

## **PAY-ROLL TAX ASSESSMENT BILL 2001**

### **EXPLANATORY MEMORANDUM**

This Explanatory Memorandum provides detailed notes on the operation of each clause of the Pay-roll Tax Assessment Bill 2001. This Bill will replace the existing Pay-roll Tax Assessment Act 1971 with an up-to-date, contemporary statute in an easy to follow format. The repeal and where relevant, saving, of the Pay-roll Tax Assessment Act 1971 can be found in the Taxation Administration (Consequential Provisions) Bill 2001.

It should be noted that many of the administrative provisions of the 1971 Act have not been reproduced in this Bill. The common administrative provisions will be located in the Taxation Administration Bill 2001.

The attachment to this document includes a table of cross-referenced sections, showing the equivalent Pay-roll Tax Assessment Bill 2001 and Taxation Administration Bill 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 Assessment 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.

#### **Clause 3: Relationship with other Acts**

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

#### **Clause 4: Meaning of terms used in this Act**

This clause provides the status of the Glossaries at the end of this Act and the Taxation Administration Act insofar as they include terms that are used in this Act or affect the meaning of this Act.

### **PART 2 - LIABILITY AND ASSESSMENT**

#### ***Division 1 – Liability to pay-roll tax***

#### **Clause 5: Pay-roll tax on wages**

Subclause (1) provides that pay-roll tax is payable on wages that are taxable in Western Australia, as set out in subclause (2), that are not exempt from pay-roll tax under clause 40.

Subclause (2) provides that the following kinds of wages are taxable in Western Australia:

Paragraph (a) provides that where services are carried out wholly in Western Australia, the wages paid or payable in respect of those services are taxable in Western Australia. This principle applies irrespective of where the wages are paid or payable.

Paragraph (b) provides that wages paid or payable in Western Australia are taxable in Western Australia irrespective of where the services are provided, except where the services are provided wholly in one other State. As other States have corresponding provisions, where services are carried out wholly in one other State, the wages paid or payable for those services would be subject to pay-roll tax in that State.

#### **Clause 6: Time for payment of pay-roll tax**

This clause specifies that the pay-roll tax is to be paid by the due date for lodging the return to which the payment relates. For employers lodging monthly returns, this would generally be within 7 days after the end of the month.

#### **Clause 7: Liability to pay-roll tax**

This clause sets out who is liable to pay pay-roll tax.

Subclause (1) provides that the liability for the payment of pay-roll tax lies with the employer who pays or is liable to pay the WA taxable wages.

Subclause (2) makes all members of a group jointly and severally liable for the payment of any tax on wages if they were a member of the group at the time the wages became payable.

Subclause (3) provides that even where an employer is a member of a group, the employer still has a liability for the pay-roll tax in respect of the wages paid by him as an employer.

Subclause (4) provides that where a person is liable for the payment of pay-roll tax, the person is also liable to pay any penalties, interest or other amounts payable in connection with the pay-roll tax.

#### **Clause 8: The tax threshold**

This clause sets out the threshold amount above which a pay-roll tax liability arises.

Subclause (1) identifies the annual threshold amount as \$675,000. An employer who pays, anywhere in Australia, wages in excess of this amount will be liable for pay-roll tax. An employer who is a member of a group, where the group pays wages in excess of this amount, will be liable for pay-roll tax.

Subclause (2) sets out the monthly threshold amount at which a non-group employer must register for pay-roll tax. It is also used

for calculating the monthly allowable deduction for local non-group employers.

**Clause 9: Determinations of reduced monthly rates**

This clause authorises the Commissioner to determine a lesser than the maximum rate of tax to be paid monthly by an interstate non-group employer, or the members of a group. The determination is made on the basis of estimated wages supplied by the employers involved. This method is used as, in the case of an interstate employer, the pay-roll tax rate is determined on wages paid both in Western Australia and interstate and accordingly the rate cannot be calculated on the basis of WA taxable wages alone. Similarly, pay-roll tax rates for group employers are determined on the basis of the aggregate of wages paid throughout Australia by all members of the group. Accordingly, these types of employers pay pay-roll tax each month at a rate determined on the basis of estimated wages for the year with an adjustment after the end of the year once all actual wage details are known.

Subclause (1) provides for an interstate non-group employer or the DGE of a group to apply to the Commissioner to determine a rate of tax to be paid monthly. The rate will be calculated in accordance with section 9(b) (in the case of an interstate non-group employer) or section 11(b) (in the case of a group) of the Pay-roll Tax Act 2001.

Subclause (2) provides that an application must be in the approved form and include estimates of interstate taxable wages and WA taxable wages likely to be paid or payable by the employer or the members of the group during the assessment year.

Subclause (3) authorises the Commissioner to make the determination if satisfied, on the basis of the estimates provided, that it is appropriate to do so.

Subclause (4) enables the Commissioner to revoke or vary any such determination. This would be done, for instance, if the estimated wages were found to be incorrectly supplied, or if an error had been made in the original determination.

Subclause (5) requires the Commissioner to notify an employer or the DGE of a group of any revocation or variation and the date on which it takes effect.

***Division 2 - Non-group employers' liability***

**Clause 10: Annual tax liability – local non-group employers**

This clause sets out the method for calculating the annual tax liability for local non-group employers.

Subclause (1) provides the method of calculation for an employer who is a local non-group employer for the whole assessment year. To calculate the amount of pay-roll tax, the total of the WA taxable wages paid or payable during the year is reduced by the allowable deduction for the year and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 12(1).

Subclause (2) provides the method of calculation for an employer who is a local non-group employer for only part of an assessment year. To calculate the amount of pay-roll tax for that part-year, the total of the WA taxable wages paid or payable during the part-year is reduced by the allowable deduction for the part-year and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 12(2).

**Clause 11: Tax payable with returns – local non-group employers**

This clause sets out the method for calculating the tax payable with returns lodged by local non-group employers. Returns are generally required to be lodged on a monthly basis, however, in some circumstances approval may be given to lodge annual returns in accordance with clause 29(8). To calculate the amount of pay-roll tax, the total of the WA taxable wages paid or payable during the monthly return period is reduced by the allowable deduction for the return period and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 12(3).

**Clause 12: Allowable deductions – local non-group employers**

This clause sets out the method of calculating allowable deductions for local non-group employers.

Subclause (1) shows the method of calculating the allowable deduction for an assessment year, where the employer is a local non-group employer for the whole assessment year. The calculation operates such that where WA taxable wages exceed the annual threshold amount specified in clause 8, the annual threshold amount is reduced by \$1 for every \$3 by which the WA taxable wages exceed the threshold amount. Through means of this taper, the allowable deduction is phased out when wages reach \$2,700,000 in an assessment year.

Subclause (2) shows the method of calculating the allowable deduction for part of an assessment year where an employer is a local non-group employer for that part only of the year. This may occur where an employer commences or ceases to pay wages during the year or becomes a member of a group during the year. The calculation is similar to the calculation in subclause (1),

however, the formula used allows for the annual threshold amount to be reduced on the basis of the number of days during the assessment year that the employer was a local non-group employer.

Subclause (3) shows the method of calculating the allowable deduction for a monthly return period. The calculation operates such that where WA taxable wages exceed the monthly threshold amount specified in clause 8, the monthly threshold amount is reduced by \$1 for every \$3 by which the WA taxable wages exceed the monthly threshold amount. Through means of this taper, the allowable deduction is phased out when wages reach \$225,000 in a month.

### **Clause 13: Annual tax liability – interstate non-group employers**

This clause sets out the method for calculating the annual tax liability for interstate non-group employers.

Subclause (1) provides the method of calculation for an assessment year where the employer is an interstate non-group employer for the whole year. To calculate the amount of pay-roll tax, the total of the WA taxable wages paid or payable during the year is reduced by the allowable deduction for the year and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 14(1).

Subclause (2) provides the method of calculation for an employer who is an interstate non-group employer for only part of an assessment year. This may occur where an employer commences or ceases to pay wages during the year or becomes a member of a group during the year. To calculate the amount of pay-roll tax, the total of the WA taxable wages paid or payable during the part-year is reduced by the allowable deduction for the part-year and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 14(2).

### **Clause 14: Allowable deductions – interstate non-group employers**

This clause sets out the method of calculating allowable deductions for interstate non-group employers.

Subclause (1) shows the method of calculating the allowable deduction for an assessment year, where the employer is an interstate non-group employer for the whole year. The calculation operates such that where the total of the WA taxable wages and interstate taxable wages exceed the annual threshold amount specified in clause 8, the threshold amount is reduced by \$1 for every \$3 by which the total wages exceed the threshold amount and then reduced by the proportion that the

WA taxable wages bears to the total wages. Through means of this taper, the allowable deduction is phased out when the total of WA taxable wages and interstate taxable wages reach \$2,700,000 in an assessment year.

Subclause (2) shows the method of calculating the allowable deduction for part of an assessment year where an employer is an interstate non-group employer for that part only of the year. This may occur where an employer commences or ceases to pay wages during the year or becomes a member of a group during the year. The calculation is similar to the calculation in subclause (1), however, the formula used allows for the annual threshold amount to be reduced on the basis of the number of days during the assessment year that the employer was an interstate non-group employer.

**Clause 15: Tax payable with monthly returns – interstate non-group employers**

This clause sets out the method for calculating the tax payable with monthly returns lodged by interstate non-group employers.

Subclause (1) provides that to calculate the amount of pay-roll tax for a monthly return period, the total of the WA taxable wages paid or payable during the return period is reduced by the nominated deduction for the return period and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of nominating an allowable deduction is explained in the following subclauses. The method of calculating the rate of pay-roll tax payable is set out in clause 9.

Subclause (2) allows an interstate non-group employer to nominate an amount, or ask the Commissioner to nominate an amount to be claimed as the nominated deduction for a return period. Because of the logistical problems that would be experienced by interstate employers in performing the aggregation of wages each month in order to calculate the allowable deduction each month, this clause provides a simplified calculation process. The simplified process provides for the allowable deduction 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 amount is to be claimed as the allowable deduction on each return lodged during the year. At the end of the financial year, when actual Australia wide wages are known, an adjustment is effected to reflect the allowable deduction based on actual wages paid or payable.

Subclause (3) requires the employer to include particulars of the estimates upon which the nomination is based when making a nomination or requesting the Commissioner to nominate an amount.

Subclause (4) is to allow the Commissioner to accept the amount nominated by an employer, or nominate another amount instead. The Commissioner can also nominate an amount on his or her initiative.

Subclause (5) specifies that the nominated amount is to be based on estimates of WA taxable wages and interstate taxable wages likely to be paid or payable by the employer during the assessment year or part year. In general terms, the calculation methods outlined in clause 14 would be utilised, but using estimated wages rather than actual wages. The allowable deduction for the year or part-year would then be divided by the number of months in the year or part-year, resulting in a nominated deduction for each return period.

Subclause (6) requires the Commissioner to notify the employer of the nomination of an amount or the cancellation of a nomination.

Subclause (7) provides that where there is no nominated amount, the nominated deduction shall be nil.

Subclause (8) provides that a nomination remains in force for each subsequent monthly return period in the assessment year unless it is cancelled.

Subclause (9) authorises the Commissioner to cancel any nomination that has been made. This could be necessary if circumstances alter for any reason, such as when an employer becomes a member of a group.

#### **Clause 16: Annual reconciliation – non-group employers**

This clause provides for annual adjustments for non-group employers. As the amount of pay-roll tax payable by employers is based on annual wage levels but in most cases collected on a monthly basis, this clause requires employers to pay the shortfall between the aggregate of monthly remittances and the amount of pay-roll tax calculated on the basis of the completed year.

On the other hand, where the calculation for the entire year shows that the aggregate of monthly remittances by an employer was greater than the amount calculated on the basis of the full year, the employer is entitled to a refund or rebate of the difference.

Subclause (1) provides that where an employer's pay-roll tax liability for an assessment year, calculated in accordance with clause 10 (in the case of a local non-group employer) or clause 13 (in the case of an interstate non-group employer), is less than the pay-roll tax actually paid by way of monthly returns in respect of the assessment year, the employer is entitled to a refund or rebate of the difference.

Subclause (2) provides that where an employer's pay-roll tax liability for an assessment year, calculated in accordance with clause 10 (in the case of a local non-group employer) or clause 13 (in the case of an interstate non-group employer), is more than the total of the pay-roll tax actually paid by way of monthly returns in respect of the assessment year, the employer must pay the difference.

Subclause (3) places an obligation on the Commissioner to carry out these reconciliations which are made at the end of each assessment year. This process is consistent with section 16(4) of the Taxation Administration Act which allows reassessment within 5 years. If an employer seeks to have that reassessment revisited, he must object or seek reassessment under section 16(2)(b) of the Taxation Administration Act. The decision of the Commissioner to



make a reassessment or not is then subject to section 16(6) of that Act.

### ***Division 3 - Group employers' liability***

#### **Clause 17: Annual tax liability – groups**

This clause sets out the method of calculating the annual tax liability for groups.

Subclause (1) provides that the tax liability for a group that is a group for the whole assessment year will be calculated in accordance with subclause (2). A group is a group for the whole assessment year where at all times throughout the year, at least one member of the group paid or was liable to pay, as a member of the group, WA taxable wages or interstate taxable wages. It is not necessary for any member to pay taxable wages or interstate taxable wages for the whole year.

Subclause (2) provides that to calculate the amount of pay-roll tax, the total of the WA taxable wages paid or payable by the group during the year is reduced by the allowable deduction for the group for the year and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 18(1).

Subclause (3) provides that the tax liability for a group that is a group for only part of an assessment year will be calculated in accordance with subclause (4). A group is a group for only part of an assessment year if, for part of an assessment year at least one member pays or is liable to pay WA taxable wages or interstate taxable wages as a member of the group, but for the remainder of the year there is no member of the group who pays or is liable to pay such wages.

Subclause (4) provides that to calculate the amount of pay-roll tax, the total of the WA taxable wages paid or payable by the group during the part-year is reduced by the allowable deduction for the part-year and the appropriate rate of pay-roll tax (calculated in accordance with the Pay-roll Tax Act) applied. The method of calculating the allowable deduction is explained in clause 18(2).

#### **Clause 18: Allowable deductions – groups**

This clause sets out the method of calculating allowable deductions for groups.

Subclause (1) shows the method of calculating the allowable deduction for an assessment year, where a group is a group for the whole assessment year. The calculation operates such that where the total of the group's WA taxable wages and interstate taxable wages exceeds the annual threshold amount specified

in clause 8, the threshold amount is to be reduced by \$1 for every \$3 by which total wages exceed the threshold amount and then reduced by the proportion that the WA taxable wages bears to the total of the WA taxable wages and interstate taxable wages. Through means of this taper, the allowable deduction is phased out when the total of the group's WA taxable wages and interstate taxable wages reach \$2,700,000 in an assessment year.

Subclause (2) shows the method of calculating the allowable deduction for part of an assessment year where a group is a group for that part only of the assessment year. This may occur where for part of the year, no member pays or is liable to pay any WA taxable wages or interstate taxable wages. The calculation is similar to the calculation in subclause (1), however, the formula used allows for the annual threshold amount to be reduced on the basis of the number of days in the part-year.

**Clause 19: Tax payable with monthly returns - groups**

This clause sets out the method for calculating the tax payable with monthly returns lodged by each group member.

Subclause (1) provides the method of calculation for all members other than the DGE. To calculate the amount of pay-roll tax payable, the appropriate rate of pay-roll tax is applied to the total of the WA taxable wages paid or payable by the member during the return period. The appropriate rate of pay-roll tax is set out in section 11 of the Pay-roll Tax Act and is the same rate for all members of the group, including the DGE.

Subclause (2) provides the method of calculation for the DGE. To calculate the amount of pay-roll tax payable, the total of the WA taxable wages paid or payable by the DGE during the return period is reduced by the nominated deduction for the return period and the appropriate rate of pay-roll tax applied. The method of nominating an allowable deduction is explained in the following subclauses. The appropriate rate of pay-roll tax is set out in section 11 of the Pay-roll Tax Act and is the same rate for all members of the group, including the DGE.

Subclause (3) allows the DGE to nominate an amount, or ask the Commissioner to nominate an amount, to be claimed by the DGE as the nominated deduction for the group for a return period. Because of the logistical problems that would be experienced by group members in performing the aggregation of wages each month in order to calculate the allowable deduction each month, this clause provides a simplified calculation process. The simplified process provides for the allowable deduction to be determined on the basis of an estimate of the wages expected to be paid in WA and throughout Australia during the year by all members of the group. This amount is to be claimed as the allowable deduction on each

return lodged by the DGE during the assessment year. At the end of the assessment year, when actual Australia wide wages are known, an adjustment is effected to reflect the allowable deduction based on actual wages paid.

Subclause (4) requires the DGE to provide details of the estimated wages upon which any nominated deduction under subclause (3) is based.

Subclause (5) is to allow the Commissioner to accept the amount nominated by the DGE, or nominate another amount instead. The Commissioner can also nominate an amount on his or her initiative.

Subclause (6) specifies that the nominated amount is to be based on estimates of WA taxable wages and interstate taxable wages likely to be paid or payable by the group during the assessment year. In general terms, the calculation methods outlined in clause 18 would be utilised but using estimated wages rather than actual wages. The allowable deduction for the year would then be divided by the number of months in the year, resulting in a nominated deduction for each monthly return period.

Subclause (7) requires the Commissioner to notify the DGE of any nomination or cancellation of a nomination.

Subclause (8) provides that where there is no nominated amount, the nominated deduction shall be nil.

Subclause (9) authorises the Commissioner to cancel any nomination that has been made. This could be necessary if circumstances alter for any reason, such as where additional members are added to the group.

## **Clause 20: Annual reconciliation – groups**

This clause provides for annual adjustments for groups. As the amount of pay-roll tax payable by a group is based on annual wage levels but in most cases is collected on a monthly basis, this clause requires the group to pay the shortfall between the aggregate of monthly remittances and the amount of pay-roll tax calculated on the basis of the completed year.

On the other hand, where the calculation for the entire year shows that the aggregate of monthly remittances by a group was greater than the amount calculated on the basis of the full year, the group is entitled to a refund or rebate of the difference.

Subclause (1) provides that where a group's pay-roll tax liability for an assessment year, calculated in accordance with clause 17, is less than the pay-roll tax actually paid by way of monthly returns in respect of the assessment year, the group is entitled to a refund or rebate of the difference.

Subclause (2) provides that where a group's pay-roll tax liability for an assessment year, calculated in accordance with clause 17, is more than the total of the pay-roll tax actually paid by way of monthly returns in respect of the assessment year, the members of the group must pay the difference.

Subclause (3) places an obligation on the Commissioner to carry out these reconciliations which are made at the end of each assessment year. This process is consistent with section 16(4) of the Taxation Administration Act which allows reassessment within 5 years. If an employer seeks to have that reassessment revisited, he must object or seek reassessment under section 16(2)(b) of the Taxation Administration Act. The decision of the Commissioner to make a reassessment or not is then subject to section 16(6) of that Act.

#### ***Division 4 - Assessment generally***

##### **Clause 21: Tax-reducing arrangements**

This clause addresses avoidance practices that enable the liability for pay-roll tax to be intentionally or unintentionally reduced or, in some cases, avoided. Such practices involve payments for services performed and rendered by natural persons being made over to a trust, partnership or company.

The arrangement involves the trust, partnership or company entering into an agreement with the employer to provide certain services. The natural person agrees to work for that trust, partnership or company in lieu of working for the employer.

Subclause (1) allows the Commissioner to disregard, for the purposes of the Act, any "tax-reducing arrangement" as defined in the Glossary, deem any party to the arrangement to be an employer and determine any payment under the arrangement to be wages for the purposes of the Act.

A "tax-reducing arrangement" means any arrangement, transaction or agreement, whether in writing or otherwise –

- (a) under which a natural person (the worker) carries out, for or on behalf of a second person, services for which any payment is made to a third person related or connected to the worker; and
- (b) which has the effect of reducing or avoiding the liability of any person to the assessment, imposition, or payment of pay-roll tax (whether or not that is the only effect of the agreement).

Subclause (2) provides that where the Commissioner makes a determination under subclause (1), he is required to serve notice to that effect on the person deemed to be the employer and give the reasons for making the determination.

**Clause 22: Adjustments for changes in annual threshold amount**

This clause empowers the Commissioner to make refunds or rebates to the extent of the additional amount any non-group employer or group finds it has to pay as a result of a change to the annual threshold amount during an assessment year. This is mainly to ensure that employers engaged in seasonal operations are not disadvantaged by the change in the law. This could occur if the threshold is decreased part way through an assessment year and a seasonal employer paid the bulk of the taxable wages during the period prior to the change occurring.

Subclause (1) provides that if the Commissioner is satisfied that a non-group employer or a group's tax liability would be more than \$10 less if the change of threshold had not occurred during the assessment year, he may refund or rebate the difference.

Subclause (2) allows either a non-group employer, or in the case of a group, the DGE of the group, to apply to the Commissioner for the rebate or refund.

Subclause (3) requires the application to be in the approved form and to be made before the end of the financial year following the assessment year.

Subclause (4) imposes an obligation upon the Commissioner to reassess the tax payable by the employer or the group when an application is received. It also allows the Commissioner to make the reassessment without an application from the employer or group.

**Clause 23: Taxable wages not paid throughout assessment year**

This clause applies only to non-group employers who pay WA taxable wages or interstate taxable wages for only part of an assessment year and allows the Commissioner to treat such employers as if they had been employers for the full assessment year in certain circumstances.

Subclause (1) provides that this section will apply where the Commissioner is satisfied that a non-group employer pays or is liable to pay WA taxable wages or interstate taxable wages for only part of an assessment year due to the nature of the employer's trade or business. In making the determination, the Commissioner is to consider whether the nature of the employer's business is such that the liability to pay wages fluctuates with different periods of the assessment year. This would apply in seasonal businesses such as shearing.

Subclause (2) provides that if the employer has conducted the trade or business in Australia during the whole assessment year, notwithstanding that wages have not been paid or payable during the whole year, the employer's pay-roll tax liability is to be assessed as if the employer had been an employer for the whole

year. The effect of this subclause is that the employer would obtain the benefit of the full threshold for the year, rather than an amount based on the proportion of the year during which wages were paid or payable. Similarly, the rate of tax would be calculated as if the employer was an employer for the whole year.

Subclause (3) provides that if the employer has conducted the trade or business in Australia during only part of an assessment year, the employer's pay-roll tax liability is to be assessed as if the employer had been an employer only during that part-year.

### **PART 3 - REGISTRATION AND RETURNS**

#### **Clause 24: Applications for registration as an employer**

This clause sets out the registration requirements for pay-roll tax.

Subclause (1) refers to a non-group employer and requires the employer to apply for registration where in any month the employer pays or is liable to pay WA taxable wages, and the total wages paid or liable to be paid by that employer during the month (both WA and interstate taxable wages) exceeds the monthly threshold amount specified in clause 8.

An employer failing to meet the requirement under subclause (1) commits an offence for which a penalty of up to \$20,000 may be imposed.

Subclause (2) refers to an employer who is a member of a group and requires the employer to apply for registration where, during the month, the employer pays or is liable to pay any WA taxable wages.

An employer failing to meet the requirement under subclause (2) commits an offence for which a penalty of \$20,000 may be imposed.

Subclause (3) applies to situations where a non-group employer was previously registered but the registration has been cancelled during the assessment year. This subclause allows the employer to apply for registration where he pays or is liable to pay WA taxable wages in a later month of the assessment year, even where those wages do not exceed the monthly threshold amount specified in clause 8.

Subclause (4) requires an application under the previous three subclauses to be made in the approved form.

Subclause (5) requires an application under subclause (1) or (2) to be made to the Commissioner within 7 days after the end of the month.

#### **Clause 25: Registration and cancellation of registration**

This clause provides for registration and cancellation of registration.

Subclause (1) provides that where an application is made under clause 24, the Commissioner must register the applicant as an employer if it appears that the employer is, or is likely to become, liable to pay pay-roll tax. Circumstances where the Commissioner may decide not to register an employer may arise where a member of a group applies for registration and the total group wages fall well below the liability threshold.

Subclause (2) allows the Commissioner to cancel the registration of a person as an employer in certain circumstances.

Paragraph (a) allows the Commissioner to cancel the registration of a non-group employer where the employer's total of WA taxable wages and interstate taxable wages does not exceed the monthly threshold amount specified in clause 8.

Paragraph (b) allows the Commissioner to cancel the registration of a group member where the person ceases to be a member of a group and the employer's total of WA taxable wages and interstate taxable wages does not exceed the monthly threshold amount specified in clause 8.

#### **Clause 26: Monthly returns**

Subclause (1) provides that an employer who is registered or required to be registered, must lodge a return each month specifying the WA taxable wages that the employer paid or was liable to pay during that month. This clause does not apply to an employer who has been exempted from lodging monthly returns under clause 29.

Subclause (2) requires that a monthly return must be in the approved form and be lodged within 7 days after the end of the month, or within any other period that the Commissioner directs.

An employer who fails to comply with the requirements of this subclause commits an offence for which a penalty of up to \$5,000 may be imposed.

#### **Clause 27: Additional returns for reconciliation purposes**

Where a determination is in force under clause 9 for an interstate non-group employer or the members of a group, a lesser than the maximum rate of tax is paid with monthly returns. This lesser rate of tax is determined on the basis of estimated wages supplied by the employers involved. At the end of the assessment year, once actual wages paid or payable during the year are known, an adjustment is made so that the correct pay-roll tax liability has been calculated.

Subclause (1) applies to an employer who has been authorised by a determination under clause 9 to pay a rate of tax less than

the maximum during the assessment year. This subclause requires the employer, or the DGE of a group, to lodge an additional return for the year specifying the amount of interstate taxable wages paid or payable by the employer, or each member of the group, for the whole assessment year.

Subclause (2) requires that the return must be in the approved form and contain any information required by the Commissioner. The information required would include details of interstate taxable wages paid by the employer or all members of a group. The return is required to be lodged within 2 months after the end of the assessment year or such further time as the Commissioner may allow.

Failure to comply with the requirements of this clause is an offence for which a penalty of up to \$5,000 may be imposed.

#### **Clause 28: Further returns**

Subclause (1) allows the Commissioner to seek a return where none has been lodged, or to seek a further or fuller return. The Commissioner may seek the return from any person.

Subclause (2) provides that the person must lodge the return in accordance with any requirements set out in the notice and it must be lodged within the time specified in the notice.

Failure to comply with the requirements of this subclause is an offence for which a penalty of up to \$5,000 may be imposed.

#### **Clause 29: Exemptions from lodging monthly returns**

This clause provides for a variation to the requirement to lodge monthly returns.

Subclause (1) allows an employer to apply for exemption from lodging monthly returns for an assessment year.

Subclause (2) authorises the Commissioner to exempt an employer from the requirement to lodge monthly returns in circumstances where:

- he is satisfied that it would be unduly onerous; or
- he is of the opinion that the employer will not have a tax liability for the year.

Subclause (3) authorises the Commissioner to provide the exemption on receiving an application or on his own initiative.

Subclause (4) provides that the exemption is subject to any prescribed conditions and to any conditions specified in the notice.

Subclause (5) provides that the exemption continues in force until it is revoked.



Subclause (6) allows the Commissioner to revoke an exemption at any time by giving notice of the revocation to the employer.

Subclause (7) makes it clear that an exemption from lodging monthly returns does not exempt an employer from the payment of tax, even though it may postpone the date for payment.

Subclause (8) requires an employer who has been exempted from lodging monthly returns to lodge an annual return within 21 days after the end of the assessment year or as specified in the notice of exemption.

Failure to comply with the requirements of this subclause is an offence for which a penalty of up to \$5,000 may be imposed.

Subclause (9) specifies that an annual return must be in the approved form and specify the WA taxable wages and interstate taxable wages that the employer paid or became liable to pay during the assessment year.

Failure to comply with the requirements of this subclause is an offence for which a penalty of up to \$5,000 may be imposed.

#### **PART 4 – CONSTITUTION OF BUSINESS GROUPS**

##### **Clause 30: Grouping corporations**

This clause provides that two corporations constitute a group if they are related to each other within the meaning of section 50 of the Corporations Act. For example, a subsidiary company would constitute a group with the holding company.

##### **Clause 31: Grouping where employees used in another business**

This clause deals with grouping where employees of a business are used in another business and empowers the Commissioner to group the businesses concerned.

Subclause (1) covers the situation where an employee of an employer performs duties solely or mainly in connection with a business carried on by the employer and another person, or only by the other person. In such circumstances, the employer and the other person would constitute a group.

Subclause (2) covers the situation where an employer has an agreement, arrangement or undertaking with another person, relating to a business carried on by that other person and the agreement relates to the employment of, or the performance of duties by, one or more of the employer's employees.

Subclause (3) clarifies that the agreement, arrangement or undertaking referred to in subclause (2) may be formal or informal, express or implied and may include provisions in respect of the supply of goods or services.

Subclause (4) provides the Commissioner with a discretionary power to exclude a person who carries on a business from a group. In exercising that discretion, the Commissioner must be satisfied, having regard to the nature and degree of the duties referred to in subclauses (1) and (2) and to any other matters he considers relevant, that it would not be just and reasonable to include the person as a member of the group.

**Clause 32: Grouping commonly controlled businesses**

This clause operates to group two businesses where the same person has, or the same persons together have a controlling interest, in two businesses.

Subclause (1) ensures that this clause does not operate to group two businesses that are owned by the same person as they should already be submitting one return under one registration.

Subclause (2) provides that where a person has, or the same persons together have a controlling interest in each of two businesses, then the persons who carry on those businesses constitute a group.

Subclause (3) allows the Commissioner to exclude a member from a group, where the member is included because of a controlling interest held by a beneficiary or beneficiaries under a discretionary trust. In making the exclusion, the Commissioner is required to be satisfied that the group member's business is carried on substantially independently of the business carried on by any other member of the group and that it is just and reasonable to exclude the member from the group. In making the determination, the Commissioner is to take into account the matters set out in subclause (4).

Subclause (4) sets out the matters to be taken into account by the Commissioner in deciding whether to provide the exclusion. These matters are the nature and degree of ownership and control of the businesses, the nature of the businesses, and any other matter that the Commissioner considers relevant.

**Clause 33: Controlling interest in business**

This clause sets out the circumstances where a person, or persons together, are considered to have a controlling interest in a business for the purposes of the grouping provisions of the Act.

Subclause (1) deals with a business owned by a corporation and looks at how the voting power is able to be exercised at meetings of the directors. Where a director or directors are entitled to exercise a majority in voting power at meetings of the directors, and that director or those directors are under an obligation to act in accordance with the wishes of a person or persons acting together, that person or persons together have a controlling interest in the business carried on by the corporation.

Subclause (2) again deals with a business owned by a corporation. Where a person, or persons acting together, may exercise or substantially influence the exercise of more than 50% of the voting power attached to the voting shares of a corporation, that person has, or those persons together have, a controlling interest in the business carried on by the corporation.

Subclause (3) deals with controlling interests in partnerships. The test is to own or control (whether beneficially or not) more than 50% of the capital or be entitled (whether beneficially or not) to receive more than 50% of the profits of the partnership. If a person, or persons together, meet either one of these tests, that person, or persons together, have a controlling interest in the business carried on by the partnership.

Subclause (4) deals with businesses owned by trusts. Where a beneficiary under a trust has, or beneficiaries under a trust together have, a beneficial interest of more than 50% of the value of the interests in the trusts, the beneficiary has, or beneficiaries together have, a controlling interest in a business carried on under the trust.

It should be noted that a beneficiary under a discretionary trust is deemed to be a beneficiary in respect of more than a 50% interest in that trust under clause 34.

Subclause (5) deals with a situation where a person is the sole owner of a business and provides that the person has a controlling interest in the business whether or not that person is the trustee of a trust.

Subclause (6) deals with a situation where two or more trustees of a trust are the owners of a business and provides that they have a controlling interest in the business.

Subclause (7) provides that where a corporation has a controlling interest in a business, it also has a controlling interest in any other business in which a related corporation has a controlling interest. Related corporation is defined in the Glossary in the Bill.

Subclause (8) provides that where a person, or persons together, have a controlling interest in a business, that person or persons are deemed to have a controlling interest in any other business in which the person or persons conducting the first-mentioned business have a controlling interest.

Subclause (9) deems a beneficiary or beneficiaries in respect of more than 50% of the value of the interests under a trust, to have a controlling interest in a business where the trustee or trustees of the trust have a controlling interest in the business.

#### **Clause 34: Value of beneficial interest in discretionary trusts**

Subclause (1) provides that, with respect to a discretionary trust, a person or persons who may benefit from the trust is or are deemed to be the beneficiary of more than 50% of the value of the interests in that trust.

Subclause (2) provides that two or more persons who may benefit under a discretionary trust are taken to be beneficiaries of the trust who together have a beneficial interest in respect of more than 50% of the value of the interests in the trust.

**Clause 35: Grouping head and branch businesses**

This clause covers the grouping of head and branch businesses.

Subclause (1) provides that two businesses constitute a group where one of the businesses is a branch, agency or a subsidiary of a head or parent business and the head or parent business exercises managerial control over the branch, agency or subsidiary. Managerial control may be administrative, financial or procedural.

Subclause (2) provides the Commissioner with the discretion to exclude a business from a group constituted under subclause (1) where he is satisfied that it would not be just and reasonable to include a branch business in a group with the head or parent business. When considering exclusion, the Commissioner must have regard to the nature and degree of managerial control exercised by the head or parent business and to any other matters that he considers relevant.

**Clause 36: Smaller groups subsumed into larger groups**

Subclause (1) provides that where a person is a member of two or more groups, each referred to as a "smaller group", all the members of those groups together constitute one group.

Subclause (2) provides that where the members of a group, referred to as a smaller group, have together a controlling interest in a business, the members of the group and the persons who carry on the business together constitute one group.

Subclause (3) provides that once it has been determined that two or more groups will be merged into a larger group, the smaller groups cease to exist.

**Clause 37: Grouping provisions operate independently**

This clause provides that the grouping provisions are to operate independently of one another.

**Clause 38: Exclusion from groups**

This clause sets out the procedure for excluding a person from a group.

Subclause (1) provides that the Commissioner may exclude a person from a group under clause 31(4) (grouping where employees used in another business), clause 32(3) (grouping where a beneficiary of a trust has a controlling interest) and clause 35(2) (grouping of head and branch businesses). The Commissioner may grant the exclusion on receiving an application from the person or on his own initiative.

Subclause (2) prevents the use of the Commissioner's discretion to exclude a corporation from a group where it is related to another corporation in the group within the meaning of section 50 of the Corporations Act.

Subclause (3) provides that an application must include the grounds upon which it is made and explain the reasons for the existence of those grounds.

Subclause (4) provides that an exclusion shall operate from a date specified in the notice of exclusion and continues in force until it is revoked.

Subclause (5) allows for an exclusion to have retrospective application.

Subclause (6) provides the Commissioner with the authority to revoke an exclusion at any time by giving notice to the person or persons excluded from the group.

Subclause (7) imposes an obligation upon a person who has been excluded from a group to notify the Commissioner if the circumstances made known to the Commissioner before the notice was given have changed in any material respect.

### **Clause 39: Designated group employer**

This clause deals with the designation of a member of a group to be known as the designated group employer (DGE).

Subclause (1) allows the members of a group to designate a particular member of that group to be the DGE for the purposes of a pay-roll tax Act.

Subclause (2) requires the designation to be in an approved form, signed by or on behalf of each member of the group and served on the Commissioner.

Subclause (3) allows the Commissioner to designate a member to be the DGE where the members have failed to make a designation under subclause (1).

Subclause (4) provides that the Commissioner will notify the DGE after he has made the designation and will serve notice on the member so designated.

Subclause (5) provides that the DGE will cease to be so designated where that employer is no longer a member of the

group or where the designation is revoked. The designation will cease on the first day of the return period during which either circumstance occurs.

Subclause (6) allows the members of a group to revoke a designation by giving the Commissioner notice in the approved form.

Subclause (7) provides that the members of a group may only revoke a designation if they make another designation under subclause (1), or the Commissioner consents to the revocation.

Subclause (8) permits the Commissioner to revoke a designation made by the Commissioner. The revocation is made by giving written notice of the revocation to the member.

## **PART 5 - MISCELLANEOUS**

### **Clause 40: Exempt wages**

This clause provides for the exemption of certain wages and benefits from pay-roll tax.

Subclause (1) exempts wages of a kind listed in subclause (2), wages that are exempt under subclause (3) and wages prescribed under subclause (4).

Paragraph (d) exempts specified exempt allowances which is defined in the glossary to mean an allowance prescribed under section 45(2)(c). It is intended to prescribe motor vehicle allowances and accommodation allowances up to a prescribed limit.

Paragraph (e) provides that a benefit that is an exempt benefit under the FBTA Act is not to be treated as wages for the purpose of pay-roll tax unless it is a specified taxable benefit or a benefit to which section 58W of that Act applies.

Section 58W of the FBTA Act exempts deposits made under the Small Superannuation Accounts Act 1995 of the Commonwealth. These deposits are liable to pay-roll tax under paragraph (d) of the definition of "wages" in clause 2(1) of the Glossary as a superannuation benefit.

Subclause (2) specifies that the following wages are exempt for the purposes of subclause (1)(a) –

Paragraph (a) exempts wages paid or payable by the Governor of any State.

Paragraph (b) exempts wages paid or payable by a religious institution for time when the employee is engaged in the religious work of the institution.

Paragraph (c) exempts wages paid or payable by a public benevolent institution for time when the employee is engaged in work of a public benevolent nature.

Paragraph (d) exempts wages paid or payable by a public hospital for time when the employee is engaged in work of a kind ordinarily performed in connection with the conduct of public hospitals.

Paragraph (e) exempts wages paid or payable by a hospital carried on by a non-profit organisation, for time when the employee is engaged in work of a kind ordinarily performed in connection with the conduct of hospitals. A "non-profit organisation" is defined in the Glossary to be a body corporate, society or association formed otherwise than for the purpose of profit or gain to individual members of the body, society or association.

Paragraph (f) exempts wages paid or payable by a school or college, (other than a college under the Vocational Education and Training Act 1996), carried on by a non-profit organisation (as defined in the Glossary). The college must provide education at or below the secondary level of education. The wages are only exempt where paid or payable for time when the employee is engaged in work of a kind ordinarily performed in connection with the conduct of such schools or colleges.

Paragraph (g) exempts wages paid or payable by a local government, a regional local government or one of the associations constituted under section 9.58 of the Local Government Act 1995.

Paragraph (h) exempts wages paid by a consular or other representative (other than a diplomatic representative) in Australia, of the government of another country, to members of his or her official staff.

Paragraph (i) exempts wages paid by a Trade Commissioner representing in Australia, the government of a country of the British Commonwealth of Nations, to members of his or her official staff.

Paragraph (j) exempts wages paid by the Commonwealth War Graves Commission.

Paragraph (k) exempts wages paid by the Australian-American Educational Foundation.

Paragraph (l) exempts wages paid to a person who is on leave from employment with that employer because he/she is a member of the Defence Force or of the armed force of a country that is a member of the British Commonwealth of Nations.

Paragraph (m) exempts wages paid by an employer to a probationer or an apprentice, within the meaning of those terms in the Industrial Training Act 1975.

Paragraph (n) exempts wages paid by a charitable body that is exempt under clause 41. Wages are only exempt where they are paid for time when the employee is engaged in work of the kind ordinarily performed in connection with a charitable purpose for which the body is established or carried on.

Paragraph (o) exempts wages paid to a trainee employed under a training agreement as part of the Australian Traineeship System established by the Commonwealth and the State.

Paragraph (p) exempts wages paid to a trainee employed under a traineeship or training scheme recognized by the Minister responsible for the Industrial Training Act 1975.

Paragraph (q) exempts wages paid out of the Consolidated Fund, where the department or organisation has been prescribed for the purposes of this paragraph.

Paragraph (r) exempts certain wages that have been prescribed for the purposes of this paragraph where they are paid to a person for services carried out by the person at a remote location.

Subclause (3) provides an exemption after six months, where wages are paid to a person in Western Australia in respect of services performed wholly in another country for a continuous period exceeding six months. The wages for the first six months remain subject to pay-roll tax. It should be noted that the exemption only applies in respect of wages paid to an employee performing services in another country. The exemption is not available in respect of services outside of Australia but not within another country.

Subclause (4) provides a mechanism to eliminate double taxation implications. Situations may arise where contributions to a fund are subject to pay-roll tax as specified taxable benefits eg. contributions to a portable long service leave fund are liable to pay-roll tax when they are paid or payable to the fund. In the circumstances where an employer pays the employee's long service leave wages directly, those wages will be exempt from pay-roll tax to the extent of the amount that the employer is entitled to recover from the fund.

Subclause (5) provides that the Minister responsible for the Industrial Training Act 1975, as referred to in subsection (2)(p), may notify the Commissioner that an agreement referred to in that subsection has been terminated during a period specified in the notice. This subclause allows the Commissioner to determine



that the exemption will not apply to wages paid or payable by the employer to the trainee during that period.

**Clause 41: Exempting charitable bodies or organisations**

This clause outlines the procedure for exempting a charitable body or organisation from pay-roll tax.

Subclause (1) provides that a charitable body or organisation may apply to the Commissioner for exemption from liability to pay-roll tax.

Subclause (2) allows the Commissioner to exempt the body or organisation. The Commissioner is required to give notice of the exemption to the body or organisation.

Subclause (3) provides that an exemption is subject to any conditions specified in the notice.

Subclause (4) provides for the exemption to come into operation on a date specified in the notice. The date specified can be the date that the notice is given or an earlier or later date.

Subclause (5) provides that the Commissioner's decision as to the date upon which the exemption comes into operation is a non-reviewable decision not subject to objection and appeal.

Subclause (6) specifies that the exemption continues in force until it is revoked.

Subclause (7) allows the Commissioner to amend or revoke the exemption and any condition to which it is subject. This is achieved by the Commissioner giving further notice to the charitable body or organisation.

**Clause 42: Tax payable when employer leaves Australia**

Subclause (1) provides that where the Commissioner has reason to believe that an employer may leave Australia before any taxes becomes due and payable by the employer, the Commissioner may serve notice on the employer specifying an earlier date on which the tax is due and payable.

Subclause (2) defines "taxes" for the purposes of this clause. Taxes means pay-roll tax, or any penalties, interest or other amount payable under a pay-roll tax Act in connection with pay-roll tax.

**Clause 43: Agents and trustees**

This clause sets out the obligations of agents and trustees

Subclause (1) provides that an agent or trustee has all the obligations of an employer under a pay-roll tax Act in respect of the payment of any WA taxable wages.

Subclause (2) provides that an agent or trustee is required to lodge returns as required and is chargeable with any tax payable on the wages. However, the agent or trustee is liable only in the capacity of agent or trustee and each return is separate and distinct from any other.

Subclause (3) provides that in circumstances where the agent or trustee is an executor or administrator, the returns lodged by them are to be the same as the deceased person, if living, would have been liable to make.

Subclause (4) authorises an agent or trustee to recover any amount of tax paid for the principal or beneficiary from the person for whom it was paid. Alternatively, the agent or trustee may deduct it from any money belonging to that person that is in the hands of the agent or trustee.

Subclause (5) requires an agent or trustee to retain sufficient money from money received in his representative capacity to pay the pay-roll tax.

Subclause (6) makes an agent or trustee personally liable for the pay-roll tax in certain circumstances. This will occur where the agent or trustee is required to make a return, or tax remains outstanding and the agent or trustee has disposed of money, without the permission of the Commissioner, from which the tax could legally be paid.

Subclause (7) indemnifies an agent or trustee for all payments that are made in accordance with a pay-roll tax Act or a requirement of the Commissioner.

Subclause (8) provides that the Commissioner has the same remedies against attachable property vested in or under the

control of the agent or trustee as he would have against the property of another person in respect of taxes.

Subclause (9) provides that the Commissioner may declare a person to be an agent of any other person for the purposes of the Pay-roll Tax Assessment Act, by giving notice to the person.

Subclause (10) ensures that nothing in this clause affects the operation of any parts of the Act dealing with groups.

Subclause (11) defines "taxes" for the purposes of this clause. Taxes means pay-roll tax, or any penalties, interest or other amount payable under a pay-roll tax Act in connection with pay-roll tax.

#### **Clause 44: Keeping books and accounts**

This clause sets out an employer's obligation to keep records.

Subclause (1) requires an employer to keep any records that are prescribed in the regulations for the purposes of the section and any other records necessary for the Commissioner to determine an employer's liability to pay tax.

Failure to comply with the requirements of this subclause is an offence for which a penalty of up to \$20,000 may be imposed.

Subclause (2) places an obligation on the employer to retain the records for at least 5 years, or any greater period prescribed in the regulations, after completion of the transactions to which they relate. This requirement is despite section 79 of the Taxation Administration Act 2001 which sets out how long records are to be kept.

Failure to comply with the requirements of this subclause is an offence for which a penalty of up to \$20,000 may be imposed.

#### **Clause 45: Regulations**

This clause provides for the making of regulations.

Subclause (1) provides for the Governor to make regulations regarding all matters that are required, permitted, necessary, or convenient for the purposes of the Act.

Subclause (2) lists specific circumstances where regulations may be made, however, this list in no way limits the application of subclause (1).

Subclause (3) provides that the regulations may create offences and provides for the imposition of a penalty of up to \$5,000 for such an offence.

### **GLOSSARY**

#### **Clause 1: Definitions**

This clause provides the meanings of a number of terms used in the Act. The defined terms are listed below. Notes on the meanings of some terms have not been included on the basis that the terms themselves are self explanatory.

**"actuary"** means a Fellow or an Accredited Member of the Institute of Actuaries of Australia;

**"allowable deduction"** is the amount calculated in accordance with clauses 18, 14 and 12. It is that part of the tax threshold amount to which the employer or group is entitled to deduct from WA taxable wages;

**"business"** is defined for the purposes of Part 4 only and has a broad interpretation covering a trade, profession or other activity carried on for fee, gain or reward. It also extends to an activity carried on by an employer, of employing one or more persons who perform duties for or in connection with another business;

**"charitable body or organisation"** means an organisation established or carried on solely for charitable purposes.

Organisations specifically excluded from the definition are those whose sole or principal purpose is to provide tertiary education, or colleges and other vocational, educational and training institutions under the *Vocational Education and Training Act 1996*;

**"corresponding law"** is defined to facilitate reference to State laws relating to the imposition, assessment and collection of pay-roll tax;

**"defined superannuation benefit"** is a benefit that is defined by reference to either or both of the amount of an employee's salary whether at a particular date or averaged over a period of the employee's employment, and a stated amount;

**"employer"** is defined as any person who pays or is liable to pay any wages for the purposes of this Act. The definition specifically includes the Crown in right of the State and also an employment agent as defined in this Act;

**"employment agent"** means a person who, after arranging to procure a worker for a client, actually pays, directly or indirectly, that worker (or some other person) for "employee" type services rendered by that worker to the client even though by the arrangement, the worker does not become an employee of either the agent or the client;

**"FBTA Act"** means the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth. The abridged definition of that Act removes the necessity to recite in full the reference to that Act where it appears in the legislation;

**“fringe benefit”** means any benefit which is a fringe benefit under the FBT Act except a benefit prescribed not to be a fringe benefit for the purposes of the definition. It is intended that a living-away-from-home allowance be prescribed. It should be noted that the exclusion of living-away-from-home allowances from fringe benefits does not remove such allowances from the base but clarifies that such payments are “allowances” for the purposes of the definition of “wages” in the Act.

**“provide”** has the same meaning as it has in the Fringe Benefits Tax Assessment Act of the Commonwealth and means:

- in relation to a benefit - includes allow, confer, give, grant or perform; and
- in relation to property - means dispose of (whether by sale, gift, declaration of trust or otherwise):
  - if the property is a beneficial interest in property but does not include legal ownership - beneficial interest; or
  - in any other case - the legal ownership of the property;

**“remote location”** has a meaning consistent with that contained in the Commonwealth’s *Fringe Benefits Tax Assessment Act* and includes all areas outside of a 100 kilometre radius of Perth and a 40 kilometre radius of Rockingham, Bunbury, Geraldton and Albany.

**“specified exempt allowance”** means an allowance prescribed under section 45(2)(c). Consistent with the Pay-roll Tax Assessment Regulations 1971, it is intended to prescribe motor vehicle allowances and accommodation allowances up to a prescribed limit.

**“specified taxable benefit”** means a benefit prescribed under section 45(2)(b). Consistent with the Pay-roll Tax Assessment Regulations 1971, it is intended to prescribe:

- contributions to a scheme that operates to provide redundancy benefits for persons working within an industry;
- contributions to a fund established to provide portable paid long service leave; and
- contributions to an employee share acquisition scheme.

## **Clause 2: Wages – meaning**

Subclause (1) defines “wages” for pay-roll tax purposes.

Paragraph (a) includes wages, salary, commission, bonuses or allowances paid or payable to an employee, whether paid or payable at piece work rates or otherwise, and whether paid or payable in cash or in kind. It also includes such amounts paid or payable in relation to an employee to ensure that such

payments will be wages for the purposes of the Act even though they may be made to a person other than the employee, if the payment can be seen to be in relation to an employee.

Paragraph (b) ensures that the types of wages identified in paragraph (a) are included where they are paid or payable to or in relation to an employee by a third party under an arrangement with the employer.

Paragraph (c) includes an amount paid or payable by way of remuneration to a person holding office under, or in the service of, the Crown in right of the State of Western Australia.

Paragraph (d) includes the amount of any superannuation benefit that is taken to be paid by the employer.

Paragraph (e) includes an amount paid or payable under a prescribed class of contract that is attributable to labour. Only one class of contract in relation to the ship and boat building industry is currently prescribed in the Pay-roll Tax Assessment Regulations 1971 for the purposes of this provision.

Paragraph (f) includes any amount paid or payable by a company by way of remuneration to or in relation to a director or member of the governing body of the company.

Paragraph (g) includes an amount paid or payable by way of commission to an insurance or time-payment canvasser or collector.

Paragraph (h) includes any amount paid or payable by an employment agent, either directly or indirectly, to a person engaged to perform services for a client of that agent, or to some other person in respect of those services, if the employment agent receives a lump sum or ongoing fee during or in respect of the period the services are provided to the client.

Paragraph (i) includes the value of a fringe benefit or specified taxable benefit that is provided to or in relation to an employee.

Three types of specified taxable benefits are currently prescribed in the Pay-roll Tax Assessment Regulations 1971. These benefits are contributions to:

- an industry redundancy fund;
- a portable long service leave fund; and
- an employee share acquisition scheme.

Subclause (2) provides that wages, salary, commission, bonuses or allowances referred to in paragraph (1)(b) are taken to be paid or payable by the employer for the purposes of a pay-roll tax Act.

### **Clause 3: GST excluded from wages**

This clause clarifies how the pay-roll tax base is to be adjusted in cases where the person receiving wages (as defined in the Act) is also required to pay GST.

Subclause (1) provides that the amount or value of wages shall be reduced in such a case by the relevant proportion (if any) of the amount of GST payable by that person on the supply to which the wages relate.

Subclause (2) provides definitions relevant to the operation of the clause.

#### **Clause 4: Place of payment of wages**

Subclause (1) deals with wages that although payable have not been paid, other than those wages that under the terms of employment are payable in Western Australia or another State.

If the wages are not payable for services carried out wholly in Western Australia or wholly in one other State, the wages are taken to be payable to the person in Western Australia if the wages last paid or payable to the person were required to be included in a return in Western Australia.

Where the wages are not taken to be payable in Western Australia or in another State under a corresponding law of another State, the wages are taken to be payable at the place where the person last carried out any services for the employer before the wages became payable.

Subclause (2) fixes the time and place of payment for the purposes of the Act where wages are paid other than in cash. It provides that where wages are paid by sending or giving a cheque, bill of exchange, promissory note, money order or postal order or any other instrument to a person or his agent, those wages shall be deemed to have been paid at the time the instrument was sent or given and at the place to which the instrument was addressed or at which it was given to that person or his agent.

#### **Clause 5: Provider of fringe benefits or specified taxable benefits**

This clause sets out the basis upon which fringe benefits and specified taxable benefits provided to or in relation to an employee are subject to pay-roll tax.

The pay-roll tax scheme is based on the concept of wages being paid or payable to an employee. As many fringe benefits are conferred upon an employee rather than being paid or payable, the broad meaning of "provide" as defined in the FBTA Act has been adopted to ensure that all fringe benefits provided to or in relation to an employee fall within the definition of wages.

The same concept has been adopted for "specified taxable benefits" to cover all means by which an employer can confer a benefit upon an employee.

Subclause (1) deems fringe benefits that are provided or liable to be provided by a person other than the employer as having been provided by the employer.

Under the fringe benefits tax legislation, a fringe benefit includes any benefit provided to or in relation to an employee, in respect of the employment of that employee, whether provided by the employer, an associate of an employer or a third party arranger. As these "third party" provisions are included in the concept of a "fringe benefit" under the FBTA Act, they are not repeated in subclause (1).

As the liability for pay-roll tax is based on wages paid or payable by an employer, it is necessary to deem these benefits to have been provided by the employer to ensure that they are subject to pay-roll tax.

Subclause (2) is similar in its operation to subclause (1) but relates to "specified taxable benefits". In this case, "specified taxable benefits" provided, or liable to be provided, to or in relation to an employee by a person on behalf of an employer are deemed to have been provided by the employer. As the FBTA Act "third party" provisions are not applicable to specified taxable benefits, third party provisions are included in this subclause.



**Clause 6: Value of wages paid in kind and other benefits**

Subclause (1) provides a mechanism for valuing wages that are paid or payable in kind, other than fringe benefits or specified taxable benefits.

The value is the amount that can be ascertained from arrangements between the employer and the employee, or the value determined under the regulations, whichever is the greater.

Subclause (2) provides the valuation mechanism for a specified taxable benefit. The value of a specified taxable benefit is determined under a valuation mechanism to be set out in the regulations.

**Clause 7: The value of fringe benefits**

Subclause (1) specifies that the value of a fringe benefit is the grossed-up value of the fringe benefit calculated in accordance with subclause (2) unless a method of determining the value has been prescribed.

Subclause (2) provides the method for calculating the grossed-up value of a fringe benefit. The grossed-up value is worked out by multiplying the employee's share of the taxable value of the fringe benefit by the appropriate gross-up factor.

The employee's share of the taxable value of the fringe benefit is the taxable value under the FBTA Act if the benefit is a work-related benefit. If the benefit is not a work-related benefit, the value is the value under the FBTA Act without any regard to any reduction of the taxable value under that Act because of the "otherwise deductible" rule.

The appropriate gross-up factor depends on whether or not the fringe benefit is a GST-creditable benefit within the meaning of the FBTA Act. Currently, the gross-up factor of a GST-creditable benefit is 2.1292 and for a non GST-creditable benefit is 1.9417.

Subclause (3) explains the meaning of the "otherwise deductible" rule as that term is used in subclause (2). Although the "otherwise deductible" rule is not defined in the FBTA Act, it is applied in circumstances where, had the employee borne the costs of providing the benefit, he would have been entitled to claim a once only deduction under the *Income Tax Assessment Act* in respect of that expense.

In the FBTA Act, the rule operates to reduce the taxable value of the benefit provided to an employee to the extent of the income tax deduction that the employee would have otherwise been entitled to claim.

The purpose of disregarding the application of this rule when valuing non-work related fringe benefits is to ensure the integrity of the pay-roll tax scheme.

**Clause 8: Superannuation benefits**

Subclause (1) provides that a contribution paid or payable by an employer in respect of a person to a superannuation fund is deemed to be a superannuation benefit paid by the employer in relation to the person when and where the contribution is paid or payable.

Subclause (2) uses the principles in clause 4 for determining where a contribution is paid or payable.

In particular, clause 4 deals with where a contribution is payable when no payment is made and no award or other agreement makes it payable in a particular State.

**Clause 9: Superannuation fund contributions**

Subclause (1) deems the setting aside of money or anything worth money as a superannuation fund, to be contributing to a superannuation fund.

Subclause (2) deals with contributions in kind and makes clause 6 apply for valuing any contribution in kind.

Subclause (3) requires administration and other charges paid in respect of the carrying on of a superannuation fund to be considered as a superannuation contribution.

Subclause (4) allows subclauses (1), (2) and (3) to apply if an obligation exists but is not fulfilled. An example is where a contractual obligation exists for an employer to contribute a non-monetary asset to a fund but the employer does not contribute.

Subclause (5) deals with the circumstance of superannuation contributions being paid or are payable on behalf of an employer by a third party. In such an instance, the contributions paid or payable are to be regarded as being paid or payable by the employer.

Subclause (6) requires contributions to a superannuation fund that are taken by different provisions of the Act to be paid or payable by an employer to be cumulative unless otherwise provided.

**Clause 10: Contributions to defined superannuation benefit schemes**

This clause provides specific treatment for determining contributions for Australian superannuation schemes that are either not regulated or are unfunded public sector schemes (whether or not they are regulated) where the scheme provides a defined benefit. This clause also applies to schemes which

provide both a defined benefit and any other benefit that is not a defined benefit.

Subclause (1) provides the circumstances to which the clause is to apply.

Subclause (2) deems a notional contribution to be payable in a return period.

Subclause (3) requires the notional contribution to be worked out by an actuary and provides the principle on which it is worked out.

This principle requires that the amount is sufficient, together with earnings, to provide for the cost to the employer of the entitlement accruing in respect of services performed or rendered in the return period. This principle assumes that a fund to which this clause relates is fully funded. As such, it is irrelevant whether a fund is in surplus or deficit.

Subclause (4) provides that the regulations can include guidance on how an actuary is to determine the amount under subclause (3).

Subclause (5) avoids a double imposition of pay-roll tax that could occur if notional contributions and other contributions were each taken into account.

However, subclause (5) does not apply to:

- a superannuation guarantee shortfall; or
- a payment made for any reason other than to make provision for the cost described in subclause (3).

#### **Clause 11: Unfunded credit to certain unregulated schemes**

This clause provides a specific treatment for unregulated Australian superannuation schemes that do not provide a defined benefit.

Subclause (1) provides that this clause is to apply where the account is credited in a return period.

Subclause (2) applies in the circumstance that an employer has an obligation to credit an account in a superannuation scheme but does not. Where such an obligation exists, the employer is deemed to have made the credit. As an example, if an employment contract or award outlined an amount to be credited to an in-house unregulated accumulation fund, and the transaction is not performed, this subclause deems the crediting to have occurred on the basis of the obligation.

Subclause (3) excludes credits that merely reflect another contribution taken into account by other provisions.

Subclause (4) deems the amount of the credit to be a contribution which is payable by the employer to the superannuation fund concerned in the return period.

Subclause (5) avoids a double imposition of pay-roll tax occurring where an actual contribution is made to satisfy the credit caught by subclause (4). This could occur where a superannuation account is credited and then at a later date an amount is funded in respect of the credit.

**Clause 12: Superannuation guarantee charge**

This clause provides for the circumstance that a superannuation guarantee charge is payable by an employer.

Subclause (1) provides that where a superannuation guarantee charge is imposed in a return period, the amount is deemed to be a contribution payable by the employer for the purposes of clause 8(1) in the return period that it is paid.

Subclause (2) provides that where the charge is in relation to only one individual superannuation shortfall, the contribution is to be deemed as being in respect of the employee, in respect of whom the employer has the shortfall.

Subclause (3) provides that where the superannuation guarantee shortfall is in relation to two or more employees, the contribution is deemed to be apportioned between them.

Subclause (4) provides that if a contribution was payable but not actually paid and is deemed to be a superannuation benefit for the purposes of clause 8(1), and a superannuation guarantee charge was imposed on the same amount, there is no double imposition.

Subclause (5) provides that subclause (4) cannot reduce an amount below zero.

## ATTACHMENT

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

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
Short Title	1	Short title	1
Interpretation	3	Interpretation	4
" agent"	3	" agent"	Glossary
" approved"	3	No equivalent definition	N/A
" Australia"	3	No equivalent definition	N/A
" Commissioner"	3	" Commissioner" (Taxation Administration Bill)	Glossary
" Commonwealth Act"	3	No equivalent definition	N/A
" company"	3	" company"	Glossary
" corporation"	3	" corporation"	Glossary
" Corporations Act"	3	" Corporations Act"	Glossary
" corresponding law"	3	" corresponding law"	Glossary
" designated group employer"	3	" designated group employer"	Glossary
" employer"	3	" employer"	Glossary
" FBT Act"	3	" FBT Act"	Glossary
" financial year"	3	No equivalent definition	N/A
" foreign wages"	3	No equivalent definition	N/A
" fringe benefit"	3	" fringe benefit"	Glossary
" group"	3	" group"	Glossary
" interstate wages"	3	" interstate taxable wages"	Glossary
" liquidator"	3	No equivalent definition	N/A
" month"	3	No equivalent definition	N/A
" pay-roll tax"	3	" pay-roll tax"	Glossary
" person"	3	" person" (Taxation Administration Bill)	Glossary
" prescribed benefit"	3	" specified taxable benefit"	Glossary
" return period"	3	" return period"	Glossary
" State"	3	" State"	Glossary
" tax"	3	" tax" (Taxation Administration Bill)	Glossary
" taxable wages"	3	" WA taxable wages"	Glossary
" trustee"	3	" trustee"	Glossary
" voting share"	3	" voting share"	Glossary

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
"wages"	3	"wages"	Glossary
Superannuation component of wages	3A	Superannuation benefits	Glossary Clause 8
Fringe benefits and prescribed benefits	3B	Provider of fringe benefits or specified taxable benefits	Glossary Clause 5
Value of fringe benefits and prescribed benefits	3C	Value of wages paid in kind and other benefits The value of fringe benefits	Glossary Clause 6 Clause 7
GST excluded from wages	3D	GST excluded from wages	Glossary Clause 3
Functions of Commissioner, etc	4	Administration of taxation Acts Commissioner's functions Delegation (Taxation Administration Bill)	7 8 10
Disclosure of information	5	Confidentiality (Taxation Administration Bill)	105
Wages liable to pay-roll tax	6	Pay-roll tax on wages Place of payment of wages	5 Glossary Clause 4
Pay-roll tax	7	Pay-roll tax on wages	5
Employers' liability to pay tax	8	Liability to pay-roll tax?	7
Revocation or amendment of Commissioner's determination	9	Determinations of reduced monthly rates	9
Deduction from taxable wages after 31 December 1981	9E	Allowable deductions – local non-group employers Tax payable with monthly returns – interstate non-group employers	12 15
Exemption from pay-roll tax	10	Exempt wages Exempting charitable bodies or organisations	40 41
Special circumstances in which rate of tax may be ascertained on basis of whole or part of financial year	11	Taxable wages not paid throughout assessment year	23

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
" Financial year" for purposes of this section and sections 11B and 11C and" prescribed amount" for purposes of sections 11B and 11C	11A	Taxable wages not paid throughout assessment year	23
Annual adjustments	11B	Annual tax liability – local non-group employers Annual tax liability – interstate non-group employers Annual reconciliation – non-group employers	10 13 16
Adjustment of pay-roll tax when employer ceases to be an employer during a financial year	11C	Annual tax liability – local non-group employers Annual tax liability – interstate non-group employers	10 13
Special annual adjustment	11D	Adjustments for changes in annual threshold amount	22
Arrangements for avoidance of tax may be disregarded	11E	Tax-reducing arrangements " tax reducing arrangement"	21 Glossary
Registration	12	Applications for registration as an employer Registration and cancellation of registration	24 25
Returns	13	Monthly returns Additional returns for reconciliation purposes	26 27
Exemption from furnishing returns	14	Exemptions from lodging monthly returns	29
Further returns	15	Further returns	28
Power to obtain information and evidence	16	Requirements to provide information and tax records Power to require person to attend for examination (Taxation Administration	86 87

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
		Bill)	
Interpretation	16A	" business"	Glossary
Grouping of corporations	16B	Grouping corporations	30
Grouping where employees used in another business	16C	Grouping where employees used in another business	31
Grouping of commonly controlled businesses	16D	Grouping commonly controlled businesses	32
		Controlling interest in business	33
Grouping of head and branch businesses	16DA	Grouping head and branch businesses	35
Smaller groups subsumed into larger groups	16E	Smaller groups subsumed into larger groups	36
Grouping provisions to operate independently	16F	Grouping provisions operate independently	37
Beneficiaries under discretionary trusts	16G	Value of beneficial interest in discretionary trusts	34
Exclusion of persons from groups	16H	Exclusion from groups	38
Designated group employer	16I	Designated group employer	39
" Prescribed amount" for purposes of sections 16K and 16L	16J	Allowable deductions – groups	18
Annual adjustment	16K	Annual reconciliation – groups	20
Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year	16L	Annual tax liability – groups	17
Time for payment of tax	17	Time for payment of pay-roll tax	6
Assessments	18	Assessments of tax (Taxation Administration Bill)	Part 3
Refunds	19	Power to make refund (Taxation Administration Bill)	54
Employer leaving Australia	20	Tax payable when employer leaves Australia	42
Time to pay – extensions	21	Arrangements for	47



OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
and instalments		instalments and extensions of time (Taxation Administration Bill)	
Penal tax	22	Penalty tax for late payment (Taxation Administration Bill)	27
Recovery of tax	23	Recovery of unpaid tax (Taxation Administration Bill)	60
Substituted service	24	Service of court process (Taxation Administration Bill)	109
Liquidator to give notice	25	Notice of administrator's appointment (Taxation Administration Bill)	64
Agent for absentee principal winding-up business	26	No equivalent provision	N/A
Where tax not paid during lifetime	27	Agents and trustees	43
Provision for payment of tax by executors or administrators	28	Agents and trustees	43
Recovery of tax paid on behalf of another person	29	No equivalent provision	N/A
Recovery of tax paid where persons jointly liable	30	No equivalent provision	N/A
Commissioner may collect tax from person owing money to employer	31	Power to garnishee (Taxation Administration Bill)	65
Objections	32	Right to object (Taxation Administration Bill)	34
Appeal	33	Right of appeal (Taxation Administration Bill)	40
Commissioner may state case	33A	Cases stated by Commissioner (Taxation Administration Bill)	44
Pending appeal not to	34	Continuing obligation to	33

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
delay payment of tax		pay assessed tax (Taxation Administration Bill)	
Offences	35	Monthly returns Further returns Exemptions from lodging monthly returns Offences (Taxation Administration Bill)	26 28 29  Part 9
Additional tax in certain cases	36	Penalty tax for contravention of taxation Act (Taxation Administration Bill)	26
Avoiding taxation	37	Evasion of tax (Taxation Administration Bill)	97
Time for commencing prosecutions	38	Time for commencing prosecutions (Taxation Administration Bill)	102
Penalties not to relieve from tax	39	Criminal penalties not to affect civil liabilities (Taxation Administration Bill)	101
Obstructing officers	40	Obstructing or misleading an investigator (Taxation Administration Bill)	99
Public officer of company	41	No equivalent provision	N/A
Agents and trustees	42	Agents and trustees	43
Person in receipt or control of money for absentee	43	No equivalent provision	N/A
Books, accounts etc., to be preserved	44	Keeping books and accounts	44
Access to books, etc.	45	Entry of premises Powers of investigator while on premises (Taxation Administration Bill)	90 91
Evidence	46	Evidentiary value of assessment notice Copies etc. of documents Evidentiary certificates (Taxation Administration Bill)	111  112 113

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
		Bill)	
Service of documents by the Commissioner	47	Method of service by Commissioner (Taxation Administration Bill)	108
Service of documents on the Commissioner	48	Service on the Commissioner (Taxation Administration Bill)	106
Institution of prosecutions	49	Presumption of regularity (Taxation Administration Bill)	118
Regulations	50	Regulations	42
<b>Schedule 1</b>			
Prescribed amount for s.9E	1	The tax threshold	8
Prescribed amount for 1997-98 onwards for ss.11A and 16J	2	The tax threshold	8
Prescribed amount for s.12	3	No equivalent provision	N/A
<b>Schedule 2</b>			
"actuary"	1	"actuary"	Glossary
"Australian superannuation scheme"	1	"Australian superannuation scheme"	Glossary
"defined benefit"	1	"defined superannuation benefit"	Glossary
"individual superannuation guarantee shortfall"	1	"individual superannuation guarantee shortfall"	Glossary
"participant"	1	"participant"	Glossary
"regulated superannuation fund"	1	"regulated superannuation fund"	Glossary
"superannuation fund"	1	"superannuation fund"	Glossary
"superannuation guarantee charge"	1	"superannuation guarantee charge"	Glossary
"superannuation scheme"	1	"superannuation scheme"	Glossary
"unfunded public sector scheme"	1	"unfunded public sector superannuation scheme"	Glossary
Australian scheme that is unregulated defined benefit scheme or unfunded public sector defined benefit scheme	2	Contributions to defined superannuation benefit schemes	Glossary Clause 10
Unfunded credit to unregulated Australian	3	Unfunded credit to certain unregulated	Glossary Clause

OLD SECTION	OLD SECTION NUMBER	NEW SECTION	NEW SECTION NUMBER
scheme that gives no defined benefit		schemes	11
Superannuation guarantee charge	4	Superannuation guarantee charge	Glossary clause 12
Treatment of certain contributions	5	Treatment of certain contributions (Taxation Administration (Consequential Provisions) Bill)	41

**CONVERSION TABLE – PAY-ROLL TAX ASSESSMENT BILL 2001 TO PAY-ROLL TAX ASSESSMENT 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 (Pay-roll Tax Act 1971)	2
Meaning of terms used in this Act	4	Interpretation	3
Pay-roll tax on wages	5	Wages liable to pay-roll tax Pay-roll tax	6 7
Time for payment of pay-roll tax	6	Time for payment of tax	17
Liability to pay-roll tax	7	Employers' liability to pay tax Recovery of tax	23
The tax threshold	8	Prescribed amounts	Schedule 1
Determinations of reduced monthly rates	9	Rates for employers who pay interstate wages but are not group members Rates for group employers (Pay-roll Tax Act 1971) Revocation or amendment of Commissioner's determination	6 7 9
Annual tax liability- local non-group employers	10	Annual adjustments Adjustment of pay-roll tax	11B 11C

NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
		when employer ceases to be an employer during a financial year	
Tax payable with returns – local non-group employers	11	Deductions from taxable wages after 31 December 1981	9E
Allowable deductions – local non-group employers	12	Prescribed amounts	Schedule 1
Annual tax liability – interstate non-group employers	13	Annual adjustments Adjustments of pay-roll tax when employer ceases to be an employer during a financial year	11B 11C
Allowable deductions – interstate non-group employers	14	Prescribed amounts	Schedule 1
Tax payable with monthly returns – interstate non-group employers	15	Deductions from taxable wages after 31 December 1981	9E
Annual reconciliation – non-group employers	16	Annual adjustments	11B
Annual tax liability – groups	17	Annual adjustment Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year	16K 16L
Allowable deductions – groups	18	“ Prescribed amount ” for purposes of sections 16K and 16L	16J
Tax payable with monthly returns – groups	19	Designated group employer	16I
Annual reconciliation – groups	20	Annual adjustment Adjustment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year	16K 16L
Tax-reducing arrangements	21	Arrangements for avoidance of tax may be disregarded	11E
Adjustments for changes in	22	Special annual	11D

NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
annual threshold amount		adjustment	
Taxable wages not paid throughout assessment year	23	Special circumstances in which rate of tax may be ascertained on basis of whole or part of financial year	11
Applications for registration as an employer	24	Registration	12
Registration and cancellation of registration	25	Registration	12
Monthly returns	26	Returns	13
Additional returns for reconciliation purposes	27	Returns	13
Further returns	28	Further returns	15
Exemptions from lodging monthly returns	29	Exemption from furnishing returns	14
Grouping corporations	30	Grouping of corporations	16B
Grouping where employees used in another business	31	Grouping where employees used in another business	16C
Grouping commonly controlled businesses	32	Grouping of commonly controlled businesses	16D
Controlling interest in business	33	Grouping of commonly controlled businesses	16D
Value of beneficial interest in discretionary trusts	34	Beneficiaries under discretionary trusts	16G
Grouping head and branch businesses	35	Grouping of head and branch businesses	16DA
Smaller groups subsumed into larger groups	36	Smaller groups subsumed into larger groups	16E
Grouping provisions operate independently	37	Grouping provisions to operate independently	16F
Exclusion from groups	38	Exclusion of persons from groups	16H
Designated group employer	39	Designated group employer	16I
Exempt wages	40	Exemption from pay-roll tax Wages liable to pay-roll tax Interpretation	10 6 3(1a) & 3(2)
Exempting charitable bodies or organisations	41	Exemption from pay-roll tax	10

NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
Tax payable when employer leaves Australia	42	Employer leaving Australia	20
Agents and trustees	43	Agents and trustees Where tax not paid during lifetime Provision for payment of tax by executors or administrators	42 27 28
Keeping books and accounts	44	Books, accounts etc., to be preserved	44
Regulations	45	Regulations	50
<b>Glossary</b>			
Definitions	1		
"actuary"	1	"actuary"	Sched 2
"agent"	1	"agent"	3
"allowable deduction"	1	No equivalent provision	N/A
"annual threshold amount"	1	No equivalent provision	N/A
"appropriate rate"	1	No equivalent provision	N/A
"assessment year"	1	No equivalent provision	N/A
"Australian superannuation scheme"	1	"Australian superannuation scheme"	Sched 2
"business"	1	"business"	16A
"charitable body or organisation"	1	"charitable body or organization"	10(3a)
"company"	1	"company"	3
"controlling interest"	1	No equivalent provision	N/A
"Corporations Act"	1	"Corporations Act"	3
"corporation"	1	"corporation"	3
"corresponding law"	1	"corresponding law"	3
"defined superannuation benefit"	1	"defined benefit"	Sched 2
"designated group employer"	1	"designated group employer"	3
"DGE"	1	No equivalent provision	N/A
"employer"	1	"employer"	3
"employment agent"	1	"employment agent"	3(2a)
"exempt"	1	No equivalent provision	N/A
"FBTA Act"	1	"FBTA Act"	3
"fringe benefit"	1	"fringe benefit"	3
"group"	1	"group"	3
"GST"	1	"GST"	3D
"individual superannuation"	1	"individual"	Sched 2

NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
guarantee shortfall"		superannuation guarantee shortfall"	
" interstate non-group employer"	1	No equivalent provision	N/A
" interstate taxable wages"	1	" interstate wages"	3
" local non-group employer"	1	No equivalent provision	N/A
" monthly threshold amount"	1	" prescribed amount"	9E
" nominated deduction"	1	No equivalent provision	N/A
" non-group employer"	1	No equivalent provision	N/A
" non-profit organisation"	1	No equivalent provision	N/A
" otherwise deductible rule"	1	" otherwise deductible"	3C(4)
" participant"	1	" participant"	Sched 2
" pay-roll tax"	1	" pay-roll tax"	3
" pay-roll tax Act"	1	No equivalent provision	N/A
" provide"	1	" provided"	3B
" registered"	1	No equivalent provision	N/A
" regulated superannuation fund"	1	" regulated superannuation fund"	Sched 2
" related corporation"	1	No equivalent provision	N/A
" remote location"	1	" remote location"	10(5)
" return"	1	No equivalent provision	N/A
" return period"	1	" return period"	3
" smaller group"	1	No equivalent provision	N/A
" specified exempt allowance"	1	Interpretation	3(1a)
" specified taxable benefit"	1	" prescribed benefit"	3
" State"	1	" State"	3
" superannuation fund"	1	" superannuation fund"	Sched 2
" superannuation guarantee charge"	1	" superannuation guarantee charge"	Sched 2
" superannuation scheme"	1	" superannuation scheme"	Sched 2
" taxes"	1	" tax"	3
" tax-reducing arrangement"	1	No equivalent provision	N/A
" Territory"	1	No equivalent provision	N/A
" trustee"	1	" trustee"	3
" unfunded public sector superannuation scheme"	1	" unfunded public sector scheme"	Sched 2



NEW SECTION	NEW SECTION NUMBER	OLD SECTION	OLD SECTION NUMBER
" value"	1	No equivalent provision	N/A
" voting share"	1	" voting share"	3
" wages"	1	" wages"	3
" WA taxable wages"	1	" taxable wages"	3
" work-related benefit"	1	" work-related benefit"	3C(3)
Wages – meaning	2	" wages"	3
GST excluded from wages	3	GST excluded from wages	3D
Place of payment of wages	4	Wages liable to pay-roll tax	6
Provider of fringe benefits or specified taxable benefits	5	Fringe benefits and prescribed benefits	3B
Value of wages paid in kind and other benefits	6	Value of fringe benefits and prescribed benefits Interpretation	3C 3(2aa)
The value of fringe benefits	7	Value of fringe benefits and prescribed benefits	3C
Superannuation benefits	8	Superannuation component of wages	3A
Superannuation fund contributions	9	" unfunded public sector scheme"	Sched 2 Clause 1
Contributions to defined superannuation benefit schemes	10	Australian scheme that is unregulated defined benefit scheme or unfunded public sector defined benefit scheme	Sched 2 Clause 2
Unfunded credit to certain unregulated schemes	11	Unfunded credit to unregulated Australian scheme that gives no defined benefit	Sched 2 Clause 3
Superannuation guarantee charge	12	Superannuation guarantee charge	Sched 2 Clause 4