

# NORTHERN TERRITORY OF AUSTRALIA

## PAY-ROLL TAX ACT

As in force at 1 July 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2008

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## PAY-ROLL TAX ACT

**An Act to relating to the imposition, assessment and collection of tax upon certain wages related to the Northern Territory**

### **Part 1 Preliminary**

#### **Division 1 Formal provisions**

##### **1 Short title**

This Act may be cited as the *Pay-roll Tax Act*.

##### **2 Commencement**

This Act shall come into operation on 1 July 1978.

#### **Division 2 Interpretative provisions**

##### **2A Act to be read together with *Taxation Administration Act***

This Act is to be read with the *Taxation Administration Act* as if both Acts together formed a single Act.

##### **3 Interpretation**

(1) In this Act, unless the contrary intention appears:

**agent** includes a person who, in the Territory, for or on behalf of another person outside the Territory, holds or has the management or control of the business of that other person, and a person declared by the Commissioner to be an agent or the sole agent for another person for the purposes of this Act.

**approved designated group employer** means a designated group employer who has an approval under the *Taxation Administration Act* to lodge returns and pay tax, or to pay tax without lodging returns, on behalf of all members of the group.

**associate** – a person is an associate of another if they are **associates** within the meaning of section 4(2) of the *Stamp Duty Act*.

**Australian Capital Territory** includes the Jervis Bay Territory.

**company** includes all bodies and associations, incorporated or unincorporated.

**corresponding pay-roll tax law** means a law of the Commonwealth, or of a State or another Territory of the Commonwealth, relating to the imposition on employers of a tax on wages paid or payable by them or the assessment and collection of that tax.

**designated group employer** means the member of a group who is for the time being the designated group employer for the group under section 17P.

**director**, of a company, includes a member of the governing body of the company.

**employer** means a person who pays or is liable to pay wages and includes the following:

- (a) the Territory;
- (b) a Government Business Division within the meaning of section 3(1) of the *Financial Management Act*, other than a Government Business Division that is declared by regulation not to be an employer for the purposes of this Act;
- (c) a statutory corporation that is declared by regulation to be an employer for the purposes of this Act;
- (d) a body or authority constituted under a law of the Commonwealth, a Territory or a State unless being an authority constituted under a law of the Commonwealth by which it is immune from the operation of this Act;
- (e) a person who is a labour hire agent for the purposes of paragraph (f) of the definition of wages.

**FBTA Act** means the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth.

**foreign wages** means wages that are not taxable wages and are not interstate wages.

**fringe benefit** means a fringe benefit to which the FBT Act applies, other than a benefit that is prescribed under this Act not to be a fringe benefit.

**group**, see section 17A.

**interstate wages** means wages that are taxable wages within the meaning of a corresponding pay-roll tax law.

**ITAA** means the *Income Tax Assessment Act 1997* (Cth).

**labour hire agent** means a person (the agent) who, by arrangement with another (the client), makes the services of a third person (the worker) available (in whole or part) to the client.

**liquidator** means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company.

**local governing body** means:

- (a) a council or a local government subsidiary constituted under the *Local Government Act*; or
- (b) a body declared under section 19 of the *Local Government Grants Commission Act* to be a local governing body for the purposes of that Act; or
- (c) a body prescribed as a local governing body for the purposes of this Act.

**option** means an option or right, whether actual, prospective or contingent, of a person to acquire a share or to have a share transferred or allotted to the person.

**paid**, in relation to wages, includes provided, conferred and assigned and **pay** and **payable** have corresponding meanings.

**person** includes a partnership.

**private unit trust scheme**, see section 56C(1) and (1A) of the *Stamp Duty Act*.

**public unit trust scheme** means a unit trust scheme that is not a private unit trust scheme.

**return** means a return under section 13.

**return period** – each calendar month is a return period for an employer unless the Commissioner has approved some other period as the employer's return period.

**share** means a share in a company and includes a stapled security as defined in section 139GCD of the *Income Tax Assessment Act 1936* (Cth).

**superannuation fund** means a fund carried on:

- (a) for the purposes of a superannuation scheme; or
- (b) to provide retirement savings accounts within the meaning of the *Retirement Savings Accounts Act 1997* of the Commonwealth;

and includes the Superannuation Accounts Reserve established by the *Small Superannuation Accounts Act 1995* of the Commonwealth.

**superannuation scheme** includes a provident or retirement fund or scheme.

**taxable wages** means wages in respect of which tax is payable, including wages in respect of which, but for section 8, tax would be payable but does not include wages that, by virtue of section 9, are exempt from tax.

**trustee**, in addition to a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, includes:

- (a) an executor, administrator, guardian, committee, receiver or liquidator; and
- (b) a person having or taking upon himself the administration or control of any real or personal property affected by any express or implied trust, or acting in a fiduciary capacity, or having the possession, control or management of any real or personal property of a person under any legal or other disability.

**unit trust scheme**, see section 4(1) of the *Stamp Duty Act*.

**voting share** has the same meaning as it has in section 9 of the *Corporations Act 2001*.

**wages** means wages, remuneration, salary, commission, bonus or allowance paid or payable (whether at piece work rates or otherwise and whether paid or payable in cash or in kind) to or in



relation to an employee as such and, without limiting the generality of the foregoing, includes:

- (a) a payment made under a prescribed class of contracts, to the extent to which the payment is attributable to labour; and
  - (b) a payment made by a company by way of remuneration to a director of that company; and
  - (baa) a payment by way of remuneration to a director of a company made by a person acting for or in concert or under an arrangement or understanding, whether formal or informal and whether expressed or implied, with the company; and
  - (ba) a payment made by a partnership by way of remuneration to a partner; and
  - (c) a payment made by way of commission to an insurance or time-payment canvasser or collector; and
  - (ca) wages, remuneration, salary, commission, bonuses or allowances paid or payable, whether in cash or in kind, to or in relation to an employee by any person acting for or in concert or under an arrangement or understanding, whether formal or informal and whether expressed or implied, with the employer; and
  - (cb) a termination payment that constitutes wages under section 3S; and
  - (d) the amount of any superannuation benefit that, by virtue of section 3A, is to be taken to be paid by the employer; and
  - (e) the value of a fringe benefit, shares or options that is, under Division 4 or Division 7, taken to be part of the wages paid or payable by the employer; and
  - (f) an amount paid or payable by a labour hire agent, directly or indirectly, to a person who was engaged to perform services for a client of the labour hire agent, or to some other person in respect of those services, as a result of which the labour hire agent receives, directly or indirectly, payment, whether by way of lump sum or an ongoing fee, during or in respect of the period when the services are provided by the person to the client.
- (2) For the purposes of this Act, wages, remuneration, salary, commission, bonuses or allowances referred to in paragraph (ca) of the definition of **wages** in subsection (1) are to be taken to be paid or payable by the employer.

- (2A) For this Act, a payment by way of remuneration mentioned in paragraph (baa) of the definition of **wages** in subsection (1) is taken to be made by the company.
- (3) Despite any other provision of this Act, an exempt benefit under the FBTA Act is not wages for the purposes of this Act unless it is an exempt benefit under section 58W of the FBTA Act.
- (4) The value of taxable wages (other than a fringe benefit ) that are paid or payable in kind is the greater of:
- (a) the value:
    - (i) agreed or attributed to those taxable wages in; or
    - (ii) ascertainable for those taxable wages from,  
  
arrangements made between the employer and the employee,  
whichever is the greater; or
  - (b) if the Regulations prescribe how the value of a particular kind of taxable wages is to be determined – the value so determined.
- (5) If a Government Business Division is an employer, but is not a corporation, this Act applies to the Government Business Division as if it were a corporation.
- (6) If a Government Business Division or a statutory corporation is an employer, it (rather than the Commissioner for Public Employment) will be regarded, for the purposes of this Act, as the employer of all employees assigned to work in it.
- (7) A word or expression defined in the *Taxation Administration Act* has, unless some other meaning is clearly intended, the same meaning when used in this Act.

## **Division 3 Superannuation benefits**

### **3A Superannuation benefits**

- (1) For the purposes of paragraph (d) of the definition of **wages** in section 3(1), a contribution paid or payable by an employer in respect of a person to a superannuation fund is to be taken to be a superannuation benefit paid by the employer in relation to the person when and where the contribution is paid or payable unless clause 6 of Schedule 1 or a regulation made for the purposes of that clause provides otherwise.

- (2) For the purpose of determining when and where a contribution is paid or payable, section 6(3) and (4) apply as if references to wages were references to contributions.
- (3) For the purposes of this section, Schedule 1 sets out:
  - (a) certain amounts that are to be taken to be contributions paid or payable by an employer in respect of a person to a superannuation fund; and
  - (b) certain contributions paid or payable by an employer in respect of a person to a superannuation fund that are not to be taken to be superannuation benefits.

## **Division 4 Fringe benefits**

### **3B Fringe benefits**

- (1) The value of a fringe benefit that is provided or liable to be provided to or in relation to an employee is to be taken to be wages paid or payable (as the case requires) to the employee.
- (2) A fringe benefit that is provided or liable to be provided to or in relation to an employee by a person other than the employer is to be taken to be provided by the employer.
- (3) The value of a fringe benefit is:
  - (a) the value calculated in accordance with the following formula:
$$TV \times$$
where:

**TV** is the value that would be the taxable value of the benefit as a fringe benefit for the purposes of the FBTA Act; and

**FBT** rate is the rate of fringe benefits tax imposed by the FBTA Act that applies when the liability to tax under this Act is incurred; or
  - (b) if the Regulations prescribe how the value of a particular kind of fringe benefit is to be determined – the value so determined.
- (4) In this section:

**employee** includes a person to whom or in relation to whom a payment of a kind described in paragraph (a), (b), (c) or (f) of the definition of wages in section 3(1) is made.

**provided** has a meaning that corresponds with the meaning of provide as given in section 136 of the FBTA Act and, without limiting the generality of paragraph (a) of the definition of provide as given in that section, includes the meaning given in section 154 of that Act.

## **Division 5 GST**

### **3D GST to be excluded from wages paid or payable by a person**

- (1) For the purposes of this Act, the wages paid or payable to a person do not include the relevant proportion of the amount of GST (if any) payable by the person in relation to the supply to which the wages relate.
- (2) In this section:

**consideration**, **GST** and **supply** have the same respective meanings as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

**relevant proportion** means the proportion that the amount or value of the wages paid or payable to the person bears to the consideration for the supply to which the wages relate.

## **Division 6 Allowances**

### **3E Motor vehicle allowances**

- (1) For the purposes of this Act, wages, in respect of a financial year, do not include the exempt component of a motor vehicle allowance paid or payable in respect of that year.
- (2) Accordingly, if the total motor vehicle allowance paid or payable to an employee in respect of a financial year does not exceed the exempt component, the motor vehicle allowance is not wages for the purposes of this Act.
- (3) If the total motor vehicle allowance paid or payable to an employee in respect of a financial year exceeds the exempt component (if any), only that amount that exceeds the exempt component of the motor vehicle allowance is included as wages for the purposes of this Act.

- (4) The exempt component of a motor vehicle allowance paid or payable in respect of a financial year is calculated in accordance with the formula:

$$E = K \times R$$

where:

**E** is the exempt component; and

**K** is the number of business kilometres travelled during the financial year; and

**R** is the exempt rate.

- (5) The **number of business kilometres travelled during the financial year (K)** is to be determined in accordance with the continuous recording method, or the averaging method, whichever method is selected and used by the employer in accordance with Schedule 2.
- (6) The Commissioner, by order in writing, may approve the use, by an employer or class of employer, of another method of determining the number of business kilometres travelled during the financial year (including the use of an estimate). If so, the number of business kilometres travelled during the financial year is to be determined in accordance with the method approved by the Commissioner.
- (7) For the purposes of this section, the **exempt rate** for the financial year concerned is:
- the rate prescribed by the regulations under section 28-25 of the ITAA for calculating a deduction for car expenses for a large car using the **cents per kilometre** method in the financial year immediately preceding the financial year in which the allowance is paid or payable; or
  - if no rate referred to in paragraph (a) is prescribed, the rate prescribed by the regulations under this Act.

### **3F Accommodation allowances**

- (1) For the purposes of this Act, **wages** do not include an accommodation allowance paid or payable to an employee in respect of a night's absence from the person's usual place of residence that does not exceed the exempt rate.

- (2) If the accommodation allowance paid or payable to an employee in respect of a night's absence from the person's usual place of residence exceeds the exempt rate, **wages** include that allowance only to the extent that it exceeds the exempt rate.
- (3) For the purposes of this section, the **exempt rate** for the financial year concerned is:
  - (a) the total reasonable amount for daily travel allowance expenses using the lowest capital city for the lowest salary band for the financial year determined by the Commissioner of Taxation of the Commonwealth; or
  - (b) if no determination referred to in paragraph (a) is in force, the rate prescribed by the regulations.

## **Division 7 Shares and options**

### **3G Inclusion of grant of shares and options as wages**

- (1) For the purposes of this Act, **wages** include the grant of a share or option to or in relation to an employee by an employer in respect of services performed by the employee.
- (2) Any such wages are taken, for the purpose of the imposition of pay roll tax, to be paid or payable on the relevant day.
- (3) For the purposes of this Division, the **relevant day** is the day that the employer elects in accordance with this Division to treat as the day on which the wages are paid or payable.
- (4) To avoid doubt, the grant of a share or option to, or in relation to, an employee or director may constitute remuneration of the employee or director.

### **3H Choice of relevant day**

- (1) The employer can elect to treat as the **relevant day** either the date on which the share or option is granted to the employee or the vesting date.
- (2) A share or option is **granted** to a person in the following circumstances:
  - (a) in the case of a share – if the person acquires the share (as defined in section 139G of the *Income Tax Assessment Act 1936* (Cth)) or in the circumstances prescribed by the regulations under this Act;

- (b) in the case of an option – if the person acquires a right (as defined in section 139G of the *Income Tax Assessment Act 1936* (Cth)) to the share to which the option relates or in the circumstances prescribed by the regulations under this Act.
- (3) The **vesting date**, in respect of a share, is the date on which the share vests in the employee (that is, when any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded).
- (4) The **vesting date**, in respect of an option, is 1 of the following dates (whichever happens first):
  - (a) the date on which the share to which the option relates is granted to the employee;
  - (b) the date on which the employee exercises a right under the option to have the share the subject of the option transferred to, allotted to or vest in him or her.

### **3J Deemed choice of relevant day in special cases**

- (1) If an employer grants a share or an option to an employee and the value of the grant of the share or option is not included in the taxable wages of the employer for the financial year in which the share or option was granted, the employer is taken to have elected to treat the wages constituted by the grant of that share or option as being paid or payable on the vesting date.
- (2) If an employer grants a share or an option to an employee and the value of the grant of the share or option is nil or, if the employer were to elect to treat the date of grant as the relevant day, the wages constituted by the grant would not be liable to pay-roll tax, the employer is taken to have elected to treat the wages constituted by the grant of that share or option as being paid or payable on the date on which the share or option was granted.

### **3K Effect of rescission, cancellation of share or option**

- (1) If the grant of a share or option is withdrawn, cancelled or exchanged before the vesting date for any valuable consideration (other than the grant of other shares or options), the following provisions apply:
  - (a) the date of withdrawal, cancellation or exchange is taken to be the vesting date of the share or option;

- (b) the market value of the share or option, on the vesting date, is taken to be the amount of the valuable consideration (and, accordingly, that amount is the amount paid or payable as wages on that date).
- (2) If an employer includes the value of a grant of a share or option in the taxable wages of the employer for a financial year commencing on or after the commencement of this section, and the grant is rescinded because the conditions attaching to the grant were not met, the taxable wages of the employer, in the financial year in which the grant is rescinded, are to be reduced by the value of the grant as previously included in the taxable wages of the employer.
- (3) Subsection (2) does not apply just because an employee fails to exercise an option or otherwise to exercise his or her rights in respect of a share or option.

### **3L Grant of share pursuant to exercise of option**

The grant of the share by an employer does not constitute wages for the purposes of this Act if the employer is required to grant the share as a consequence of the exercise of an option by a person and:

- (a) the grant of the option to the person constitutes wages for the purposes of this Act; or
- (b) the option was granted to the person before 1 July 1999.

### **3M Value of shares and options**

- (1) If the grant of a share or option constitutes wages under this Division, the amount paid or payable as wages is taken, for the purposes of this Act, to be the market value of the share or option (expressed in Australian currency) on the relevant day, less the consideration (if any) paid or given by the employee in respect of the share or option (other than consideration in the form of services performed).
- (2) The market value of a share or option on the relevant day is to be determined in accordance with the Commonwealth income tax provisions.
- (3) For that purpose, the Commonwealth income tax provisions apply with the following modifications, and any other necessary modifications:
  - (a) the market value of an option is to be determined as if it were a right to acquire a share;



- (b) a reference to a taxpayer is to be read as a reference to the employee;
  - (c) a reference to the Commissioner of Taxation is to be read as a reference to either that Commissioner or the Commissioner of Territory Revenue.
- (4) Section 3B does not apply to the grant of a share or option that constitutes wages, even if it constitutes a fringe benefit.
- (5) In this section:

***Commonwealth income tax provisions*** means the provisions of Part III, Division 13A, Subdivision F of the *Income Tax Assessment Act 1936* (Cth).

### **3N Inclusion of shares and options granted to directors as wages**

- (1) For the purposes of this Act, **wages** include the grant of a share, or option, by a company to a director of the company by way of remuneration for the appointment or services of the director that would be wages under this Division if the director were an employee of the company.
- (2) For that purpose, the other provisions of this Division apply in respect of any such grant as if a reference to the employer were a reference to the company and a reference to the employee were a reference to the director of the company.
- (3) In this section, a reference to a director of the company includes a reference to the following:
- (a) a person who, under a contract or other arrangement, is to be appointed as a director of the company;
  - (b) a former director of the company.
- (4) In the case of wages constituted by the grant of a share or option by a company to a director of the company by way of remuneration for the appointment of the director, but not for services performed:
- (a) the grant of the share or option is taken, for the purposes of this Act, to be paid or payable for services performed during the month in which the relevant day occurs; and
  - (b) a reference in this Act to the place or places where services are performed is a reference to the place or places where it may reasonably be expected that the services of the director in respect of the company will be performed.

**3P When services considered to have been performed**

For the purposes of this Act, if the grant of a share or an option constitutes wages for the purposes of this Act, the services in respect of which those wages are paid or payable are taken to have been performed during the month in which the relevant day occurs.

**3Q Place where wages are payable**

- (1) The wages constituted by the grant of the share or option are taken to be paid or payable in the Territory if the share is a share in a local company or, in the case of an option, an option to acquire shares in a local company.
- (2) In any other case, the wages constituted by the grant of the share or option are taken to be paid or payable outside the Territory.

*Note*

*If the wages concerned are taken to be payable outside the Territory, because the shares concerned are shares in a company that is not a local company, the grant of the share or option may still be liable to pay-roll tax under this Act if the grant is made for services performed or rendered wholly in the Territory (see section 6(1)(b)).*

- (3) In this section:

***local company*** means:

- (a) a company incorporated or taken to be incorporated under the Corporations Act 2001 that is taken to be registered in the Territory for the purposes of that Act; or
- (b) any other body corporate that is incorporated under an Act of the Territory.

**Division 8 Termination payments**

**3R Definitions**

In this Division:

***employment termination payment*** means:

- (a) an employment termination payment as defined in section 82-130 of the ITAA; or
- (b) a payment that would be an employment termination payment as defined in section 82-130 of the ITAA but for the fact that it was received later than 12 months after the termination of a person's employment; or

- (c) a transitional termination payment as defined in section 82-10 of the *Income Tax (Transitional Provisions) Act 1997* (Cth).

**termination payment** means:

- (a) a payment made in consequence of the retirement from, or termination of, any office or employment of an employee, being:
- (i) an unused annual leave payment; or
  - (ii) an unused long service leave payment; or
  - (iii) so much of an employment termination payment paid or payable by an employer, whether or not paid to the employee or to any other person or body, that would be included in the assessable income of an employee under Part 2-40 of the ITAA if the whole of the employment termination payment had been paid to the employee; or
- (b) an amount paid or payable by a company as a consequence of the termination of the services or office of a director of the company, whether or not paid to the director or to any other person or body, that would be an employment termination payment if that amount had been paid or payable as a consequence of termination of employment.

**unused annual leave payment**, see section 83-10 of the ITAA.

**unused long service leave payment**, see section 83-75 of the ITAA.

### 3S Termination payments

For the purposes of this Act, **wages** include a termination payment.

## Part 3 Liability to taxation

### 6 Pay-roll tax

- (1) Subject to and in accordance with this Act, there is payable in respect of all wages paid or payable by an employer or a group on or after 1 July 2008 (whether in respect of services performed or rendered before, on or after that date) and which are wages that are paid or payable:
- (a) in the Territory, not being wages so paid or payable in respect of services performed or rendered wholly in the Australian Capital Territory or a State; or

- 
- (b) elsewhere than in the Territory in respect of services performed or rendered wholly in the Territory,
- tax at the rate of 5.9% of the total wages paid or payable in a return period of one month.
- (2) Subsection (1) does not apply to wages paid or payable for services performed by a person wholly in another country for a continuous period of more than 6 months beginning on the day on which wages were first paid or payable to that person for services so performed.
- (3) For the purposes of subsection (1)(a), wages that are payable to a person by his employer but have not been paid (not being wages that under the terms of employment, are payable in the Territory, in the Australian Capital Territory or in a State) shall be deemed:
- (a) where those wages are payable in respect of services performed or rendered wholly in the Territory – to be wages payable to that person in the Territory;
- (b) where those wages are not payable in respect of services performed or rendered wholly in the Territory, wholly in the Australian Capital Territory, or wholly in one of the States, and the wages last paid or payable to that person by that employer were included or required to be included in a return under this Act – to be wages payable to that person in the Territory; or
- (c) where those wages are not deemed, by paragraph (a) or (b) or by any provision in a corresponding pay-roll tax law that corresponds with either of those paragraphs, to be wages payable to that person in the Territory, in the Australian Capital Territory or in a State – to be wages payable to that person by that employer at the place where that person last performed or rendered any services for that employer before those wages became payable.
- (3A) Wages referred to in paragraph (cb) of the definition of wages in section 3(1) that are not paid or payable in respect of services performed or rendered by a person are liable to tax as if they were paid or payable in respect of services performed or rendered by the person in the month in which they are paid or become payable.
- (4) For the purposes of this section, where a cheque or other bill of exchange, a promissory note, a money order or postal order issued by a post office, or any other instrument, has been given or sent by an employer to a person or his agent in payment of his wages, those wages shall be deemed to have been paid at the place at which the instrument is given, or to which the instrument is sent, as the case may be, and to have been paid when the instrument was

so given or sent.

## 7 **Liability to pay tax**

Tax shall be paid by the employer who pays or is liable to pay the wages in respect of which the tax is payable.

## 8 **General exemption**

(1) In this section:

**interstate wages** does not include interstate wages paid or payable by a member of a group.

**prescribed amount** means:

- (a) if the return is for a return period of one month – \$104 166.66; and
- (b) if the return is for a return period of 2 or more months – the product ascertained by multiplying \$104 166.66 by the number of months in that return period.

**taxable wages** does not include taxable wages paid or payable by a member of a group.

- (2) For the purpose of ascertaining the tax payable by an employer who pays or is liable to pay taxable wages for the whole of a return period, but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to that return period) the prescribed amount.
- (3) For the purpose of ascertaining the tax payable by an employer who pays or is liable to pay wages during a return period and pays or is liable to pay taxable wages for part only of that return period, but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to that return period) the amount that bears to the prescribed amount the same proportion as the number of days in that part of that return period bears to the total number of days in that return period.
- (4) An employer who during a return period pays or is liable to pay taxable wages and interstate wages may nominate an amount, calculated in the manner specified by the Commissioner but not

exceeding the prescribed amount, as the deduction the employer claims to be entitled to make for that return period and subsequent return periods.

- (5) For ascertaining the tax payable by an employer who has nominated an amount under subsection (4), subject to subsection (6), the nominated amount must be deducted from the amount of taxable wages included in a return made by, or an assessment relating to, the employer for the return period ending last before the nomination and any subsequent return period.
- (6) The Commissioner may, on an application made to him in writing by an employer who pays or is liable to pay taxable wages and interstate wages during any return period or of his own motion in relation to such an employer, at any time, make a determination specifying an amount, not exceeding the prescribed amount, that may be deducted for any return period specified or referred to in the determination (being a return period commencing before, but not before 1 July 1979, or after, or the return period in which the determination is made) from the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) and there shall be deducted, for any such return period, from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer (being a return or an assessment relating to any such return period) the amount so specified.
- (7) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (6) and any such revocation shall have effect as on and from the first day of the return period specified in the instrument, whether that return period is before, but not before the date of the determination, or after, or the return period in which, the instrument is executed by him.
- (8) The Commissioner shall, as soon as practicable after making a determination under subsection (6) or a revocation under subsection (7), serve notice of the determination or revocation on the employer concerned.

## **9 Exemption from tax**

Section 6 does not apply to wages paid or payable:

- (a) by a religious or public benevolent institution, or by a public hospital, to a person during a period in respect of which the institution or hospital, as the case may be, satisfies the Commissioner that the person is exclusively engaged in the religious work, work of a public benevolent nature or work of

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the hospital of a kind ordinarily performed in connection with the conduct of public hospitals, as the case may be;

- (b) by a hospital which is carried on by a society or association otherwise than for the purpose of profit or gain to the individual members of the society or association, being wages paid or payable to a person during a period in respect of which the hospital satisfies the Commissioner that the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connection with the conduct of hospitals;
- (c) by a school or college (other than a technical school or a technical college) which:
  - (i) is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association and is not carried on by or on behalf of the Territory; and
  - (ii) provides education at or below, but not above, the secondary level of education;

being wages paid or payable to a person during a period in respect of which the school or college satisfies the Commissioner that the person is engaged exclusively in work of the school or college of a kind ordinarily performed in connection with the conduct of schools or colleges (other than technical schools or technical colleges);

- (d) by a local governing body, except to the extent that those wages are paid or payable:
  - (i) for or in connection with; or
  - (ii) for or in connection with the construction of any buildings or works, or the installation of plant, machinery or equipment, for use in connection with,

any activity or undertaking that is for the time being specified in the regulations as a trading activity or undertaking for the purpose of this paragraph;

- (e) by the Commonwealth War Graves Commission;
- (f) to a person who is a member of the Defence Force of the Commonwealth or of the armed forces of any other part of Her Majesty's dominions, being wages paid or payable by the employer from whose employment the person is on leave by reason of his being such a member; and

- (g) to members of his official staff by:
  - (i) a representative (other than a diplomatic or consular representative) in Australia of the government of any other part of Her Majesty's dominions or of any other country; or
  - (ii) a Trade Commissioner representing in Australia any other part of Her Majesty's dominions;
- (h) by the Australian-American Educational Foundation; or
- (j) by an employer:
  - (i) to a class of employees;
  - (ii) for services; or
  - (iii) in circumstances,  
that are prescribed by the Regulations.

**9A Exemption of labour hire agent from tax when paid by another person**

A labour hire agent is not liable to tax in relation to an arrangement referred to in section 3(6) if another person who provides the services of a worker has paid tax in respect of the wages paid to the worker who provided the services under the arrangement to the client.

**10 Seasonal fluctuation in payment of wages**

- (1) In this section:

***interstate wages*** does not include interstate wages paid or payable by a member of a group.

***taxable wages*** does not include taxable wages paid or payable by a member of a group.

- (2) Where a person who did not pay and was not liable to pay taxable wages or interstate wages for any part of a financial year satisfies the Commissioner that, by reason of the nature of his trade or business, the taxable wages and interstate wages, if any, paid or payable by him fluctuate with different periods of the financial year, the Commissioner may treat him:



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- (a) if he has conducted that trade or business in Australia during the whole of the financial year – as having been an employer throughout the financial year; or
  - (b) if he has conducted that trade or business in Australia during part only of the financial year – as having been an employer during that part of the financial year.

### 10A Annual adjustments

- (1) In this section:

**annual amount of tax**, in relation to an employer, means the amount ascertained by applying the appropriate rate of tax prescribed by section 6 calculated in respect of the full financial year to the difference between:

- (a) the total of the taxable wages paid or payable by that employer during a financial year; and
- (b) the prescribed amount, if any.

**financial year** means the financial year commencing on 1 July 1979 and each financial year thereafter.

**interstate wages** has the same meaning as it has in section 10(1).

**prescribed amount** means, in relation to an employer, the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[ \frac{1250\,000C}{D} \right]$$

**TW** is the total of the taxable wages paid or payable by the employer during the financial year;

**IW** is the total of the interstate wages paid or payable by the employer during the financial year;

**C** is the number of days in the financial year in respect of which wages (disregarding foreign wages) were paid or payable by the employer; and

**D** is the number of days in the financial year.

**taxable wages** has the same meaning as it has in section 10(1).

- (2) If the tax payable by an employer for a financial year exceeds the amount paid by way of periodic payments for the financial year, the employer must pay to the Commissioner, within the time allowed for

lodging a return for the month of June in the relevant financial year (or the return period that includes that month) the amount required to make up the difference.

- (3) If the tax paid by an employer by way of periodic payments for a financial year exceeds the total amount of tax payable for the financial year, the Commissioner must, subject to the *Taxation Administration Act*, refund the amount of the excess to the employer.

## 11 Adjustment if employer ceases to pay taxable wages or joins group

- (1) In this section:

**financial year** has the same meaning as it has in section 10A(1).

**interstate wages** has the same meaning as it has in section 10(1).

**prescribed amount**, in relation to an employer, means the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[ \frac{1250\,000C}{D} \right]$$

**TW** is the total of the taxable wages paid or payable by the employer during the prescribed period;

**IW** is the total of the interstate wages paid or payable by the employer during the prescribed period;

**C** is the number of days in the financial year in respect of which wages were paid or payable by the employer up to and including the last day on which the employer paid or was liable to pay taxable wages; and

**D** is the number of days in the financial year.

**prescribed period**, in relation to an employer who pays or is liable to pay wages, otherwise than as a member of a group, for part only of a financial year, means that part of that financial year up to and including the last day on which the employer paid or was liable to pay taxable wages.

**taxable wages** has the same meaning as it has in section 10(1).

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**total amount of tax**, in relation to an employer, means the amount ascertained by applying the appropriate rate of tax prescribed by section 6 calculated in respect of the prescribed period to the difference between:

- (a) the total of the taxable wages paid or payable by the employer during a prescribed period; and
- (b) the prescribed amount, if any.

**wages** does not include foreign wages.

- (2) If an employer ceases to pay taxable wages or becomes a member of a group during the course of a financial year and the tax payable by the employer for the prescribed period exceeds the amount paid by way of periodic payments for that period, the employer must pay to the Commissioner, within the time allowed for lodging a return for the return period in which the prescribed period ends, the amount required to make up the difference.
- (3) Where an employer, who has ceased to pay taxable wages or has become a member of a group, as referred to in subsection (2), in any financial year, subsequently pays or is liable to pay taxable wages during that financial year otherwise than as a member of a group, section 10A applies to and in respect of him as if the reference in section 10A(2) to the amount of tax paid or payable by that employer included a reference to any tax paid or payable by that employer under subsection (2).

#### **11A Arrangements for avoidance of tax may be disregarded**

- (1) Where a person enters into an agreement, transaction, or arrangement, whether in writing or otherwise, whereby a natural person performs or renders, for or on behalf of another person, services in respect of which a payment is made to some other person related to or connected with the natural person performing or rendering the services and the effect of such agreement, transaction or arrangement is to reduce or avoid the liability of a person to the assessment, imposition, or payment of pay-roll tax, the Commissioner may:
  - (a) disregard the agreement, transaction, or arrangement;
  - (b) determine that a party to the agreement, transaction or arrangement shall be deemed to be an employer for the purposes of this Act; and
  - (c) determine that a payment made in respect of the agreement, transaction or arrangement shall be deemed to be wages for the purposes of this Act.

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- (2) Where the Commissioner makes a determination under subsection (1), he shall serve a notice to that effect on the person deemed to be an employer for the purposes of this Act and shall set out in the notice the facts on which the Commissioner relies and his reasons for making the determination.
  - (3) For the purposes of this section:
    - (a) a reference in subsection (1) to the making of a payment to a person related to or connected with a natural person includes the provision of a fringe benefit or prescribed benefit to the person related to or connected with the natural person; and
    - (b) the value of a fringe benefit or prescribed benefit so provided is to be taken to be the value that, by virtue of section 3B or 3C, the benefit would have been taken to have if it had been provided to the natural person by the person deemed to be an employer under subsection (1)(b).
  - (4) In subsection (3), **provision** has a meaning that corresponds with the meaning of **provide** as given in section 136 of the FBT Act and, without limiting the generality of paragraph (a) of the definition of **provide** as given in that section, includes the meaning given in section 154 of that Act.

#### **11B Arrangement for avoidance of tax by labour hire agents**

- (1) This section applies if:
  - (a) an avoidance arrangement exists in relation to a labour hire agency in a return period; and
  - (b) the assumed non-adjusted tax for the period is less than the assumed adjusted tax for the period.
- (2) If this section applies in a return period, then for the period:
  - (a) if the avoidance arrangement involves a labour hire agent acting as trustee for a client of the labour hire agent under a trust or acting as agent for the client of the labour hire agent under an agency agreement – section 59(1)(a), (b) and (f) does not apply to the trustee or agent, or in relation to the trust or agency agreement;
  - (b) if the avoidance arrangement involves a client of a labour hire agent acquiring, or clients of a labour hire agent jointly acquiring, a controlling interest in the business of the labour hire agent referable to the client or clients – the client or clients is or are taken not to have the controlling interest;

- (c) the labour hire agent, or each labour hire agent, involved in the labour hire agency is answerable as an employer for doing everything required to be done under this Act for the payment of wages by the labour hire agent that are subject to tax under this Act (including the giving of returns and payment of tax); and
  - (d) if the labour hire agency involves more than one labour hire agent – the labour hire agents constitute a group.
- (3) A client has, or clients have, a controlling interest in a business if the client has, or the clients have, a controlling interest in the business under section 17D.
- (4) In subsection (1):
- (a) a reference to the assumed non-adjusted tax for a return period is a reference to the total amount of tax that would be payable by the labour hire agent or agents involved in the labour hire agency for the period if the amount were calculated without applying any resultant provision; and
  - (b) a reference to the assumed adjusted tax for a return period is a reference to the total amount of tax that would be payable by the labour hire agent or agents involved in the labour hire agency for the period if the amount were calculated applying each relevant resultant provision.
- (5) To remove any doubt about the application of subsection (4)(b), if a labour hire agency is involved in more than one avoidance arrangement in a return period, subsection (4)(b) is to be applied by first applying each relevant resultant provision to each avoidance arrangement and then calculating the total amount for the subsection.
- (6) In this section:

**avoidance arrangement** means an arrangement involving a labour hire agency if the arrangement involves one or more of the following:

- (a) a labour hire agent acting as trustee for a client of the labour hire agent under a trust;
- (b) a labour hire agent acting as agent for a client of the labour hire agent under an agency agreement;

- (c) a client of a labour hire agent acquiring, or clients of a labour hire agent jointly acquiring, a controlling interest in the business of the labour hire agent referable to the client or clients.

**client includes** an associate of a client.

**labour hire agency** means a business enterprise involving:

- (a) the business of a labour hire agent; or  
(b) the businesses of 2 or more labour hire agents;

**resultant provision** means subsection (2)(a), (b), (c) or (d).

## **Part 4 Registration and returns**

### **12 Registration**

- (1) An employer (not being an employer who is registered as an employer) who, during any month, pays or is liable to pay, anywhere, wages at a rate in excess of \$24 030 per week, being wages that, in whole or in part, are taxable wages, or who, being a member of a group, during a month pays or is liable to pay any taxable wages shall, within 7 days after the close of that month, apply to the Commissioner for registration as an employer, and the Commissioner shall register him accordingly.
- (1A) The Commissioner may cancel the registration of a person as an employer if:
- (a) that person, not being a member of a group, has ceased to be an employer paying wages as referred to in subsection (1);
- (b) that person:
- (i) ceases to be a member of a group; and
- (ii) does not pay and is not liable to pay wages as referred to in subsection (1); or
- (c) that person, although remaining a member of a group, does not pay and is not liable to pay wages as referred to in subsection (1).
- (1B) Where the Commissioner cancels the registration of a person as an employer in any financial year and that person subsequently pays or is liable to pay (otherwise than as a member of a group) taxable wages during that financial year that person may, notwithstanding

that during any month he pays or is liable to pay wages at a rate not in excess of \$24 030 per week, apply to the Commissioner for registration as an employer and thereupon the Commissioner shall register him as an employer under this Act.

- (3) In this section:

**wages** includes interstate wages and foreign wages.

### **13 Returns and payment of tax**

- (1) An employer who is registered or required to apply for registration must, within 21 days after the end of each return period:
- (a) lodge with the Commissioner a return specifying the taxable wages paid or payable by the employer during the return period; and
  - (b) pay to the Commissioner the pay-roll tax payable in respect of those taxable wages.
- (2) An approved designated group employer must, within 21 days after the end of each return period:
- (a) lodge with the Commissioner a return specifying the taxable wages paid or payable by each member of the group during the return period; and
  - (b) pay to the Commissioner the aggregate pay-roll tax payable by the members of the group in respect of those taxable wages.
- (3) If an approved designated group employer lodges a return and pays tax as required by subsection (2), a member of the group is taken to have complied with its obligations under subsection (1).
- (4) If taxable wages include fringe benefits, the value of the fringe benefits is to be calculated in accordance with the regulations and included in the return.
- (5) The requirements of this section as to the lodging of returns and the payment of tax are subject to modification by arrangement approved under the *Taxation Administration Act*.

### **14 Further returns**

The Commissioner may, by notice addressed to an employer or other person (the **respondent**), require the respondent to lodge with the Commissioner, within a period specified in the notice, a return containing the information specified in the notice.

## **Part 5            Grouping of employers**

### **Division 1        Interpretation**

#### **17A            Definitions**

In this Part:

**business** includes:

- (a) a profession or trade; and
- (b) any other activity carried on for fee, gain or reward; and
- (c) the activity of employing 1 or more persons who perform duties for, or in connection with, another business; and
- (d) the carrying on of a trust (including a dormant trust); and
- (e) the activity of holding any money or property used for, or in connection with, another business;

whether carried on by 1 person or 2 or more persons together.

**group** means a group constituted under this Part, but does not include any member of the group in respect of whom a determination under Division 4 is in force.

#### **17B            Grouping provisions to operate independently**

The fact that a person is not a member of a group constituted under a provision of this Part does not prevent that person from being a member of a group constituted under another provision of this Part.

### **Division 2        Business groups**

#### **17C            Constitution of groups**

A group is constituted by all the persons or bodies forming a group that is not a part of any larger group.

#### **17D            Groups of corporations**

Corporations constitute a group if they are related bodies corporate as defined in the Corporations Act 2001.



### **17E        Groups arising from the use of common employees**

- (1) If 1 or more employees of an employer perform duties for, or in connection with, 1 or more businesses carried on by the employer and 1 or more other persons, the employer and each of those other persons constitute a group.
- (2) If 1 or more employees of an employer are employed solely or mainly to perform duties for, or in connection with, 1 or more businesses carried on by 1 or more other persons, the employer and each of those other persons constitute a group.
- (3) If 1 or more employees of an employer perform duties for, or in connection with, 1 or more businesses carried on by 1 or more other persons, being duties performed in connection with, or in fulfilment of the employer's obligation under, an agreement, arrangement or undertaking for the provision of services to any 1 or more of those other persons in connection with that business or those businesses, the employer and each of those other persons constitute a group.
- (4) Subsection (3) applies to an agreement, arrangement or undertaking:
  - (a) whether the agreement, arrangement or undertaking is formal or informal, express or implied; and
  - (b) whether or not the agreement, arrangement or undertaking provides for duties to be performed by the employees or specifies the duties to be performed by them.

*Note*

*Section 17N allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.*

### **17F        Groups of commonly controlled businesses**

- (1) If a person or set of persons has a controlling interest in each of 2 businesses, the persons who carry on those businesses constitute a group.

*Note*

*Section 17N allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.*

- (2) For the purposes of this section, a person or set of persons has a controlling interest in a business if:
  - (a) in the case of 1 person – the person is the sole owner (whether or not as trustee) of the business; or

- (b) in the case of a set of persons – the persons are together as trustees the sole owners of the business; or
  - (c) in the case of a business carried on by a corporation:
    - (i) the person or each of the set of persons is a director of the corporation and the person or set of persons is entitled to exercise more than 50% of the voting power at meetings of the directors of the corporation; or
    - (ii) a director or set of directors of the corporation that is entitled to exercise more than 50% of the voting power at meetings of the directors of the corporation is under an obligation, whether formal or informal, to act in accordance with the direction, instructions or wishes of that person or set of persons; or
  - (d) in the case of a business carried on by a body corporate or unincorporated – that person or set of persons constitute more than 50% of the board of management (by whatever name called) of the body or control the composition of that board; or
  - (e) in the case of a business carried on by a corporation that has a share capital – that person or set of persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, more than 50% of the voting power attached to the voting shares, or any class of voting shares, issued by the corporation; or
  - (f) in the case of a business carried on by a partnership – that person or set of persons:
    - (i) own (whether beneficially or not) more than 50% of the capital of the partnership; or
    - (ii) is entitled (whether beneficially or not) to more than 50% of the profits of the partnership; or
  - (g) in the case of a business carried on under a trust – the person or set of persons (whether or not as a trustee of, or beneficiary under, another trust) is the beneficiary in respect of more than 50% of the value of the interests in the first-mentioned trust.
- (3) If:
- (a) 2 corporations are related bodies corporate as defined in the Corporations Act 2001; and
  - (b) 1 of the corporations has a controlling interest in a business;

the other corporation has a controlling interest in the business.

(4) If:

- (a) a person or set of persons has a controlling interest in a business; and
- (b) a person or set of persons who carry on the business has a controlling interest in another business;

the person or set of persons referred to in paragraph (a) has a controlling interest in that other business.

(5) If:

- (a) a person or set of persons is the beneficiary of a trust in respect of more than 50% of the value of the interests in the trust; and
- (b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of another trust;

the person or set of persons has a controlling interest in the business.

(6) A person who may benefit from a discretionary trust as a result of the trustee or another person, or the trustee and another person, exercising or failing to exercise a power or discretion, is taken, for the purposes of this Part, to be a beneficiary in respect of more than 50% of the value of the interests in the trust.

(7) If:

- (a) a person or set of persons has a controlling interest in the business of a trust; and
- (b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of a corporation;

the person or set of persons is taken to have a controlling interest in the business of the corporation.

(8) If:

- (a) a person or set of persons has a controlling interest in the business of a trust; and

- (b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of a partnership;

the person or set of persons is taken to have a controlling interest in the business of the partnership.

### **17G        Groups arising from tracing of interests in corporations**

- (1) An entity and a corporation form part of a group if the entity has a controlling interest in the corporation.

*Note*

*Section 17N allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.*

- (2) For the purposes of this section, an entity has a **controlling interest** in a corporation if the corporation has share capital and:
  - (a) the entity has a direct interest in the corporation and the value of that direct interest exceeds 50%; or
  - (b) the entity has an indirect interest in the corporation and the value of that indirect interest exceeds 50%; or
  - (c) the entity has an aggregate interest in the corporation and the value of the aggregate interest exceeds 50%.
- (3) Division 3 applies for the purposes of the interpretation of this section.

*Note*

*Division 3 sets out the manner for determining whether an entity has a direct interest, indirect interest or aggregate interest in a corporation, and the value of such an interest.*

- (4) In this section:

**associated person** means a person who is associated with another person in accordance with any of the following:

- (a) persons are associated persons if they are related persons;
- (b) natural persons are associated persons if they are partners in a partnership;
- (c) private companies are associated persons if common shareholders have a majority interest in each private company;

- (d) trustees are associated persons if any person is a beneficiary common to the trusts (not including a public unit trust scheme) of which they are trustees;
- (e) a private company and a trustee are associated persons if a related body corporate of the company (as defined in the Corporations Act 2001) is a beneficiary of the trust (not including a public unit trust scheme) of which the trustee is a trustee.

**entity** means:

- (a) a person; or
- (b) 2 or more persons who are associated persons (as defined in this section).

**private company** means a company that is not limited by shares, or whose shares are not quoted on the Australian Securities Exchange or any exchange of the World Federation of Exchanges.

**related person** means a person who is related to another person in accordance with any of the following:

- (a) natural persons are related persons if:
  - (i) 1 is the spouse or de facto partner of the other; or
  - (ii) the relationship between them is that of parent and child, brothers, sisters, or brother and sister;
- (b) private companies are related persons if they are related bodies corporate as defined in the Corporations Act 2001;
- (c) a natural person and a private company are related persons if the natural person is a majority shareholder or director of the company or of another private company that is a related body corporate of the company as defined in the Corporations Act 2001;
- (d) a natural person and a trustee are related persons if the natural person is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee;
- (e) a private company and a trustee are related persons if the company, or a majority shareholder or director of the company, is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee.

**17H        Smaller groups subsumed by larger groups**

- (1) If a person is a member of 2 or more groups, the members of all the groups together constitute a group.
- (2) If 2 or more members of a group have together a controlling interest in a business (within the meaning of section 17F), all the members of the group and the person or persons who carry on the business together constitute a group.

*Note*

*Section 17N allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.*

**Division 3        Business groups – tracing of interests in corporations**

**17J        Application**

This Division applies for the purposes of section 17G.

**17K        Direct interest**

- (1) An entity has a **direct interest** in a corporation if:
  - (a) in the case of an entity that is a person – the person can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation; or
  - (b) in the case of an entity that is 2 or more persons who are associated persons – each of the associated persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation.
- (2) The value of the direct interest of the entity in the corporation is the proportion (expressed as a percentage) of the voting power of all voting shares issued by the corporation that:
  - (a) in the case of an entity that is a person – the person can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, as referred to in subsection (1); or
  - (b) in the case of an entity that is 2 or more persons who are associated persons – the associated persons can, if acting together, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, as referred to in subsection (1).

## 17L Indirect interest

- (1) An entity has an **indirect interest** in a corporation if the corporation is linked to another corporation (the **directly controlled corporation**) in which the entity has a direct interest.
- (2) A corporation is linked to a directly controlled corporation if the corporation is part of a chain of corporations:
  - (a) that starts with the directly controlled corporation; and
  - (b) in which a link in the chain is formed if a corporation has a direct interest in the next corporation in the chain.
- (3) The following are examples of how subsections (1) and (2) work (the examples are cumulative):
  - (a) corporation A (a directly controlled corporation) has a direct interest in corporation B. Corporations A and B form part of a chain of corporations, and corporation B is linked to corporation A. Accordingly, an entity that has a direct interest in corporation A also has an indirect interest in corporation B;
  - (b) corporation B also has a direct interest in corporation C. In this case, corporations A, B and C form part of a chain of corporations. Both corporations B and C are linked to corporation A. The entity that has a direct interest in corporation A has an indirect interest in both corporations B and C;
  - (c) corporation B also has a direct interest in corporation D. There are now 2 chains of corporations, 1 consisting of A, B and C, and 1 consisting of A, B and D. Corporations B, C and D are all linked to corporation A and an entity that has a direct interest in corporation A would have an indirect interest in corporations B, C and D. An entity that has a direct interest in corporation B would have an indirect interest in corporations C and D. However, an entity that has a direct interest in corporation C only would not have an indirect interest in corporation D, as corporation D is not linked to corporation C.
- (4) The value of the indirect interest of an entity in a corporation (an **indirectly controlled corporation**) that is linked to a directly controlled corporation is calculated by multiplying together the following:
  - (a) the value of the direct interest of the entity in the directly controlled corporation;

- (b) the value of each direct interest that forms a link in the chain of corporations by which the indirectly controlled corporation is linked to the directly controlled corporation.
- (5) The following are examples of how subsection (4) works (the examples are cumulative):
- (a) an entity has a direct interest (with a value of 80%) in corporation A. Corporation A has a direct interest (with a value of 70%) in corporation B. The value of the indirect interest of the entity in corporation B is  $80\% \times 70\%$  (that is, 56%). Accordingly, in this example the entity has a controlling interest (as defined in section 17G) in corporation B;
  - (b) corporation B also has a direct interest (with a value of 40%) in corporation C. The value of the indirect interest of the entity in corporation C is  $80\% \times 70\% \times 40\%$  (that is, 22.4%). Accordingly, in this example the entity does not have a controlling interest in corporation C.
- (6) It is possible for an entity to have more than 1 indirect interest in a corporation. This may occur if the corporation is linked to more than 1 corporation in which the entity has a direct interest, or if the corporation is linked to only 1 corporation in which the entity has a direct interest but is linked through more than 1 chain of corporations. In that case, the entity has an aggregate interest in the corporation (see section 17M).

### **17M Aggregation of interests**

- (1) An entity has an **aggregate interest** in a corporation if:
- (a) the entity has a direct interest and 1 or more indirect interests in the corporation; or
  - (b) the entity has more than 1 indirect interest in the corporation.
- (2) The value of the aggregate interest of an entity in a corporation is the sum of the following:
- (a) the value of the direct interest (if any) of the entity in the corporation;
  - (b) the value of each indirect interest of the entity in the corporation.
- (3) For example:
- (a) an entity has a direct interest (with a value of 40%) in corporation B; and



- (b) the entity also has a direct interest (with a value of 25%) in corporation A, which in turn has a direct interest (with a value of 60%) in corporation B. Accordingly, the entity also has an indirect interest in corporation B with a value of 15% (that is, 25% x 60%); and
- (c) the value of the entity's aggregate interest in corporation B is the sum of the direct interest (40%) and the indirect interest (15%), which is 55%; and
- (d) accordingly, in this example, the entity has a controlling interest in corporation B (as defined in section 17G).

## **Division 4            Miscellaneous**

### **17N            Exclusion of persons from groups**

- (1) The Commissioner may, by order in writing, determine that a person who would, but for the determination, be a member of a group is not a member of the group.
- (2) The Commissioner may only make such a determination if satisfied, having regard to the nature and degree of ownership and control of the businesses, the nature of the businesses and any other matters the Commissioner considers relevant, that a business carried on by the person, is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member of that group.
- (3) The Commissioner cannot exclude a person from a group if the person is a body corporate that, by reason of section 50 of the Corporations Act 2001, is related to another body corporate that is a member of that group.
- (4) This section extends to a group constituted by reason of section 17H.
- (5) A determination can be expressed to take effect on a date that is earlier than the date of the determination (but not earlier than 1 July 2008).
- (6) The Commissioner may, by order in writing, revoke a determination that applies in respect of a person if satisfied that the circumstances in which a determination may be made do not apply to the person.
- (7) The revocation of a determination can be expressed to take effect on a date that is earlier than the date of the determination.

**17P Designated group employer**

- (1) The Commissioner must, on application by the members of a group, designate a member of the group as the designated group employer for the group.
- (2) The members of a group may nominate a deduction (to be calculated as specified by the Commissioner but not exceeding the prescribed amount fixed under section 8(1)) to be made from taxable wages for each return period.
- (3) The Commissioner may, by notice to the designated group employer (or the person to become the designated group employer) for a group, exercise 1 or both the following powers:
  - (a) in the absence of an application from the members of the group, the Commissioner may designate a member of the group as the designated group employer for the group;
  - (b) in the absence of a nomination made in accordance with subsection (2), the Commissioner may nominate a deduction to be made from taxable wages for each return period.
- (4) A person ceases to be the designated group employer in respect of a particular group on and from the first day of the return period during which:
  - (a) the composition of the group alters; or
  - (b) the members of the group apply to the Commissioner to have the designation revoked;whichever first occurs.
- (5) If the Commissioner exercises a power under subsection (3) in respect of a group, the Commissioner:
  - (a) may, by notice to the designated group employer, revoke the designation or nomination; and
  - (b) may further exercise that power in respect of the group.
- (6) For ascertaining the tax payable by a designated group employer, subject to subsection (7), the amount nominated under subsection (2) or (3) must be deducted from the amount of taxable wages included in a return made by, or an assessment relating to, the designated group employer for the return period ending last before the nomination and any subsequent return period.

- (7) The Commissioner may, on an application in writing by or on behalf of each person known to the Commissioner to be a member of a group or on the Commissioner's own initiative, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined in section 8(1), to be deducted for any return period specified or referred to in the determination (being a return period commencing before, or after, or the return period in which, the determination is made) from the taxable wages included in a return made by, or an assessment relating to, an employer specified in the determination who was, during any such return period, a member of that group.
- (8) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (7) and any such revocation has effect on and from the date the determination took effect or a specified later date.
- (9) An employer specified in a determination under subsection (7) is, on the first day of the first return period specified or referred to in the determination, taken to have been designated under subsection (1) as the designated group employer for the group of which the employer was then a member and will, subject to subsection (4), continue as the designated group employer for that group.
- (10) The Commissioner must, as soon as practicable after making a determination under subsection (7) or a revocation under subsection (8), serve notice of the determination or revocation on the designated group employer for the group concerned.

**17Q Annual adjustments**

- (1) This section applies in relation to a group in which:
  - (a) at least 1 member of the group paid or was liable to pay, as such a member, taxable wages or interstate wages during the whole or part of a financial year; and
  - (b) at least 1 member of the group (whether the same or a different member) paid or was liable to pay taxable wages on 30 June of the same financial year.

(2) In this section:

**prescribed amount**, in relation to a designated group employer, means the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[ \frac{1250\,000C}{D} \right]$$

where:

**TW** is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during the financial year; and

**IW** is the total of the interstate wages paid or payable by the members of that group during the financial year; and

**C** is the number of days in the financial year in respect of which wages (disregarding foreign wages) were paid or payable by any member of the group while that designated group employer was the designated group employer in respect of that group; and

**D** is the number of days in the financial year.

(3) A reference in this section to the annual amount of tax paid or payable by the members of a group is a reference to the amount ascertained by applying the appropriate rate of tax prescribed by section 6 calculated in respect of the full financial year to the amount by which:

(a) the total of the taxable wages paid or payable by the members of that group during a financial year;

exceeds:

(b) where:

(i) during that year there was only 1 designated group employer in respect of that group – the prescribed amount applicable to that designated group employer; or

(ii) during that year there were 2 or more designated group employers in respect of that group – the prescribed amount that, if there had been only 1 designated group employer in respect of that group during that year, would have been applicable if that designated group employer had paid all of the taxable wages referred to in

paragraph (a) paid or payable during that year.

- (4) A reference in this section to the actual amount of tax paid or payable in respect of a financial year by the members of a group is a reference to the amount of tax paid or payable when returns were made or required to be made under this Act relating to that financial year, being returns in which the taxable wages referred to in subsection (3)(a) were included or required to be included.
- (5) If the amount of tax paid by way of periodic payments by the members of a group for a financial year is less than the amount payable for the financial year, the designated group employer for the group must pay to the Commissioner, within the time allowed for lodging a return for the month of June in the relevant financial year (or the return period that includes that month) the amount required to make up the difference.
- (6) If the amount of tax paid by way of periodic payments by the members of a group for a financial year exceeds the amount payable for the financial year, the Commissioner must, subject to the *Taxation Administration Act*, refund the amount of the excess to the designated group employer.

**17R        Adjustment if group member ceases to pay taxable wages or interstate wages**

- (1) This section applies in relation to a group in which:
  - (a) at least 1 member of the group paid or was liable to pay, as such a member, taxable wages or interstate wages during a part of a financial year; and
  - (b) no member of the group paid or was liable to pay taxable wages on 30 June of the same financial year.
- (2) In this section:

**prescribed amount**, in relation to a designated group employer, means the amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[ \frac{1250\ 000C}{D} \right]$$

where:

- TW** is the total of the taxable wages paid or payable by the members of the group, in respect of which that designated group employer is the designated group employer, during the prescribed period; and
- IW** is the total of the interstate wages paid or payable by the members of that group during the prescribed period; and
- C** is the number of days in the financial year in respect of which wages (disregarding foreign wages) were paid or payable by any member of the group while that designated group employer was the designated group employer in respect of that group, up to and including the last day on which any member of the group paid or was liable to pay taxable wages; and
- D** is the number of days in the financial year.

**prescribed period**, in relation to a group, means part only (being a continuous part) of a financial year for which at least 1 member of the group paid or was liable to pay taxable wages or interstate wages up to and including the last day on which taxable wages were paid or payable by any member of the group.

- (3) A reference in this section to the total amount of tax paid or payable for a prescribed period by the members of a group is a reference to the amount ascertained by applying the appropriate rate of tax prescribed by section 6 calculated in respect of the prescribed period to the amount by which:
  - (a) the total of the taxable wages paid or payable by the employers in that group during that prescribed period;

exceeds:

- (b) where:
  - (i) during that prescribed period there was only 1 designated group employer in respect of that group – the prescribed amount applicable to that designated group employer; or
  - (ii) during that prescribed period there were 2 or more designated group employers in respect of that group – the prescribed amount that, if there had been only 1 designated group employer in respect of that group during that prescribed period, would have been applicable if that designated group employer had paid all

of the wages referred to in paragraph (a) paid or payable during that prescribed period.

- (4) If the tax payable for a group for a prescribed period exceeds the amount paid by way of periodic payments for that period, the designated group employer for the group must pay to the Commissioner, within the time allowed for lodging a return for the return period in which the prescribed period ends, the amount required to make up the difference.
- (5) Section 17Q(5) and (6) applies in relation to a group to which this section applies as if:
  - (a) at least 1 member of the group paid or was liable to pay, as such a member, taxable wages or interstate wages for the whole of that financial year; and
  - (b) the reference in section 17Q(4) to the actual amount of tax paid or payable in respect of a financial year by the members of that group included a reference to any tax paid or payable under subsection (4) by a designated group employer in respect of that group in respect of that financial year; and
  - (c) the person, if any, who was the designated group employer in respect of that group at the time when the group last ceased in that financial year to have a member who was paying or was liable to pay, as such a member, taxable wages was the designated group employer in respect of that group on 30 June in that financial year.

## **17S Application of this Part**

- (1) This Part applies only in respect of a financial year commencing on or after 1 July 2008.
- (2) The provisions of this Act replaced by this Part continue to apply in respect of earlier financial years.

## **Part 9 Miscellaneous**

### **58 Public officers of companies or partnerships**

- (1) The Commissioner may, by notice served on a company or partnership that is registered, or required to be registered, as an employer under this Act require the company or partnership to appoint, within such period as is specified in the notice, a public officer of the company or partnership for the purposes of this Act, and to keep the office of public officer constantly filled.

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- (2) An appointment of a public officer shall be deemed not to be duly made until after notice of the appointment, specifying the name of the officer, has been given to the Commissioner.
  - (3) If the company or partnership fails duly to appoint a public officer when and as often as such an appointment becomes necessary in accordance with a notice under subsection (1) it is guilty of an offence punishable, on being found guilty, by a fine not exceeding 50 penalty units and an additional penalty of 0.1 penalty units for each day that the failure continues after the first day on which the failure occurred.
  - (4) Service of a document at the address for service, or on the public officer, of the company or partnership is sufficient service on the company or partnership for the purposes of this Act or the regulations, and, if at any time there is no public officer, then service on any person acting or appearing to act in the business of the company or partnership is sufficient.
  - (5) The public officer is answerable for the doing of all such things as are required to be done by the company or partnership under this Act or the regulations, and, in case of default, is liable to the same penalties.
  - (6) Everything done by the public officer that he is required to do in his representative capacity shall be deemed to have been done by the company or partnership and the absence or non-appointment of a public officer does not excuse the company or partnership from the necessity of complying, or from any penalty for failure to comply, with any of the provisions of this Act or the regulations, but the company or partnership is liable to comply with the provisions of this Act or the regulations as if there were no requirement to appoint a public officer.
  - (7) A notice given to or requisition made upon the public officer shall be deemed to be given to or made upon the company or partnership.
  - (8) Any proceedings under this Act taken against the public officer shall be deemed to have been taken against the company or partnership, and the company or partnership is liable jointly with the public officer for any penalty imposed upon him.
  - (9) Notwithstanding anything contained in this section, and without in any way limiting, altering or transferring the liability of the public officer of a company or partnership, every notice, process or proceeding that, under this Act or the regulations, may be given to, served on or taken against the company or partnership or its public officer may, if the Commissioner thinks fit, be given to, served on or taken against any director, secretary or other officer of the company



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or partnership or any attorney or agent of the company or partnership, and that director, secretary, officer, attorney or agent has the same liability in respect of that notice, process or proceeding as the company or partnership or public officer would have had if it had been given to, served on or taken against the company or partnership or public officer.

## **59 Agents and trustees**

- (1) The following provisions apply with respect to every agent and every trustee:
  - (a) he is answerable as an employer for the doing of all such things as are required to be done by virtue of this Act in respect of the payment of any taxable wages;
  - (b) he shall, in respect of any such wages, lodge the returns and is liable to pay tax thereon, but in his representative capacity only, and each return shall, except as otherwise provided by this Act be separate and distinct from any other;
  - (c) if he is an executor or administrator, the returns shall be the same, as far as practicable, as those that the deceased person, if living, would have been liable to lodge;
  - (d) where as agent or trustee he pays tax, he may recover the amount so paid from the person in whose behalf he paid it, or deduct it from any money in his hands belonging to that person;
  - (e) he shall retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the tax that is or will become due in respect of such wages;
  - (f) he is personally liable for the tax payable in respect of such wages if, after the Commissioner has required him to lodge a return, or while the tax remains unpaid, he disposes of or parts with any fund or money that comes to him and from or out of which tax could legally be paid, but he is not otherwise personally liable for the tax, but the Commissioner may, upon application by the agent or trustee, permit disposal of the fund or money or such part thereof as he considers necessary;
  - (g) he is, by force of this section, indemnified in respect of all payments that he makes in pursuance of this Act or the requirements of the Commissioner; and
  - (h) for the purpose of ensuring the payment of tax, the Commissioner has the same remedies against attachable

property of any kind vested in, under the control or management of, or in the possession of, any agent or trustee as he would have against the property of any other person in respect of tax, and in as full and ample a manner.

- (2) Nothing in subsection (1) affects the operation of Part 5 in relation to trustees.

### **63 Release of employers in cases of hardship**

In any case where it is shown to the satisfaction of the Treasurer that:

- (a) an employer has suffered such a loss or is in such circumstances; or
- (b) owing to the death of a person who, if he had lived, would have been liable to pay tax, the dependants of that person are in such circumstances,

that the exaction of the full amount of tax will entail serious hardship, the Treasurer may release the employer or the trustee of the estate of the deceased person, as the case may be, wholly or in part from his liability, and the Commissioner may make such entries as are necessary for that purpose.

### **64 Regulations**

The Administrator may make regulations under this Act.

## Schedule 1 Provisions about superannuation

section 3A

### 1 What this schedule is about

For the purposes of section 3A, this schedule sets out:

- (a) certain amounts that are to be taken to be contributions paid or payable by an employer in respect of a person to a superannuation fund; and
- (b) certain contributions paid or payable by an employer in respect of a person to a superannuation fund that are not to be taken to be superannuation benefits.

### 2 Definitions

(1) In this schedule:

**actuary** means a Fellow or Accredited Member of the Institute of Actuaries of Australia.

**Australian superannuation scheme** means a superannuation scheme that:

- (a) was established in Australia or has an asset that is situated in Australia; and
- (b) has its central management and control in Australia.

**defined benefit** means a benefit under a superannuation scheme that is defined (wholly or in part) by reference to either or both of the following:

- (a) the amount of a participant's salary:
  - (i) at a particular date, being the date of the termination of the participant's employment, the date of the participant's retirement or an earlier date; or
  - (ii) averaged over a period ending on such a date;
- (b) a stated amount.

**individual superannuation guarantee shortfall** has the meaning given in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

**participant**, in relation to a superannuation scheme, means a person in respect of whom the scheme provides benefits that are or are to be funded to any extent by an employer's contributions under the scheme.

**regulated superannuation fund** has the meaning given in the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**superannuation guarantee charge** means a charge imposed by the *Superannuation Guarantee Charge Act 1992* of the Commonwealth but does not include an additional superannuation guarantee charge under Part 7 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

**unfunded public sector scheme** means a public sector superannuation scheme within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, other than such a scheme that is funded in advance in accordance with actuarial advice at a level that is reasonably expected by the actuary to be adequate to provide for present and prospective liabilities in respect of benefits under the scheme.

- (2) Setting aside money or anything worth money as or as part of a superannuation scheme is to be taken to be paying it as a contribution to the superannuation fund.
- (3) Making a contribution to a superannuation fund of anything that is worth money is to be taken to be paying a contribution of the amount of money that it is worth and, for the purpose of determining that worth, section 3(4) applies as if references in that provision to taxable wages were references to contributions.
- (4) If an amount by way of administration or other charges in respect of the carrying on of a superannuation fund is paid other than to the fund, the amount is to be taken to be paid as a contribution to the fund.
- (5) If in a return period a person becomes obliged but fails to do anything that, if it were done, would by virtue of subclause (2), (3) or (4) be taken to be paying a contribution to a superannuation fund, the contribution to the superannuation fund is to be taken to be payable in the return period.
- (6) A contribution to a superannuation fund paid or payable by a person acting for or in concert with or under an arrangement or undertaking, whether formal or informal and whether express or implied, with an employer is to be taken to be paid or payable by the employer.

- (7) Contributions to a superannuation fund that are to be taken by this schedule to be paid or payable by an employer are cumulative upon one another, and upon contributions that are actually paid or payable, unless it is otherwise provided.

**3 Australian scheme unregulated defined benefit scheme or unfunded public sector defined benefit scheme**

- (1) This clause applies in relation to an Australian superannuation scheme:
- (a) that:
- (i) is not a regulated superannuation fund; or
- (ii) is an unfunded public sector scheme, whether or not it is a regulated superannuation scheme; and
- (b) that provides for an employer to contribute and for a defined benefit in respect of a person, whether or not it also provides for any benefit that is not a defined benefit.
- (2) A contribution is to be taken to be payable by the employer to the superannuation fund concerned in the return period in respect of each participant.
- (3) The amount of the contribution in respect of a participant is:
- (a) the amount that an actuary determines would be sufficient, together with earnings on the amount, to fully provide for the cost to the employer of the entitlement accruing under the scheme to benefits in respect of services performed or rendered by the participant in the return period; or
- (b) if the Regulations prescribe how the amount of a contribution in respect of a class of participants of which the participant is a member is to be determined – the amount so determined.
- (4) The Regulations may provide for how an actuary is to determine an amount under subclause (3).
- (5) If by virtue of subclause (2) a contribution by the employer under a scheme is to be taken to be payable to the superannuation fund concerned, no other contribution by the employer to the fund is to be taken to be a superannuation benefit unless:
- (a) it is a contribution that the employer is to be taken to pay by virtue of clause 5; or

- (b) the contribution is made for any reason other than to make provision for the cost referred to in subclause (3).

#### **4 Unfunded credit to unregulated Australian scheme that gives no defined benefit**

- (1) This clause applies in relation to an Australian superannuation scheme:
  - (a) that:
    - (i) is not a regulated superannuation fund; and
    - (ii) does not provide for a defined benefit in respect of a person; and
  - (b) under which an amount not excluded by subclause is credited in a return period as an employer's contribution in respect of a person.
- (2) An amount that a person is obliged to but does not credit in a return period is to be taken to be credited in the return period and not at any other time.
- (3) An amount:
  - (a) paid or payable as a contribution under the scheme; or
  - (b) that is to be taken (other than by virtue of subclause (4)) to be paid or payable as a contribution under the scheme,is excluded from the amount referred to in subclause (1)(b).
- (4) A contribution of the amount mentioned in subclause (1)(b) is to be taken to be payable by the employer to the superannuation fund concerned in the return period in respect of each participant.
- (5) If by virtue of subclause (4) an amount credited as an employer's contribution under a scheme is to be taken to be payable to the fund concerned, to the extent that it is paid to meet (wholly or in part) an obligation arising from the credit, no contribution under the scheme is to be taken to be a superannuation benefit.

#### **5 Superannuation guarantee charge**

- (1) If a superannuation guarantee charge payable by an employee is imposed in a return period, a contribution of the amount of the charge is to be taken to be payable by the employer to a superannuation fund in the return period.

- (2) If the charge is imposed because of only one individual superannuation guarantee shortfall, the contribution is to be taken to be in respect of the person in respect of whom the employer has the shortfall.
- (3) If the charge is imposed because of an individual superannuation guarantee shortfall in respect of each of 2 or more persons, the contribution is to be taken to be in respect of each of them and to be apportioned according to the amount of the employer's individual superannuation guarantee shortfall in respect of each of them.
- (4) If:
  - (a) a contribution that was payable but which the employer failed to pay in respect of a person is to be taken to be a superannuation benefit; and
  - (b) the charge is imposed wholly or in part because of an individual superannuation guarantee shortfall that results wholly or in part from the failure,  
  
the amount of the contribution that is to be taken to be payable in respect of the person is reduced by the amount of the contribution referred to in paragraph (a).
- (5) An amount cannot be reduced by virtue of subclause (4) to less than 0.

## **6 Treatment of certain contributions**

- (1) A contribution in respect of services performed or rendered before 1 July 1999 is not to be taken to be a superannuation benefit.
- (2) If a contribution is partly in respect of services performed or rendered before 1 July 1999, the part that is in respect of services performed or rendered before that date is not to be taken to be a superannuation benefit.
- (3) For the purposes of this clause, a contribution is in respect of services performed or rendered before 1 July 1999 to the extent that the payment of the contribution is attributable to, or is to satisfy a benefit attributable to, a period of service before 1 July 1999.
- (4) The Regulations may make provision in relation to:
  - (a) whether, or the extent to which, a contribution is paid or payable to a superannuation fund in respect of a particular person; or

- (b) whether, or to the extent to which, the payment of a contribution to a superannuation fund is attributable, or is to satisfy a benefit attributable, to a period of service before 1 July 1999.



## Schedule 2 Motor vehicle allowances

### 1 Definition

In this Schedule:

***business journey*** means:

- (a) a journey undertaken in a motor vehicle by a person otherwise than in the application of the vehicle to a private use, being an application that, if the person is paid a motor vehicle allowance for that use, results in the provision of a fringe benefit (as defined in the FBT Act) by the employer; or
- (b) a journey undertaken in a motor vehicle by a person in the course of producing assessable income of the person (as defined in the *Income Tax Assessment Act 1936* (Cth)).

### 2 Continuous recording method

If an employer selects the continuous recording method for the purposes of determining the number of business kilometres travelled during the financial year, the following details are required to be recorded by the employer:

- (a) the odometer readings at the beginning and end of each business journey undertaken by the person during a financial year by means of a motor vehicle provided or maintained by the person;
- (b) the specific purpose for which each such business journey was taken;
- (c) the distance travelled by the person during the financial year in the course of all such business journeys (which is taken to be the ***number of business kilometres travelled during the financial year***), calculated on the basis of the odometer readings referred to in paragraph (a).

### 3 Averaging method

(1) If an employer selects the averaging method for the purposes of determining the number of business kilometres travelled during the financial year, the following details are required to be recorded by the employer:

(a) the odometer readings at the beginning and end of each business journey undertaken by the person during the relevant 12-week period by means of a motor vehicle provided or maintained by the person;

*Note*

*Clause 4 defines the relevant 12-week period.*

(b) the specific purpose for which each such business journey was taken;

(c) the distance travelled by the person during the relevant 12-week period in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a);

(d) the odometer readings at the beginning and end of the relevant 12-week period for each motor vehicle provided or maintained by the person for the purpose of undertaking business journeys;

(e) the distance travelled by each such vehicle during the relevant 12-week period, calculated on the basis of the odometer readings referred to in paragraph (d);

(f) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the relevant 12-week period, calculated as a percentage of the distance travelled by that vehicle during that period (the **relevant percentage**);

(g) the odometer readings at the beginning and end of the financial year for each vehicle provided or maintained by the person for the purpose of undertaking business journeys;

(h) the distance travelled by each such vehicle during the financial year, calculated on the basis of the odometer readings referred to in paragraph (g);

(i) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year (which is taken to be the **number of business kilometres travelled during the financial year**),

calculated on the basis that the percentage of that distance that was travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year is the same as the relevant percentage.

- (2) For the next succeeding 4 financial years after the first financial year in which odometer details are recorded in accordance with subclause (1), an employer is not required to calculate the relevant percentage, or record the details referred to in subclause (1)(a) to (f), for the person but is required to record the other details referred to in that subclause.
- (3) Accordingly, for the next succeeding 4 financial years after the first financial year in which odometer details are recorded in accordance with subclause (1), the number of business kilometres travelled during the financial year is to be calculated (as referred to in subclause (1)(i)) on the basis of the relevant percentage calculated for the first financial year.
- (4) Despite subclauses (2) and (3), an employer is required to calculate the relevant percentage for a financial year, and record the details referred to in subclause (1)(a) to (f), if:
  - (a) the Commissioner serves a notice on the employer before the commencement of a financial year during that period directing the employer to keep the details referred to in subclause (1)(a) to (f) for that financial year; or
  - (b) the employer wishes to use the recording method referred to in this clause for 1 or more additional motor vehicles used by the person in any financial year or for any other reason.
- (5) In a situation referred to in subclause (4), the new record for the financial year replaces the relevant percentage details previously recorded and subclauses (2) and (3) apply in relation to the new record for the financial year as if it were the first financial year in which odometer details were recorded.
- (6) An employer who has adopted and employed the method of recording referred to in subclauses (2) and (3) for a person for 4 successive financial years must, in the next succeeding financial year, make a fresh recording of all the details specified in subclause (1) if the employer intends to continue to use the same method of recording for the person. Subclauses (2) and (3) then apply in relation to the new record for the financial year as if it were the first financial year in which odometer details were recorded.

- (7) If the odometer of a motor vehicle is replaced or recalibrated during any period for which its readings are relevant for the purposes of this clause, the odometer readings immediately before and after the replacement or recalibration are to be recorded.

#### **4 Meaning of *relevant 12-week period***

- (1) In clause 3, ***relevant 12-week period*** means a continuous period of at least 12 weeks, selected by the employer, throughout which a motor vehicle is provided or maintained by a person. If the motor vehicle is provided or maintained for less than 12 weeks, the period must be the entire period for which the motor vehicle is provided or maintained.
- (2) The period may overlap the start or end of the financial year, so long as it includes part of the year.
- (3) If the averaging method is used for 2 or more motor vehicles for the same financial year, the odometer readings for those motor vehicles must cover periods that are concurrent.

#### **5 Replacing 1 motor vehicle with another motor vehicle**

- (1) For the purposes of using the averaging method, an employer may nominate 1 motor vehicle as having replaced another motor vehicle with effect from a day specified in the nomination.
- (2) After the nomination takes effect, the replacement motor vehicle is treated as the original motor vehicle, and the original motor vehicle is treated as a different motor vehicle. An employer need not repeat for the replacement vehicle the steps already taken for the original motor vehicle.
- (3) An employer must record the nomination in writing in the financial year in which the nomination takes effect.
- (4) However, the Commissioner may allow an employer to record the nomination at a later time.

#### **6 Changing method of recording**

- (1) An employer may change from using the averaging method to using the continuous recording method with effect from the beginning of a financial year if the employer complies with clause 2 in respect of the financial year.
- (2) An employer may change from using the continuous recording method to using the averaging method with effect from the beginning of a financial year if the employer complies with clause 3 in respect of the financial year.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2****LIST OF LEGISLATION*****Pay-roll Tax Ordinance 1978 (Act No. 47, 1978)***

Assent date	30 June 1978
Commenced	1 July 1978 (s 2)

***Pay-roll Tax Act 1979 (Act No. 71, 1979)***

Assent date	26 June 1979
Commenced	1 July 1979 (s 2)

***Pay-roll Tax Act (No. 2) 1979 (Act No. 125, 1979)***

Assent date	15 October 1979
Commenced	1 July 1979 (s 3)

***Statute Law Revision Act (No. 3) 1979 (Act No. 37, 1980)***

Assent date	24 April 1980
Commenced	24 April 1980

***Pay-roll Tax Act 1980 (Act No. 46, 1980)***

Assent date	30 May 1980
Commenced	30 May 1980

***Pay-roll Tax Amendment Act 1980 (Act No. 14, 1981)***

Assent date	9 January 1981
Commenced	9 January 1981

***Statute Law Revision Act 1981 (Act No. 29, 1981)***

Assent date	25 March 1981
Commenced	25 March 1981

***Pay-roll Tax Amendment Act 1981 (Act No. 80, 1981)***

Assent date	21 September 1981
Commenced	21 September 1981

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**Pay-roll Tax Amendment Act 1982 (Act No. 88, 1982)**

Assent date 14 December 1982  
Commenced 14 December 1982

**Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)**

Assent date 28 November 1983  
Commenced 1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), Gaz G46, 18 November 1983, p 11 and Gaz G8 26 February 1986, p 5)

**Pay-roll Tax Amendment Act 1985 (Act No. 14, 1985)**

Assent date 23 May 1985  
Commenced 28 February 1985 (s 2)

**Pay-roll Tax Amendment Act (No. 2) 1985 (Act No. 29, 1985)**

Assent date 26 June 1985  
Commenced 1 July 1985 (s 2)

**Statute Law Revision Act 1985 (Act No. 49, 1985)**

Assent date 1 October 1985  
Commenced 1 October 1985

**Companies and Securities (Consequential Amendments) Act 1986 (Act No. 18, 1986)**

Assent date 30 June 1986  
Commenced 1 July 1986 (s 2)

**Pay-roll Tax Amendment Act 1986 (Act No. 62, 1986)**

Assent date 19 December 1986  
Commenced 19 December 1986

**Pay-roll Tax Amendment Act 1987 (Act No. 3, 1987)**

Assent date 27 May 1987  
Commenced 26 November 1987 (s 2)

**Pay-roll Tax Amendment Act 1988 (Act No. 41, 1988)**

Assent date 14 September 1988  
Commenced s 4: 1 October 1988; rem: 1 July 1988 (s 2)

**Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)**

Assent date 14 December 1990  
Commenced 1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56 1990) and Gaz S76, 21 December 1990)

**Pay-roll Tax Amendment Act 1991 (Act No. 22, 1991)**

Assent date 11 June 1991  
Commenced 1 July 1991 (s 2)

**Pay-roll Tax Amendment Act 1992 (Act No. 50, 1992)**

Assent date 18 September 1992  
Commenced 1 November 1992 (s 2)

**Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)**

Assent date 30 June 1993  
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and Gaz S53, 29 June 1993)

**Pay-roll Tax Amendment Act 1993 (Act No. 58, 1993)**

Assent date 5 October 1993  
 Commenced 31 August 1994 (s 2, s 2 *Taxation (Administration) Amendment Act 1993* (Act No. 59, 1993) and *Gaz G35*, 31 August 1994, p 6)

**Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)**

Assent date 31 December 1993  
 Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz S35*, 20 May 1994)

**Pay-roll Tax Amendment Act 1994 (Act No. 40, 1994)**

Assent date 30 June 1994  
 Commenced 1 July 1994 (s 2)

**Statute Law Revision Act 1995 (Act No. 14, 1995)**

Assent date 23 June 1995  
 Commenced 23 June 1995

**Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)**

Assent date 19 April 1996  
 Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz S15*, 13 June 1996)

**Statute Law Revision Act 1999 (Act No. 27, 1999)**

Assent date 18 June 1999  
 Commenced 18 June 1999

**Pay-roll Tax Amendment Act 1999 (Act No. 29, 1999)**

Assent date 18 June 1999  
 Commenced 1 July 1999 (*Gaz S31*, 1 July 1999)

**Statute Law Revision Act 2000 (Act No. 19, 2000)**

Assent date 6 June 2000  
 Commenced s 6: 4 December 1999 (s 2); rem: 12 July 2000 (*Gaz G27*, 12 July 2000, p 2)

**Financial Relations Agreement (Consequential Provisions) Act 2000 (Act No. 32, 2000)**

Assent date 27 June 2000  
 Commenced 1 July 2000 (s 2)

**Pay-roll Tax Amendment Act 2000 (Act No. 34, 2000)**

Assent date 27 June 2000  
 Commenced 1 July 2000 (s 2)

**Statute Law Revision Act 2001 (Act No. 3, 2001)**

Assent date 22 March 2001  
 Commenced 22 March 2001

**Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)**

Assent date 29 June 2001  
 Commenced s 17(1) and (6): 1 July 2000; rem: 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

**Pay-roll Tax Amendment Act 2001 (Act No. 49, 2001)**

Assent date 19 July 2001  
Commenced 1 July 2001 (s 2)

**Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)**

Assent date 11 December 2001  
Commenced 11 December 2001 (s 2(4))

**Pay-roll Tax Amendment Act 2002 (Act No. 43, 2002)**

Assent date 13 September 2002  
Commenced 1 July 2002 (s 2)

**Pay-roll Tax Amendment Act 2002 (No. 2) (Act No. 52, 2002)**

Assent date 10 October 2002  
Commenced 10 October 2002

**Pay-roll Tax Amendment Act 2002 (No. 3) (Act No. 74, 2002)**

Assent date 11 December 2002  
Commenced 11 December 2002

**Pay-roll Tax Amendment Act 2003 (Act No. 36, 2003)**

Assent date 30 June 2003  
Commenced s 10: 27 May 2003; rem: 1 July 2003 (s 2)

**Pay-roll Tax Amendment Act 2004 (Act No. 39, 2004)**

Assent date 6 July 2004  
Commenced pt 1: 6 July 2004; pts 2 to 4: 1 July 2004; rem: 1 July 2005 (s 2)

**Taxation (Administration) Amendment (Objections and Appeals) Act 2005 (Act No. 5, 2005)**

Assent date 4 March 2005  
Commenced 31 March 2005 (Gaz S11, 31 March 2005, p 1)

**Pay-roll Tax Amendment Act 2005 (Act No. 27, 2005)**

Assent date 18 July 2005  
Commenced 1 July 2005 (s 2)

**Statute Law Revision Act 2005 (Act No. 44, 2005)**

Assent date 14 December 2005  
Commenced 14 December 2005

**Treasury Legislation and Consequential Amendment Act 2006 (Act No. 19, 2006)**

Assent date 28 June 2006  
Commenced pt 1: 28 June 2006; pt 2: 2 May 2006; rem: 1 July 2006 (s 2)

**Pay-roll Tax Amendment Act 2007 (Act No. 26, 2007)**

Assent date 29 October 2007  
Commenced 1 July 2008 (s 2)

**Pay-roll Tax Amendment (Harmonisation) Act 2008 (Act No. 22, 2008)**

Assent date 30 June 2008  
Commenced 1 July 2008 (s 2)

**Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)**

Assent date 30 June 2008  
Commenced 1 July 2008 (s 2)



**3****SAVINGS AND TRANSITIONAL PROVISIONS**

s 15 *Pay-roll Tax Act 1979* (Act No. 71, 1979)  
s 5 *Pay-roll Tax Amendment Act 1985* (Act No. 14, 1985)  
ss 14, 15 and 16 *Pay-roll Tax Amendment Act 2000* (Act No. 34, 2000)

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div 2 hdg	ins No. 22, 2008, s 5
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s 3	amd No. 71, 1979, s 4; No. 125, 1979, s 4; No. 14, 1981, s 6; No. 14, 1985, s 3; No. 18, 1986, s 3; No. 3, 1987, s 3; No. 59, 1990, s 4; No. 84, 1993, s 6; No. 29, 1999, s 4; No. 34, 2000, s 4; No. 3, 2001, s 8; No. 17, 2001, s 21; No. 49, 2001, s 4; No. 62, 2001, s 15; No. 43, 2002, s 4; No. 52, 2002, s 3; No. 36, 2003, s 4; No. 19, 2006, s 111; No. 26, 2007, s 5; No. 22, 2008, s 6; No. 28, 2008, s 3
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pt 1	
div 4 hdg	ins No. 22, 2008, s 9
s 3B	ins No. 29, 1999, s 5 amd No. 34, 2000, s 5; No. 43, 2002, s 5
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div 7 hdg	ins No. 22, 2008, s 12
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div 8 hdg	ins No. 22, 2008, s 12
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- s 6 amd No. 37, 1980, s 29; No. 14, 1981, s 6; No. 29, 1981, s 2; No. 29, 1985, s 4; No. 49, 1985, s 4; No. 41, 1988, s 4; No. 50, 1992, s 4; No. 29, 1999, s 7; No. 34, 2000, s 7; No. 49, 2001, s 5; No. 43, 2002, s 6; No. 36, 2003, s 4; No. 26, 2007, s 7; No. 22, 2008, s 13
- s 6A ins No. 14, 1981, s 3  
amd No. 29, 1985, s 5  
rep No. 62, 2001, s 15
- s 8 sub No. 71, 1979, s 6  
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- s 9 amd No. 14, 1981, s 4; No. 29, 1999, s 9
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- s 10A ins No. 71, 1979, s 7  
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- s 11 sub No. 71, 1979, s 8  
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- s 11A ins No. 14, 1985, s 4  
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- pt III note rep No. 26, 2007, s 11
- s 12 amd No. 71, 1979, s 9; No. 125, 1979, s 7; No. 37, 1980, s 29; No. 14, 1981, s 6; No. 29, 1985, s 9; No. 41, 1988, s 7; No. 50, 1992, s 7; No. 40, 1994, s 6; No. 29, 1999, s 12; No. 49, 2001, s 7; No. 39, 2004, s 7; No. 39, 2004, s 21; No. 19, 2006, s 115; No. 26, 2007, s 12
- ss 12A – 12B ins No. 36, 2003, s 6  
rep No. 26, 2007, s 13
- s 13 amd No. 14, 1981, s 6; No. 29, 1999, s 13; No. 34, 2000, s 10; No. 36, 2003, s 7  
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- s 13A ins No. 49, 2001, s 8  
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- s 14 amd No. 71, 1979, s 10; No. 37, 1980, s 29; No. 14, 1981, s 6; No. 36, 2003, s 9  
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- s 15 amd No. 29, 1981, s 2  
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- s 16 amd No. 14, 1981, s 6  
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- s 17 rep No. 26, 2007, s 13
- pt IVA hdg ins No. 71, 1979, s 11  
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- pt 5
- div 1 hdg ins No. 22, 2008, s 16
- s 17A ins No. 71, 1979, s 11  
amd No. 27, 2005, s 4  
sub No. 22, 2008, s 16

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s 17B	ins No. 71, 1979, s 11 amd No. 18, 1986, s 3; No. 59, 1990, s 4; No. 17, 2001, s 21 sub No. 26, 2007, s 14 sub No. 22, 2008, s 16
pt 5 div 2 hdg s 17C	ins No. 22, 2008, s 16 ins No. 71, 1979, s 11 amd No. 39, 2004, s 11 sub No. 22, 2008, s 16
s 17D	ins No. 71, 1979, s 11 amd No. 29, 1981, s 2; No. 18, 1986, s 3; No. 59, 1990, s 4; No. 17, 2001, s 21; No. 49, 2001, s 9; No. 39, 2004, s 12; No. 26, 2007, s 15 sub No. 22, 2008, s 16
ss 17E – 17F	ins No. 71, 1979, s 11 sub No. 22, 2008, s 16
s 17G	ins No. 71, 1979, s 11 amd No. 49, 2001, s 10; No. 36, 2003, s 10 sub No. 39, 2004, s 13; No. 22, 2008, s 16
s 17H	ins No. 71, 1979, s 11 amd No. 18, 1986, s 3; No. 59, 1990, s 4; No. 49, 2001, s 11; No. 39, 2004, s 14 sub No. 22, 2008, s 16
pt 5 div 3 hdg s 17J	ins No. 22, 2008, s 16 ins No. 71, 1979, s 11 amd No. 37, 1980, s 29; No. 29, 1999, s 14; No. 39, 2004, s 15; No. 26, 2007, s 16 sub No. 22, 2008, s 16
s 17K	ins No. 71, 1979, s 11 amd No. 125, 1979, s 8; No. 37, 1980, s 29; No. 29, 1985, s 10; No. 41, 1988, s 8; No. 50, 1992, s 8; No. 40, 1994, s 7; No. 29, 1999, s 15; No. 49, 2001, s 12; No. 39, 2004, ss 8 and 16; No. 39, 2004, s 22; No. 19, 2006, s 116; No. 26, 2007, s 17 sub No. 22, 2008, s 16
s 17L	ins No. 71, 1979, s 11 amd No. 37, 1980, s 29; No. 29, 1985, s 11; No. 29, 1999, s 16; No. 49, 2001, s 13; No. 39, 2004, ss 9 and 17; No. 39, 2004, s 23; No. 19, 2006, s 117; No. 26, 2007, s 18 sub No. 22, 2008, s 16
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s 19	amd No. 71, 1979, s 12; No. 37, 1980, s 29; No. 14, 1981, s 6; No. 22, 1991, s 4; No. 5, 2005, s 16 rep No. 26, 2007, s 20
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s 21	rep No. 26, 2007, s 20
s 22	amd No. 49, 2001, s 15 rep No. 26, 2007, s 20
s 23	amd No. 22, 1991, ss 3 and 5; No. 49, 2001, s 16 rep No. 26, 2007, s 20
s 24	amd No. 88, 1982, s 3; No. 74, 2002, s 3 rep No. 26, 2007, s 20
s 24A	ins No. 34, 2000, s 11 rep No. 26, 2007, s 20
s 25	rep No. 26, 2007, s 20
s 26	amd No. 71, 1979, s 13; No. 14, 1981, s 6; No. 59, 1990, s 4; No. 17, 1996, s 6; No. 29, 1999, s 17; No. 17, 2001, s 21 rep No. 26, 2007, s 20
ss 27 – 29	rep No. 26, 2007, s 20
s 30	amd No. 14, 1981, s 6; No. 5, 2005, s 17 rep No. 26, 2007, s 20
s 31	rep No. 26, 2007, s 20
s 32	amd No. 14, 1981, s 6; No. 74, 2002, s 4 rep No. 26, 2007, s 20
s 33	amd No. 19, 2006, s 118 rep No. 26, 2007, s 20
s 34	rep No. 26, 2007, s 20
pt V note	ins No. 5, 2005, s 18 rep No. 26, 2007, s 20
pt VI hdg	rep No. 5, 2005, s 18
s 34	amd No. 14, 1981, s 6; No. 34, 2000, s 12 rep No. 5, 2005, s 18 ins No. 19, 2006, s 119
s 35	amd No. 34, 2000, s 13 rep No. 5, 2005, s 18
s 36	rep No. 5, 2005, s 18
pt VII hdg	rep No. 26, 2007, s 20
s 37	amd No. 14, 1981, s 6; No. 88, 1982, s 4; No. 17, 1996, s 6; No. 29, 1999, s 18; No. 19, 2000, s 7; No. 49, 2001, s 17 rep No. 26, 2007, s 20
s 38	amd No. 14, 1981, s 6; No. 22, 1991, s 6 rep No. 26, 2007, s 20
s 39	amd No. 14, 1981, s 6; No. 17, 1996, s 6; No. 29, 1999, s 19 rep No. 26, 2007, s 20
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s 43	amd No. 14, 1981, s 6; No. 29, 1999, s 22 rep No. 26, 2007, s 20
pt VIII hdg	rep No. 26, 2007, s 20
s 44	amd No. 14, 1981, s 6 rep No. 26, 2007, s 20
s 45	amd No. 29, 1999, s 23 rep No. 26, 2007, s 20
s 46	amd No. 44, 2005, s 35 rep No. 26, 2007, s 20
s 47	amd No. 29, 1999, s 24 rep No. 26, 2007, s 20

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s 48	rep No. 26, 2007, s 20
s 49	amd No. 17, 1996, s 6 rep No. 26, 2007, s 20
s 50	amd No. 14, 1981, s 6; No. 17, 1996, s 6 rep No. 26, 2007, s 20
s 51	rep No. 26, 2007, s 20
s 52	amd No. 14, 1981, s 6; No. 17, 1996, s 6 rep No. 26, 2007, s 20
s 53	rep No. 26, 2007, s 20
s 54	amd No. 14, 1981, s 6 rep No. 26, 2007, s 20
s 55	amd No. 17, 1996, s 6 rep No. 29, 1999, s 25
s 56	rep No. 29, 1999, s 25
s 57	amd No. 14, 1981, s 6 rep No. 26, 2007, s 20
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s 58	amd No. 14, 1981, s 6; No. 17, 1996, s 6; No. 29, 1999, s 26; No. 52, 2002, s 5; No. 26, 2007, s 21
s 59	amd No. 71, 1979, s 14; No. 14, 1981, s 6; No. 26, 2007, s 22; No. 22, 2008, s 17
s 60	amd No. 14, 1981, s 6 rep No. 26, 2007, s 23
s 61	amd No. 14, 1981, s 6; No. 68, 1983, s 90; No. 29, 1999, s 27 rep No. 26, 2007, s 23
s 62	amd No. 14, 1981, s 6 rep No. 26, 2007, s 23
s 64	amd No. 14, 1981, s 6; No. 29, 1999, s 28; No. 5, 2005, s 19 sub No. 26, 2007, s 24
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sch	ins No. 29, 1999, s 29
sch 2	ins No. 22, 2008, s 19