

PAY-ROLL TAX (TERRITORIES) ASSESSMENT AMENDMENT ACT 1976

No. 172 of 1976

An Act to amend the *Pay-roll Tax (Territories) Assessment Act 1971*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

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| Short title, &c. | <p>1. (1) This Act may be cited as the <i>Pay-roll Tax (Territories) Assessment Amendment Act 1976</i>.¹</p> <p>(2) The <i>Pay-roll Tax (Territories) Assessment Act 1971</i>² is in this Act referred to as the Principal Act.</p> |
| Commence- ment. | <p>2. This Act shall come into operation on the day on which it receives the Royal Assent.¹</p> |
| Interpret- ation. | <p>3. Section 4 of the Principal Act is amended by omitting from sub-section (1) the definition of “tax” and substituting the following definition:—</p> <p>“ ‘tax’ means tax referred to in section 10 and tax referred to in section 15A; ”.</p> |
| General exemption. | <p>4. (1) Section 12 of the Principal Act is amended—</p> <p>(a) by adding at the end of sub-section (1) the words—</p> <p>“, being a deduction the amount of which, where paragraph (a) of sub-section (3) applies for the purpose of ascertaining the prescribed amount, shall be reduced by an amount of \$2 for each amount of \$3 included in the amount by which the amount of the wages exceeds the amount ascertained under whichever of paragraphs (a), (b) and (c) of this sub-section is applicable.”;</p> <p>(b) by omitting from sub-sections (3) and (4) the words “One thousand seven hundred and thirty-three dollars and thirty-three cents” and substituting the figures “\$4,000”;</p> <p>(c) by omitting from sub-section (5) the words “subject to sub-sections (6) and (7) of this section” and substituting the words “subject to sub-sections (7) and (7A)”;</p> <p>(d) by omitting sub-section (6);</p> <p>(e) by omitting from sub-section (7) the words “One thousand seven hundred and thirty-three dollars and thirty-three cents” and substituting the figures “\$4,000”;</p> |

- (f) by omitting from sub-section (7) the words “in the return relating to the month or period in which the determination is made” and substituting the words “in the return relating to a month or period specified in the determination (being a month or period ending not later than the end of the financial year in which the determination is made and commencing not earlier than 1 July 1976)”;;

- (g) by inserting after sub-section (7) the following sub-section:—

“(7A) The Commissioner may, at any time, on application made to him in writing by an employer, or of his own motion, make a determination that no amount may be claimed by an employer as the prescribed amount, and, in that case, notwithstanding any other provision of this section, the employer is not entitled, in the return relating to a month or period specified in the determination (being a month or period ending not later than the end of the financial year in which the determination is made and commencing not earlier than 1 July 1976) or in a return relating to a subsequent month or period, to claim any amount as the prescribed amount.”;

- (h) by omitting from sub-section (8) the words “sub-section (6) or (7) of this section” and substituting the words “sub-section (7) or (7A)”; and

- (i) by omitting sub-section (9) and substituting the following sub-section:—

“(9) In this section, ‘tax’ means tax referred to in section 10.”.

(2) The amendments of section 12 of the Principal Act made by sub-section (1) apply in relation to a return or assessment in respect of a month or other period that commences on or after 1 January 1977 or that commences before, but ends on or after, that date, but, for the purposes of the application of section 12 of the Principal Act as amended by sub-section (1) in relation to a return or assessment in respect of a month or other period (in this sub-section referred to as the “month or period of the return”) that commences before, and ends on or after, that date, the return or assessment shall be taken to relate to 2 periods, one period being the period commencing on the commencement of the month or period of the return and ending on 31 December 1976, and the other period being the period commencing on 1 January 1977 and ending on the last day of the month or period of the return.

(3) A determination in force under sub-section (6) of section 12 of the Principal Act at the commencement of this Act has effect after the commencement of this Act as if it were a determination under sub-section (7) of section 12 of the Principal Act as amended by this Act.

Refund or
rebate of
tax on
annual
adjustment.

5. Section 14 of the Principal Act is amended—

(a) by inserting in sub-section (1), after the words “financial year” (first occurring), the words “(being a financial year prior to the financial year that commenced on 1 July 1976)”;

(b) by inserting after sub-section (1) the following sub-section:—

“(1A) Where the wages included or required to be included in returns relating to a financial year (being the financial year that commenced on 1 July 1976 or a subsequent financial year) furnished or to be furnished by an employer under this Act, or under this Act and under a corresponding law or corresponding laws—

(a) in the case of an employer who was an employer in Australia during the whole of the financial year—do not exceed the prescribed amount referred to in sub-section (4A) in respect of that financial year; or

(b) in the case of an employer who was an employer in Australia during part only of the financial year—do not exceed the prescribed amount referred to in sub-section (4B) in respect of that financial year,

the Commissioner shall, upon application by the employer made in accordance with sub-section (3), refund or rebate to that employer the amount of tax paid or payable by him in respect of that financial year or that part of that financial year, as the case may be.”;

(c) by inserting in paragraph (a) of sub-section (2), before the words “less than”, the words “, if the financial year is a year prior to the year that commenced on 1 July 1976,”;

(d) by inserting in paragraph (a) of sub-section (2), after the words “financial year” (last occurring), the words “or, if the financial year is the year that commenced on 1 July 1976 or a subsequent year, less than the prescribed amount referred to in sub-section (4A) in respect of that financial year”;

(e) by inserting in paragraph (b) of sub-section (2), before the words “bears to the prescribed amount”, the words “, if the financial year is a year prior to the year that commenced on 1 July 1976, is the amount that”;

(f) by inserting in paragraph (b) of sub-section (2), after the words “financial year” (last occurring), the words “or, if the financial year is the year that commenced on 1 July 1976 or a subsequent year, the amount that is the prescribed amount referred to in sub-section (4B) in respect of that financial year”;

(g) by omitting from sub-section (3) the figures “(1) or (2)” and substituting the figures “(1), (1A) or (2)”;

(h) by inserting in paragraph (b) of sub-section (4), after the words “commencing period”, the words “and prior to the financial year that commenced on 1 July 1976”;

- (i) by inserting after sub-section (4) the following sub-sections:—

“(4A) For the purposes of the application of sub-sections (1A) and (2) in relation to a financial year during the whole of which the employer was an employer in Australia, the prescribed amount is—

- (a) in respect of the financial year that commenced on 1 July 1976—the aggregate of \$10,400 and whichever is the greater of—

(i) the amount ascertained by deducting from \$24,000 an amount of \$2 for each amount of \$3 included in the amount by which the amount of the total wages paid by the employer in respect of the period commencing on 1 January 1977 and ending on 30 June 1977 exceeds \$24,000; or

(ii) 50 per centum of the amount ascertained by deducting from \$48,000 an amount of \$2 for each amount of \$3 included in the amount by which the amount of the total wages paid by the employer in respect of the financial year exceeds \$48,000; and

- (b) in respect of a financial year subsequent to the financial year that commenced on 1 July 1976—the amount ascertained by deducting from \$48,000 an amount of \$2 for each amount of \$3 included in the amount by which the amount of the total wages paid by the employer in respect of the financial year exceeds \$48,000.

“(4B) For the purposes of the application of sub-sections (1A) and (2) in relation to a financial year during part only of which the employer was an employer in Australia, the prescribed amount is—

- (a) in respect of the financial year that commenced on 1 July 1976—the amount that would be the prescribed amount referred to in sub-section (4A) in respect of that financial year if the employer had been an employer in Australia during the whole of the financial year and if—

(i) where the employer was an employer in Australia during a period (in this sub-paragraph referred to as the ‘employment period’) that is the whole or a part of the period that commenced on 1 July 1976 and ends on 31 December 1976 (whether or not the employer was an employer in Australia during any other part of the financial year)—the reference in paragraph (a) of sub-section (4A) to \$10,400 were a reference to the amount that bears to \$10,400 the same proportion as the employment period bears to 6 months; and

- (ii) where the employer was an employer in Australia during a period (in this sub-paragraph referred to as the 'employment period') that is the whole or a part of the period commencing on 1 January 1977 and ending on 30 June 1977 (whether or not the employer was an employer in Australia during any other part of the financial year)—
 - (A) each reference in sub-paragraph (i) of paragraph (a) of sub-section (4A) to \$24,000 were a reference to the amount that bears to \$24,000 the same proportion as the employment period bears to 6 months;
 - (B) each reference in sub-paragraph (ii) of paragraph (a) of sub-section (4A) to \$48,000 were a reference to the amount that bears to \$48,000 the same proportion as the employment period bears to 12 months or, in a case where the employer was an employer in Australia during a period that is an employment period for the purposes of sub-paragraph (i), the same proportion as the aggregate of that employment period and the period that is the employment period for the purposes of this sub-paragraph bears to 12 months; and
 - (C) in a case where the employer was an employer in Australia during a period that is an employment period for the purposes of sub-paragraph (i)— the reference in sub-paragraph (ii) of paragraph (a) of sub-section (4A) to 50 per centum were a reference to the ratio, expressed as a percentage, between the period that is the employment period for the purposes of this sub-paragraph and the aggregate of that employment period and the period that is the employment period for the purposes of sub-paragraph (i); and
- (b) in respect of a financial year subsequent to the financial year that commenced on 1 July 1976—the amount that would be the prescribed amount referred to in sub-section (4A) in respect of the financial year if the employer had been an employer in Australia during the

whole of the financial year and if each reference in paragraph (b) of sub-section (4A) to \$48,000 were a reference to the amount that bears to \$48,000 the same proportion as the part of the year during which the employer was an employer in Australia bears to the whole of that financial year.”;

- (j) by omitting paragraphs (a) and (b) of sub-section (5) and substituting the following paragraphs:—

“(a) except where paragraph (b) applies—an amount that bears to the prescribed amount referred to in respect of that financial year in whichever of sub-sections (4), (4A) and (4B) is applicable to the employer in respect of that year; or

(b) if the employer was an employer during part only of the financial year and the financial year is a year prior to the year that commenced on 1 July 1976—an amount that bears to the proportionate amount referred to in paragraph (b) of sub-section (2),”;

- (k) by adding at the end thereof the following sub-sections:—

“(8) A reference in sub-section (4A) to the total wages paid by an employer in respect of a financial year or a period shall be read as a reference to the wages included or required to be included in returns relating to the financial year or period furnished or required to be furnished by the employer under this Act, or under this Act and under a corresponding law or corresponding laws.

“(9) In this section, ‘tax’ means tax referred to in section 10.”.

6. (1) After section 15 of the Principal Act the following section is inserted in Part III:—

“15A. (1) This section applies to an employer in respect of a financial year unless the employer has furnished, or is required to furnish, a return in respect of the whole of that financial year. Tax payable on annual basis.

“(2) Where this section applies to an employer in respect of a financial year and the amount of tax applicable on an annual basis in relation to that employer in respect of that year exceeds the amount of tax applicable otherwise than on an annual basis in relation to that employer in respect of that year, tax equal to the amount of the excess is, in addition to tax referred to in section 10, payable in respect of taxable wages paid or payable by the employer during the financial year.

“(3) In this section—

‘amount of the calculated deductions’, in relation to an employer to whom this section applies in respect of a financial year, means

the amount of the calculated deductions applicable to the employer under sub-section (5) of section 14, in respect of that financial year, for the purposes of sub-paragraph (ii) of paragraph (d) of sub-section (2) of that section;

‘amount of tax applicable on an annual basis’, in relation to an employer to whom this section applies in respect of a financial year, means the amount of tax that would be payable by the employer in respect of taxable wages paid or payable by him during that year if—

- (a) no returns were required to be furnished by the employer in relation to any month or period forming part of the financial year but a return were required to be furnished by the employer in relation to the whole of that financial year; and
- (b) there were deducted in accordance with section 12 from the wages that would be required to be included in that return—
 - (i) where the employer has not included, and is not required by a corresponding law to include, any wages in a return furnished under a corresponding law—the amount that is the prescribed amount under section 14 in relation to the employer in respect of that year; or
 - (ii) where the employer has included, or is required by a corresponding law to include, any wages in a return furnished under a corresponding law—the amount that is the amount of the calculated deductions in relation to the employer in respect of the year;

‘amount of tax applicable otherwise than on an annual basis’, in relation to an employer to whom this section applies in respect of a financial year, means the tax referred to in section 10 that is payable by the employer in respect of taxable wages paid or payable by him during that year;

‘prescribed amount under section 14’, in relation to an employer to whom this section applies in respect of a financial year, means the amount applicable to the employer in respect of the year under whichever of sub-sections (4A) and (4B) of section 14 applies to the employer in respect of that year;

‘return’ means a return furnished, or required to be furnished, in accordance with section 17 or 18.”.

(2) The section inserted in the Principal Act by sub-section (1) of this section does not apply in relation to a financial year that commenced before 1 July 1976.

7. (1) Section 16 of the Principal Act is amended by omitting from sub-section (1) the words "Four hundred dollars" and substituting the figures "\$900".

(2) The amendment made by sub-section (1) applies in relation to the month commencing on 1 January 1977 and to each subsequent month.

8. Section 22 of the Principal Act is amended—

(a) by inserting after the word "tax" (first occurring) the words "referred to in section 10"; and

(b) by adding at the end thereof the following sub-section:—

"(2) An employer liable to pay tax referred to in section 15A in respect of taxable wages paid or payable during a financial year shall pay the tax within the time within which he is required by this Act to furnish the return in respect of the month or period that ends on the last day of the financial year."

9. The Principal Act is amended as set out in the Schedule.

Registration.
Time for
payment of
tax.

Formal
amendments.

SCHEDULE

Section 9

FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting the words "of this Act", "of this section" and "of this sub-section" (wherever occurring):—

Sections 4 (1) (definition of "taxable wages"), 8 (5), 10 (3), 12 (1) and (3), 13, 14 (1), (2), (3), (4) and (5), 18 (3), 27 (1), 30 (7), 38, 40 (6), 42 (2) and (3), 43 (1), 46 (2), 64 (3) and 69 (10) and (11).

2. The Principal Act is further amended as set out in the following table:—

| Provision | Amendment |
|---|---|
| Section 4 (1) (definition of "the commencing period") | Omit "the thirtieth day of June", substitute "30 June". |
| Section 4 (2) | (a) Omit "One dollar fifty cents", substitute "\$1.50". (b) Omit "Fifty cents", substitute "50 cents". |
| Section 8 (2) | Omit "Five hundred dollars", substitute "\$500". |
| Section 14 (4) | Omit "Twenty thousand eight hundred dollars" (twice occurring), substitute "\$20,800". |
| Sections 15 (1) (b) and (2) | Omit "the first day of July, One thousand nine hundred and seventy-one", substitute "1 July 1971". |
| Section 23 (3) | Omit "Two dollars", substitute "\$2". |
| Section 30 (4) | Omit "One hundred dollars", substitute "\$100". |
| Section 40 (1) | Omit "Two dollars", substitute "\$2". |
| Section 42 (1) | Omit "Two hundred dollars", substitute "\$200". |
| Section 43 (1) | Omit "Two dollars" (twice occurring), substitute "\$2". |
| Section 45 | (a) Omit "One hundred dollars", substitute "\$100". (b) Omit "One thousand dollars", substitute "\$1,000". |
| Section 48 | Omit "One hundred dollars", substitute "\$100". |
| Section 50 | Omit "One thousand dollars", substitute "\$1,000". |
| Section 52 | Omit "Two hundred dollars", substitute "\$200". |
| Section 64 (3) | Omit "Four dollars", substitute "\$4". |
| Section 67 (1) | Omit "Two hundred dollars", substitute "\$200". |

SCHEDULE—continued

| Provision | Amendment |
|--------------------------|--|
| Section 69 (3) | Omit "One thousand dollars" (twice occurring), substitute "\$1,000". |
| Section 70 (1) | Omit "Forty dollars", substitute "\$40". |

NOTES

1. Act No. 172, 1976; assented to 13 December 1976.
2. Act No. 77, 1971, as amended. For previous amendments *see* Act No. 66, 1972; and No. 216, 1973 (as amended by No. 20, 1974).