year.

- 1 (3) If an employer is a local non-group employer for only
2 part of an assessment year (the *part-year*), the amount
3 of pay-roll tax payable by the employer for the
4 part-year is —
- 5 (a) if the total amount of WA taxable wages paid
6 or payable by the employer during the part-year
7 is less than or equal to the apportioned annual
8 threshold amount for the part-year — nil;
- 9 (b) if the total amount of WA taxable wages paid
10 or payable by the employer during the part-year
11 is equal to or greater than the apportioned upper
12 threshold amount for the part-year — the
13 amount calculated by applying the pay-roll tax
14 rate to the total amount of WA taxable wages
15 paid or payable by the employer during the
16 part-year;
- 17 (c) otherwise — the amount calculated by applying
18 the pay-roll tax rate to the amount equal to the
19 difference between —
- 20 (i) the total amount of WA taxable wages
21 paid or payable by the employer during
22 the part-year; and
- 23 (ii) the deductible amount for the employer
24 for the part-year calculated in
25 accordance with subsection (4).
- 26 (4) For the purposes of subsection (3)(c)(ii), the deductible
27 amount for the employer for the part-year is to be
28 calculated as follows —
- 29
$$\text{AAT} - [(\text{W} - \text{AAT}) \times \text{TV}]$$
- 30 where —
- 31 AAT is the apportioned annual threshold amount for
32 the part-year;
- 33 TV is the tapering value for the year;

1 Y is the number of days in the year.

2 **11. Tax payable with returns: local non-group**
3 **employer**

- 4 (1) The amount of pay-roll tax payable by a local
5 non-group employer for a progressive return period or
6 for part of a progressive return period in an assessment
7 year (the *period or part-period*) is —
- 8 (a) if the total amount of WA taxable wages paid
9 or payable by the employer during the period or
10 part-period is less than or equal to the
11 apportioned threshold amount for the period or
12 part-period — nil;
- 13 (b) if the total amount of WA taxable wages paid
14 or payable by the employer during the period or
15 part-period is equal to or greater than the
16 apportioned upper threshold amount for the
17 period or part-period — the amount calculated
18 by applying the pay-roll tax rate to the total
19 amount of WA taxable wages paid or payable
20 by the employer during the period or
21 part-period;
- 22 (c) otherwise — the amount calculated by applying
23 the pay-roll tax rate to the amount equal to the
24 difference between —
- 25 (i) the total amount of WA taxable wages
26 paid or payable by the employer during
27 the period or part-period; and
- 28 (ii) the deductible amount for the employer
29 for the period or part-period calculated
30 in accordance with subsection (2).

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1 (2) For the purposes of subsection (1)(c)(ii), the deductible
2 amount for the employer for the period or part-period is
3 to be calculated as follows —

4
$$AT - [(W - AT) \times TV]$$

5 where —

6 AT is the apportioned threshold amount for the
7 period or part-period;

8 TV is the tapering value for the year;

9 W is the total amount of WA taxable wages paid or
10 payable by the employer during the period or
11 part-period.

12 (3) The apportioned threshold amount for a progressive
13 return period or part of a progressive return period is
14 calculated in accordance with section 12(1).

15 (4) The apportioned upper threshold amount for a
16 progressive return period or part of a progressive return
17 period is calculated in accordance with section 12(2).

18 **12. Apportioned threshold amounts for s. 11: local**
19 **non-group employers**

20 (1) For the purposes of section 11, the apportioned
21 threshold amount for a progressive return period or part
22 of a progressive return period is to be calculated as
23 follows —

24
$$N \times MT \times \left(\frac{D}{P} \right)$$

25 where —

26 N is the number of months in the progressive
27 return period;

28 MT is the monthly threshold amount for the year;

- 1 D is the number of days in the progressive return
2 period, or part of the progressive return period,
3 during which WA taxable wages were paid or
4 payable by the employer;
- 5 P is the number of days in the progressive return
6 period.
- 7 (2) For the purposes of section 11, the apportioned upper
8 threshold amount for a progressive return period or part
9 of a progressive return period is to be calculated as
10 follows —
- 11
$$N \times \left(\frac{UT}{12} \right) \times \left(\frac{D}{P} \right)$$
- 12 where —
- 13 N is the number of months in the progressive
14 return period;
- 15 UT is the upper threshold amount;
- 16 D is the number of days in the progressive return
17 period, or part of the progressive return period,
18 during which WA taxable wages were paid or
19 payable by the employer;
- 20 P is the number of days in the progressive return
21 period.

22 **13. Annual tax liability: interstate non-group employers**

- 23 (1) In this section —
- 24 *Australian taxable wages* means WA taxable wages
25 and interstate taxable wages.

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- 1 (2) If an employer is an interstate non-group employer for
2 the whole of an assessment year, the amount of
3 pay-roll tax payable by the employer for the year is —
- 4 (a) if the total amount of Australian taxable wages
5 paid or payable by the employer during the year
6 is less than or equal to the annual threshold
7 amount for the year — nil;
- 8 (b) if the total amount of Australian taxable wages
9 paid or payable by the employer during the year
10 is equal to or greater than the upper threshold
11 amount — the amount calculated by applying
12 the pay-roll tax rate to the total amount of WA
13 taxable wages paid or payable by the employer
14 during the year;
- 15 (c) otherwise — the amount calculated by applying
16 the pay-roll tax rate to the amount equal to the
17 difference between —
- 18 (i) the total amount of WA taxable wages
19 paid or payable by the employer during
20 the year; and
- 21 (ii) the deductible amount for the employer
22 for the year calculated in accordance
23 with subsection (3).

- 24 (3) For the purposes of subsection (2)(c)(ii), the deductible
25 amount for the employer for the year is to be calculated
26 as follows —

27
$$\left(AT - [(TW - AT) \times TV] \right) \times \left(\frac{W}{TW} \right)$$

28 where —

29 AT is the annual threshold amount for the year;

- 1 TW is the total amount of Australian taxable wages
2 paid or payable by the employer during the
3 year;
- 4 TV is the tapering value for the year;
- 5 W is the total amount of WA taxable wages paid or
6 payable by the employer during the year.
- 7 (4) If an employer is an interstate non-group employer for
8 only part of an assessment year (the *part-year*), the
9 amount of pay-roll tax payable by the employer for the
10 part-year is —
- 11 (a) if the total amount of Australian taxable wages
12 paid or payable by the employer during the
13 part-year is less than or equal to the
14 apportioned annual threshold amount for the
15 part-year — nil;
- 16 (b) if the total amount of Australian taxable wages
17 paid or payable by the employer during the
18 part-year is equal to or greater than the
19 apportioned upper threshold amount for the
20 part-year — the amount calculated by applying
21 the pay-roll tax rate to the total amount of WA
22 taxable wages paid or payable by the employer
23 during the part-year;
- 24 (c) otherwise — the amount calculated by applying
25 the pay-roll tax rate to the amount equal to the
26 difference between —
- 27 (i) the total amount of WA taxable wages
28 paid or payable by the employer during
29 the part-year; and
- 30 (ii) the deductible amount for the employer
31 for the part-year calculated in
32 accordance with subsection (5).

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- 1 (5) For the purposes of subsection (4)(c)(ii), the deductible
2 amount for the employer for the part-year is to be
3 calculated as follows —

4
$$(AAT - [(TW - AAT) \times TV]) \times \left(\frac{W}{TW} \right)$$

5 where —

6 AAT is the apportioned annual threshold amount for
7 the part-year;

8 TW is the total amount of Australian taxable wages
9 paid or payable by the employer during the
10 part-year;

11 TV is the tapering value for the year;

12 W is the total amount of WA taxable wages paid or
13 payable by the employer during the part-year.

- 14 (6) The apportioned annual threshold amount for part of an
15 assessment year is calculated in accordance with
16 section 14(1).

- 17 (7) The apportioned upper threshold amount for part of an
18 assessment year is calculated in accordance with
19 section 14(2).

20 **14. Apportioned threshold amounts for s. 13: interstate**
21 **non-group employers**

- 22 (1) For the purposes of section 13, the apportioned annual
23 threshold amount for part of an assessment year is to be
24 calculated as follows —

25
$$AT \times \left(\frac{P}{Y} \right)$$

- 1 where —
- 2 AT is the annual threshold amount for the year;
- 3 P is the number of days in that part of the year;
- 4 Y is the number of days in the year.
- 5 (2) For the purposes of section 13, the apportioned upper
- 6 threshold amount for part of an assessment year is to be
- 7 calculated as follows —

8
$$UT \times \left(\frac{P}{Y} \right)$$

- 9 where —
- 10 UT is the upper threshold amount;
- 11 P is the number of days in that part of the year;
- 12 Y is the number of days in the year.
- 13

14 **15. Section 17 amended**

- 15 (1) Before section 17(1) insert:
- 16
- 17 (1A) In this section —
- 18 *Australian taxable wages* means WA taxable wages
- 19 and interstate taxable wages.
- 20
- 21 (2) In section 17(1) delete “WA taxable wages or interstate taxable
- 22 wages” (each occurrence) and insert:
- 23

24 Australian taxable wages

25

s. 15

- 1 (3) Delete section 17(2) and insert:
2
- 3 (2) The amount of pay-roll tax payable by the group for
4 the assessment year is —
- 5 (a) if the total amount of Australian taxable wages
6 paid or payable by the group members during
7 the year is less than or equal to the annual
8 threshold amount for the year — nil;
- 9 (b) if the total amount of Australian taxable wages
10 paid or payable by the group members during
11 the year is equal to or greater than the upper
12 threshold amount — the amount calculated by
13 applying the pay-roll tax rate to the total
14 amount of WA taxable wages paid or payable
15 by the group members during the year;
- 16 (c) otherwise — the amount calculated by applying
17 the pay-roll tax rate to the amount equal to the
18 difference between —
- 19 (i) the total amount of WA taxable wages
20 paid or payable by the group members
21 during the year; and
- 22 (ii) the deductible amount for the group for
23 the year calculated in accordance with
24 subsection (3A).
- 25 (3A) For the purposes of subsection (2)(c)(ii), the deductible
26 amount for the group for the year is to be calculated as
27 follows —
- 28
$$\left(AT - [(TW - AT) \times TV] \right) \times \left(\frac{W}{TW} \right)$$
- 29 where —
- 30 AT is the annual threshold amount for the year;

- 1 TW is the total amount of Australian taxable wages
2 paid or payable by the group members during
3 the year;
- 4 TV is the tapering value for the year;
- 5 W is the total amount of WA taxable wages paid or
6 payable by the group members during the year.
7

- 8 (4) In section 17(3):
- 9 (a) in paragraph (a) after “assessment year” (1st occurrence)
10 insert:
11
- 12 (the *part-year*)
- 13
- 14 (b) delete “WA taxable wages or interstate taxable wages”
15 (each occurrence) and insert:
16
- 17 Australian taxable wages
18

- 19 (5) Delete section 17(4) and insert:
20
- 21 (4) The amount of pay-roll tax payable by the group for
22 the assessment year is —
- 23 (a) if the total amount of Australian taxable wages
24 paid or payable by the group members during
25 the part-year is less than or equal to the
26 apportioned annual threshold amount for the
27 part-year — nil;
- 28 (b) if the total amount of Australian taxable wages
29 paid or payable by the group members during
30 the part-year is equal to or greater than the
31 apportioned upper threshold amount for the
32 part-year — the amount calculated by applying

s. 15

- 1 the pay-roll tax rate to the total amount of WA
2 taxable wages paid or payable by the group
3 members during the part-year;
- 4 (c) otherwise — the amount calculated by applying
5 the pay-roll tax rate to the amount equal to the
6 difference between —
- 7 (i) the total amount of WA taxable wages
8 paid or payable by the group members
9 during the part-year; and
- 10 (ii) the deductible amount for the group for
11 the part-year calculated in accordance
12 with subsection (5).
- 13 (5) For the purposes of subsection (4)(c)(ii), the deductible
14 amount for the group for the part-year is to be
15 calculated as follows —
- 16
$$(AAT - [(TW - AAT) \times TV]) \times \left(\frac{W}{TW} \right)$$
- 17 where —
- 18 AAT is the apportioned annual threshold amount for
19 the part-year;
- 20 TW is the total amount of Australian taxable wages
21 paid or payable by the group members during
22 the part-year;
- 23 TV is the tapering value for the year;
- 24 W is the total amount of WA taxable wages paid or
25 payable by the group members during the
26 part-year.
- 27 (6) The apportioned annual threshold amount for part of an
28 assessment year is calculated in accordance with
29 section 18(1).

- 1 (7) The apportioned upper threshold amount for part of an
2 assessment year is calculated in accordance with
3 section 18(2).
4

5 **16. Section 18 replaced**

6 Delete section 18 and insert:
7

8 **18. Apportioned threshold amounts for s. 17: groups**

- 9 (1) For the purposes of section 17, the apportioned annual
10 threshold amount for part of an assessment year is to be
11 calculated as follows —

12
$$AT \times \left(\frac{P}{Y} \right)$$

13 where —

14 AT is the annual threshold amount for the year;

15 P is the number of days in that part of the year;

16 Y is the number of days in the year.

- 17 (2) For the purposes of section 17, the apportioned upper
18 threshold amount for part of an assessment year is to be
19 calculated as follows —

20
$$UT \times \left(\frac{P}{Y} \right)$$

21 where —

22 UT is the upper threshold amount;

23 P is the number of days in that part of the year;

24 Y is the number of days in the year.
25

s. 17

1 **17. Section 22A deleted**

2 Delete section 22A.

3 **18. Schedule 1 amended**

4 At the end of Schedule 1 insert:

5

6 **Division 5 — Provisions for the *Taxation Legislation***
7 ***Amendment Act 2015 Part 4***

8 **14. Changes relating to tax thresholds do not apply to**
9 **assessment years commencing before 1 July 2015**

10 This Act has effect in relation to an assessment year that
11 commenced before 1 July 2015 as if the amendments in the
12 *Taxation Legislation Amendment Act 2015 Part 4* had not
13 come into operation.
14

15 **19. Glossary amended**

16 (1) In the Glossary clause 1 delete the definition of *apportioned*
17 *threshold amount*.

18 (2) In the Glossary clause 1 insert in alphabetical order:

19

20 *tapering value*, for a year, means the tapering value for the
21 year calculated in accordance with section 8(4);

22 *upper threshold amount* means the amount fixed under
23 section 8(3);
24

25
