

# NORTHERN TERRITORY OF AUSTRALIA

## PAY-ROLL TAX ACT

As in force at 1 July 2006

### Table of provisions

<b>Part I</b>	<b>Preliminary</b>	
1	Short title .....	1
2	Commencement .....	1
3	Interpretation .....	1
3A	Superannuation benefits.....	6
3B	Fringe benefits.....	7
3C	Prescribed benefits.....	7
3D	GST to be excluded from wages paid or payable by a person .....	8
<b>Part II</b>	<b>Administration</b>	
4A	Delegation by Commissioner.....	8
5	Secrecy.....	9
<b>Part III</b>	<b>Liability to taxation</b>	
6	Pay-roll tax.....	10
7	Liability to pay tax.....	11
8	General exemption .....	12
9	Exemption from tax.....	13
9A	Exemption of labour hire agent from tax when paid by another person .....	15
10	Seasonal fluctuation in payment of wages.....	15
10A	Annual adjustments .....	16
11	Adjustment if employer ceases to pay taxable wages or joins group .....	17
11A	Arrangements for avoidance of tax may be disregarded .....	18
11B	Arrangement for avoidance of tax by labour hire agents .....	19
<b>Part IV</b>	<b>Registration and returns</b>	
12	Registration .....	21
12A	Approval of designated group employer to furnish returns and pay tax.....	23
12B	Satisfaction of liability of approved member if approved designated group employer furnishes return and pays tax .....	23
13	Returns .....	23
13A	Paying tax without lodging return.....	24
14	Exemption from furnishing returns.....	25
15	Further returns.....	26

16	Commissioner to obtain information and evidence .....	26
17	Returns deemed to be furnished .....	27

## **Part IVA            Grouping provisions**

17A	Interpretation .....	27
17B	Grouping of corporations .....	27
17C	Grouping where employees used in other business .....	27
17D	Grouping of commonly controlled businesses .....	28
17E	Smaller groups subsumed into larger groups .....	30
17F	Grouping provisions operate independently .....	30
17G	Beneficiaries of discretionary trusts .....	30
17H	Exclusion of persons from groups .....	30
17J	Designated group employer.....	31
17K	Annual adjustments .....	34
17L	Adjustment if group member ceases to pay taxable wages.....	36

## **Part V                Collection and recovery of tax**

18	Time for payment of tax .....	38
19	Assessments .....	39
20	Refunds .....	40
20A	Refund of certain tax .....	40
21	Employer leaving Australia .....	41
22	Time to pay – extensions and instalments.....	41
23	Additional tax.....	41
24	Recovery of tax.....	42
24A	Labour hire agent not prevented from recovering tax from client .....	42
25	Substituted service .....	42
26	Liquidator to give notice.....	43
27	Agent for absentee principal winding-up business.....	44
28	Where tax not paid during lifetime .....	44
29	Provision for payment of tax by trustees of deceased employers .....	45
30	Where no administration of estate of deceased employer.....	45
31	Joint taxpayers .....	46
32	Commissioner may collect tax from person owing money to taxpayer.....	46
33	Evidence.....	47
34	Validity of decision etc. ....	48

## **Part VII             Penal provisions**

37	Offences .....	48
38	Additional tax in certain cases .....	49
39	False declarations .....	50
40	Avoiding tax .....	50
41	Time for commencing prosecutions.....	50

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42	Penalties not to relieve from tax .....	50
43	Obstructing persons .....	51

**Part VIII            Taxation prosecutions**

44	Taxation prosecutions .....	51
45	How instituted .....	51
46	Evidence of authority to institute proceedings .....	51
47	Defendant to have right to trial in Supreme Court.....	51
48	Prosecution in accordance with practice rules .....	52
49	Appeals.....	52
50	Information, &c., to be valid if in words of Act or regulations .....	52
51	No objection for informality .....	52
52	Finding of guilt not to be quashed.....	52
53	Protection to witnesses.....	52
54	Averment of prosecutor sufficient .....	53
57	Parties may recover costs .....	53

**Part IX                Miscellaneous**

58	Public officers of companies or partnerships .....	53
59	Agents and trustees.....	55
60	Person in receipt or control of money for absentee .....	56
61	Books, accounts, &c., to be preserved .....	56
62	Access to books, &c. ....	57
63	Release of employers in cases of hardship .....	57
64	Regulations.....	58

**Schedule            Provisions about superannuation**

**ENDNOTES**



# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2006

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## PAY-ROLL TAX ACT

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

### **Part I Preliminary**

#### **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.

#### **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 the designated group employer in respect of a group who the Commissioner approves under section 12A to furnish returns and pay tax for the approved members of the group.

**approved member** means a member of a group for whom the designated group employer in respect of the group is approved under section 12A to furnish returns and pay tax.

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

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

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

**designated group employer**, in relation to a group, means the member of that group who, under section 17J, is for the time being the designated group employer in respect of that group.

**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 FBTA Act applies, other than a benefit that is prescribed under this Act not to be a fringe benefit.

**group** means a group constituted under Part IVA.

**interstate wages** means wages that are taxable wages within the meaning of a corresponding law.

**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 municipal or community government council within the meaning of the Local Government Act;
- (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.

**person** includes a partnership.

**prescribed benefit** means anything prescribed under this Act to be a benefit.

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

**return period**, in relation to an employer, means the period relating to which that employer is required, or would have been required but for section 12B or 13A, to furnish a return under this Act.

**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.

**tax** means tax referred to in section 6, tax referred to in section 10A and tax referred to in sections 11, 17K and 17L.

**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.

**the Commissioner** has the same meaning as **Commissioner** in section 4(1) of the Taxation Administration Act.

**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.

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

**wages** means wages, 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 or a member of the governing body of that company; and
- (baa) a payment by way of remuneration to a director or member of the governing body 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 payment made in consequence of the retirement from, or termination of, any office or employment of a person occurring on or after 1 July 2002, being so much of any eligible termination payment, within the meaning of section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth, paid or payable by an employer (whether or not paid or payable to the person or to any other person or body) that would be included in the assessable income of a person under Part III, Division 2, Subdivision AA of that Act if the whole of the eligible termination payment had been paid to the person; 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 or prescribed benefit that, by virtue of section 3B or 3C, is to be taken to be 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:
- (a) a prescribed benefit; or
  - (b) an exempt benefit under section 58W of the FBTA Act.
- (4) The value of taxable wages (other than a fringe benefit or prescribed 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) Where under paragraph (b) or (c) of the definition of **employer** in  
subsection (1) a Government Business Division or a statutory  
corporation is declared to be an employer for the purposes of this  
Act, this Act applies with the necessary modifications as if:
  - (a) section 12 of the *Public Sector Employment and Management  
Act* did not apply in relation to persons employed in the  
Government Business Division or statutory corporation but  
instead those persons were employees of the Government  
Business Division or statutory corporation; and
  - (b) in the case of a Government Business Division that is not a  
body corporate – the Government Business Division were a  
corporation.
- (6) For the purposes of paragraph (f) of the definition of **wages** and  
sections 9A and 24A, **labour hire agent** means a person (the  
agent) who by an arrangement procures the services of a person  
(the worker) for another person (the client) under which  
arrangement the worker, in whole or in part, performs services for  
the client of the agent.

### **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 the Schedule 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, the 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.

### **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:

$$TV \times \frac{1}{1 - FBT \text{ rate}}$$

where:

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

**FBT** rate is the rate of fringe benefits tax imposed by the FBT 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 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.

### **3C Prescribed benefits**

- (1) The value of a prescribed 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 prescribed benefit that is provided or liable to be provided to or in relation to an employee 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 the employer is to be taken to be provided by the employer.
- (3) The value of a prescribed benefit is the value determined under the Regulations.
- (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.

### **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.

## **Part II Administration**

### **4A Delegation by Commissioner**

- (1) The Commissioner may, in relation to a matter or a class of matters, delegate to a person all or any of his powers or functions under this Act other than this power of delegation.

- (2) A power or function delegated under subsection (1) may be exercised or performed by the delegate with respect to the matter or matters included in a class of matters specified in the instrument of delegation.
- (4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Commissioner.
- (5) A delegation under this section may be made subject to a power of review and alteration by the Commissioner within a period specified in the instrument of delegation of acts done in pursuance of the delegation and a decision given upon such a review or alteration shall be deemed to be the decision of the Commissioner.

## 5        **Secrecy**

- (1) In this section, **officer** means a person who is or has been employed in an Agency as defined in the *Public Sector Employment and Management Act* and, who, by reason of that employment or in the course of that employment, may acquire or has acquired information with respect to the affairs of any other person disclosed or obtained under this Act.
- (2) Subject to this section, an officer shall not, either directly or indirectly, except in the performance of his duties as an officer, and either while he is, or after he ceases to be, an officer, make a record of, or divulge or communicate to any person, any such information so acquired by him.

Penalty:        imprisonment for 2 years.

- (3) An officer shall not be required to produce in court a return, assessment or notice made or given for the purposes of this Act, or to divulge or communicate to a court a matter or thing that has come to his notice in the performance of his duties as an officer, except when it is necessary to do so for the purpose of carrying into effect the provisions of this Act.
- (4) Nothing in this section prevents the Commissioner or a person authorized by the Commissioner, from communicating any information to:
  - (aa) the Auditor-General for the purposes of performing functions or exercising powers in relation to an audit of the office of the Commissioner imposed or conferred on the Auditor-General by or under the *Audit Act* or any other Act, or prevents the Auditor-General from disclosing that information or publishing that document if the disclosure or publication does not directly or indirectly divulge information identifying the affairs of a

particular person;

- (a) a person performing a function or duty arising under an Act administered by the Commissioner, for the purpose of enabling that person to carry out that function or duty; or
  - (b) a person performing a function or duty under a corresponding law.
- (5) A person to whom information is communicated under subsection (4) and an employee or other person under his control are, in respect of that information, entitled to rights and privileges, and subject to obligations and liabilities, under subsections (2) and (3) as if they were officers.

## **Part III                    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 2003 (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 6.2% of the total wages paid or payable in a return period of one month.
- (2) Subsection (1) does not apply in relation to wages that are paid or payable in respect of services performed or rendered wholly in another country or other countries for a continuous period of more than 6 months after wages were first paid to the person for those services.
- (2A) The wages referred to in subsection (2) are liable to tax during the period of 6 months referred to in that subsection after wages were first paid for the services.

- (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 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.

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## 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 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:
- (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.

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**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:

$$\frac{TW}{TW + IW} \left[ \frac{1\,250\,000C}{D} \right]$$

where:

**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) Where taxable wages are paid or payable by an employer during a financial year:

- (aa) the Commissioner may, where the amount of tax paid or payable by the employer when the employer made the returns relating to the financial year is greater than the annual amount of tax in relation to that employer for that financial year, refund or rebate to the employer an amount equal to the difference, reduced by any amount refunded to the employer under section 20;

- 
- (a) the Commissioner shall, on an application made by that employer in accordance with subsection (3), where the amount of tax paid or payable by that employer when he made the returns relating to that financial year is greater than the annual amount of tax in relation to that employer for that financial year, refund or rebate to that employer an amount equal to the difference, reduced by any amount refunded to him under section 20 in respect of that financial year; or
- (b) that employer shall, where the amount of tax paid or payable by that employer when he made the returns relating to that financial year is less than the annual amount of tax in relation to that employer for that financial year, pay to the Commissioner as tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.
- (3) An application under subsection (2)(a) shall be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

## 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:

$$\frac{TW}{TW + IW} \left[ \frac{1\,250\,000C}{D} \right]$$

where:

**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).

**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) Where, in a financial year, an employer ceases to pay taxable wages or becomes a member of a group, he shall, where the amount of tax paid or payable by him when he made returns relating to the prescribed period is less than the total amount of tax in relation to that employer for that prescribed period, pay to the Commissioner as tax, within the period during which he is required to furnish a return under this Act relating to that prescribed period, an amount equal to 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.
- (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 individual, company or partnership that is related to the client:

- (a) in a way mentioned in section 56C(3) and (5) of the *Taxation (Administration) Act*; or
- (b) in another way prescribed under the Regulations.

**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).

*Note for Part III*

*Part V of the Taxation (Administration) Act provides for objections and appeals in relation to decisions, determinations and assessments made under this Part by which the person's liability to pay tax is affected.*

## Part IV                      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, in accordance with a form, and in a manner, determined by 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 \$19 230 per week, apply to the Commissioner, in accordance with a form, and in a manner determined by the Commissioner, for registration as an employer and thereupon the Commissioner shall register him as an employer under this Act.

(2) A person who, immediately before the commencement of this Act, was registered or deemed to be registered as an employer under the *Pay-roll Tax (Territories) Assessment Act 1971* of the Commonwealth and, but for this subsection, would be required by subsection (1) to apply for registration as an employer shall be deemed to be registered as an employer under this Act but, where he is required, by a notice in writing served on him by the Commissioner, to apply to the Commissioner, within the time specified in the notice, for registration as an employer, he shall cease to be deemed, under this subsection, to be registered upon the expiration of that time.

(3) In this section:

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

**12A Approval of designated group employer to furnish returns and pay tax**

- (1) The Commissioner may, in writing, approve the designated group employer in respect of a group to do both of the following:
  - (a) furnish returns for the members of the group specified in the approval;
  - (b) pay the tax payable by the members of the group specified in the approval.
- (2) This section does not affect the obligation of a member of a group to register under section 12.

**12B Satisfaction of liability of approved member if approved designated group employer furnishes return and pays tax**

- (1) If an approved designated group employer furnishes a return in accordance with section 13(1AA), each approved member to whom the return relates is, for the purposes of this Act and the Regulations, taken to have furnished a return in accordance with section 13(1) in respect of the taxable wages paid or payable by the member during the period to which the return relates.
- (2) If an approved designated group employer pays tax in respect of taxable wages specified in a return referred to in subsection (1), each approved member to whom the return relates is, for the purposes of this Act and the Regulations, taken to have paid the tax payable in respect of the taxable wages specified in the return on the date the approved designated group employer paid the tax.

**13 Returns**

- (1) An employer who is required to apply for registration or is registered under section 12 shall, within 21 days after the close of each month, furnish to the Commissioner, in accordance with a form, and in a manner, determined by the Commissioner, a return relating to that month and specifying the taxable wages that were paid or payable by him during that month.
- (1AA) An approved designated group employer must, within 21 days after the close of each month, furnish to the Commissioner, in accordance with a form, or in a manner, determined by the Commissioner, a return relating to that month and specifying the taxable wages that were paid or payable during that month by each approved member of the designated group employer's group.

- (1A) Where the taxable wages that were paid or payable by an employer during a month include fringe benefits that are to be taken to have been paid or payable in that month, the value of those benefits to be included in the return is to be calculated in accordance with the Regulations.
- (2) Where the Commissioner is of opinion that it would be unduly onerous to require an employer under subsection (1), or an approved designated group employer under subsection (1AA), to furnish returns in relation to each month, or within 21 days after the close of each month, he or she may, by notice in writing, vary the periods in relation to which, or the time within which, that employer or approved designated group employer is required to furnish returns under that subsection, and the employer or approved designated group employer shall, while the notice remains unrevoked, furnish returns accordingly.
- (3) An employer who under the *Pay-roll Tax (Territories) Assessment Act 1971* of the Commonwealth was, immediately before the commencement of this Act required to furnish returns under that Act within a specified time, being longer than 7 days, or relating to periods of 3 months or periods of 6 months, shall be deemed to have been required by a notice under subsection (2) to furnish returns under this Act within the time so specified.

### **13A Paying tax without lodging return**

- (1) The Commissioner may approve a procedure (including a procedure utilising electronic technology) by which:
  - (a) an employer liable to pay tax in respect of taxable wages paid or payable by the employer during a month; or
  - (b) an approved designated group employer who pays the tax payable in respect of taxable wages paid or payable during a month by the approved members of the designated group employer's group,may pay the tax without lodging a return in respect of those wages.
- (2) An employer or approved designated group employer who uses a procedure approved under subsection (1) to pay tax must pay the tax within the time specified in the procedure or, if the procedure does not specify a time, within 21 days after the close of the month in which the employer or an approved member of the group paid or was liable to pay the taxable wages.
- (3) If an employer who uses a procedure approved under subsection (1) to pay tax makes the payment within the time required under subsection (2), for the purposes of this Act and the

Regulations, the employer is to be taken to have paid the tax within the time required under section 18.

- (3A) If an approved designated group employer, who uses a procedure approved under subsection (1) to pay tax, pays the tax within the time required under subsection (2), each approved member for whom the approved designated group employer, in making the payment, pays tax is, for the purposes of this Act and the Regulations, taken to have paid the tax payable in respect of the taxable wages to which the payment relates.
- (4) Subject to subsection (5), an employer or approved designated group employer who uses a procedure approved under subsection (1) to pay tax is, for the purposes of this Act and the Regulations, to be taken to have furnished to the Commissioner a return in respect of the wages to which the payment relates at the same time as the payment is made.
- (5) An employer or approved designated group employer who uses a procedure approved under subsection (1) to pay tax must furnish to the Commissioner a return relating to the financial year in respect of which the tax is payable:
- (a) within 21 days after the closing of that financial year; or
  - (b) if the employer ceases, or all the approved members of the designated group employer's group cease, to pay taxable wages during that financial year – within 21 days after the close of the month in which the payment of taxable wages ceased.

#### **14 Exemption from furnishing returns**

- (1) If the Commissioner is of the opinion that tax will not be payable by an employer or, if paid, would be refunded, the Commissioner may issue a certificate to the employer exempting the employer from furnishing returns under section 13, and the employer may refrain from furnishing returns under that section but must, unless the contrary is expressed in the certificate, furnish a return relating to each financial year within 21 days after the close of that financial year.
- (1A) In subsection (1):
- employer** does not include an approved member of a group.
- (2) A certificate issued under subsection (1) may be either unconditional or subject to such conditions as are prescribed or as the Commissioner thinks fit.

- (2A) The Commissioner may, at any time, by notice in writing, revoke a certificate issued under subsection (1).
- (3) The issue of a certificate under subsection (1) does not exempt an employer from the payment of any tax, notwithstanding that it may have the effect of postponing the time for payment of any tax.
- (4) A certificate in force, immediately before the commencement of this Act, under the *Pay-roll Tax (Territories) Assessment Act 1971* of the Commonwealth exempting an employer from furnishing monthly returns shall be deemed to be a certificate issued by the Commissioner under subsection (1) and any conditions to which such a certificate was subject shall be deemed to be conditions imposed by the Commissioner under subsection (2).

## **15 Further returns**

In addition to any return required to be furnished by this Act, the Commissioner may, by notice in writing, call upon an employer or other person to furnish to him, within the time specified in the notice, such return, or such further return, as the Commissioner requires.

## **16 Commissioner to obtain information and evidence**

- (1) For the purpose of inquiring into, or ascertaining, the liability of a person under this Act the Commissioner may, by notice in writing, require a person:
  - (a) to furnish the Commissioner with such information as the Commissioner requires;
  - (b) to attend and give evidence before the Commissioner or before an officer authorized by the Commissioner for the purpose; and
  - (c) to produce any books, documents and other papers in the custody or under the control of the person.
- (2) The Commissioner may require the person to give the information or evidence referred to in subsection (1) on oath, and either orally or in writing, and for that purpose the Commissioner or a person authorized by him may administer an oath.
- (3) Where the person conscientiously objects to making an oath, he may make an affirmation that he so objects and that the information or evidence that he is required to give under subsection (1) will be the truth, the whole truth and nothing but the truth, and an affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

- (4) A person who is required in pursuance of this section to attend and give evidence before the Commissioner or an officer authorized by the Commissioner for the purposes of an inquiry into, or the ascertaining of, the liability of another person under this Act is entitled to payment of an allowance in respect of his expenses of attending and giving evidence of an amount determined by the Commissioner in accordance with the regulations.

**17      Returns deemed to be furnished**

A return purporting to be furnished and signed by or on behalf of a person shall, until the contrary is proved, be deemed to have been furnished and signed by him or with his authority.

**Part IVA      Grouping provisions**

**17A      Interpretation**

In this Part, **business** includes the following:

- (a) a trade or profession;
- (b) any other activity carried on for fee, gain or reward;
- (c) the activity, carried on by an employer, of employing one or more persons where that person performs or those persons perform duties for or in connection with another business;
- (d) the activity of a trustee in carrying out duties as such.

**17B      Grouping of corporations**

For the purposes of this Act, 2 corporations constitute a group if they are, by reason of section 50 of the Corporations Act 2001, to be deemed, for the purposes of that Act, to be related to each other.

**17C      Grouping where employees used in other business**

For the purposes of this Act, where:

- (a) an employee of an employer, or 2 or more employees of an employer, performs or perform duties solely or mainly for or in connection with one or more businesses carried on by that employer and another person or other persons or by another person or other persons; or
- (b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an

agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to one or more businesses carried on by that other person or those other persons, whether alone or together with another person or other persons,

that employer and:

- (c) each such other person; or
- (d) both or all of those other persons,

constitute a group.

#### **17D Grouping of commonly controlled businesses**

- (1) A reference in this section to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.
- (2) For the purposes of this Act, where the same person has, or the same persons have together, a controlling interest under subsection (3) in each of 2 businesses, the persons who carry on those businesses constitute a group.
- (3) For the purposes of subsection (2), the same person has, or the same persons have together, a controlling interest in each of 2 businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business:
  - (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;
  - (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, more

than 50% of the voting power attached to voting shares issued by the corporation;

- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons:
    - (i) owns, or own together (whether or not beneficially) more than 50% of the capital of the partnership; or
    - (ii) is, or are together, entitled (whether or not beneficially) to more than 50% of any profits of the partnership;
  - (d) a person has, or persons have together, a controlling interest in a business carried on under a trust if the person is the beneficiary, or the persons are together the beneficiaries, whether or not as the trustee or trustees of another trust, in respect of:
    - (i) more than 50% of the capital of the trust; or
    - (ii) more than 50% of the income of the trust;
  - (e) a person has a controlling interest in a business if (whether or not he is a trustee of a trust) he is the sole owner of the business, or persons, being 2 or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.
- (4) Where a corporation has a controlling interest under subsection (3) in a business, it shall, for the purposes of that subsection, be deemed to have a controlling interest in any other business in which another corporation that is, by reason of section 50 of the Corporations Act 2001, to be deemed, for the purposes of that Act, to be related to it has a controlling interest.
- (5) Where:
- (a) a person has, or persons have together, a controlling interest under subsection (3) in a business; and
  - (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business,
- the person or persons referred to in paragraph (a) shall, for the purposes of subsection (3), be deemed to have a controlling interest in the business referred to in paragraph (b).

(6) Where:

- (a) a person is the beneficiary, or persons are together the beneficiaries, under a trust in respect of:
  - (i) more than 50% of the capital of the trust; or
  - (ii) more than 50% of the income of the trust; and
- (b) the trustee or trustees of the trust has or have under subsection (3) a controlling interest in a business,

for subsection (3), the beneficiary is, or the beneficiaries together are, taken to have a controlling interest in the business.

**17E      Smaller groups subsumed into larger groups**

- (1) Notwithstanding any other provision of this Part, other than subsection (2), where a person is, whether or not by virtue of this subsection, a member of 2 or more groups (each of which is in subsection (2) referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.
- (2) Except for the purpose of determining whether a group is constituted under subsection (1), a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1).

**17F      Grouping provisions 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.

**17G      Beneficiaries of discretionary trusts**

For this Part, a person who may benefit from the capital or income of 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 under the trust is taken to be a beneficiary in respect of more than 50% of that capital or income.

**17H      Exclusion of persons from groups**

- (1) This section applies only in relation to a group constituted under section 17C or by virtue of sections 17D(3)(d) and 17G.

- (1A) Where a group is constituted under section 17C and the Commissioner is satisfied, having regard to:
- (a) the nature and degree of the duties referred to in section 17C;
  - (b) the nature of the agreement, arrangement or undertaking referred to in section 17C; and
  - (c) any other matters the Commissioner considers relevant,
- that it would not be just and reasonable to include a person as a member of the group, the Commissioner may, by order in writing, exclude the person from the group.
- (2) Where a group is constituted by virtue of sections 17D(3)(d) and 17G and the Commissioner is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that he considers relevant, that a business carried on by a member of a group is carried on substantially independently of, and is not substantially connected with the carrying on of, a business carried on by any other member of that group, the Commissioner may, by order in writing served on that first-mentioned member, exclude him from that group.
- (3) Notwithstanding any other provision of this Part, an order under subsection (1A) or (2) shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to.

#### **17J      Designated group employer**

- (1) The members of a group may, by instrument in a form approved by the Commissioner, executed by or on behalf of each member of the group and served on the Commissioner, designate one of those members to be the designated group employer in respect of the group for this Act.
- (1A) The members of a group may nominate an amount, calculated in the manner specified by the Commissioner but not exceeding the prescribed amount within the meaning of section 8(1), as the deduction the members of the group claim to be entitled to make for any return period in relation to which the designated group employer in respect of the group is required to furnish a return under this Act.

- (1B) If the members of a group:
- (a) do not designate a member under subsection (1); or
  - (b) do not nominate an amount under subsection (1A),
- the Commissioner may, in accordance with subsection (1C), exercise in respect of the group the power conferred on the members of the group by that subsection.
- (1C) A designation or nomination by the Commissioner under subsection (1B):
- (a) must be in writing served on
    - (i) if it is a designation – the member of the group the Commissioner designates as the designated group employer; or
    - (ii) if it is a nomination – the designated group employer in respect of the group; and
  - (b) has the same effect and gives rise to the same consequences as if it were a designation or nomination by the members of the group under subsection (1) or (1A).
- (2) The designated group employer in respect of a group ceases to be the designated group employer in respect of that group on and from the first day of the return period relating to him during which:
- (a) the composition of the group alters; or
  - (b) the members of the group, by an instrument in writing in a form approved by the Commissioner, executed by or on behalf of each of them who is known to the Commissioner to be a member of the group and served on the Commissioner, revoke the designation,
- whichever first occurs.
- (2A) If the Commissioner exercises a power under subsection (1B) in respect of a group, the Commissioner:
- (a) may, in writing served on the designated group employer, revoke the designation or nomination; and
  - (b) may further exercise that power in respect of the group.
- (3) For ascertaining the tax payable by a designated group employer, subject to subsection (4), the amount nominated under

subsection (1A) or (1B) 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.

- (4) The Commissioner may, on an application made to him in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or of his own motion in relation to a group, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined in section 8(1), that may 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 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.
- (5) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (4) and any such revocation shall have effect 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.
- (6) An employer specified in a determination made under subsection (4) shall, on the first day of the first return period specified or referred to in the determination, be deemed to have been designated under subsection (1) to be the designated group employer in respect of the group of which he was then a member and shall, subject to subsection (2), thereafter be the designated group employer in respect of that group.
- (7) The Commissioner shall, as soon as practicable after making a determination under subsection (4) or a revocation under subsection (5), serve notice of the determination or revocation on the designated group employer in respect of the group concerned.

**17K Annual adjustments**

- (1) This section applies in relation to a group in which:
- (a) at least one 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 one 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:

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

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

$$\frac{TW}{TW + IW} \left[ \frac{1\,250\,000C}{D} \right]$$

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;

**IW** is the total of the interstate wages paid or payable by the members of that group 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 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 one 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 one designated group employer in respect of that group during that year, would have been applicable to that designated group employer had he 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.
- (4A) Where the actual amount of tax paid or payable in respect of a financial year by the members of a group is greater than the annual amount of tax in relation to those members for that financial year, the Commissioner may refund or rebate to the person who was the designated group employer in respect of that group on 30 June in that financial year an amount equal to the difference, reduced by the total of any amounts refunded to any member of the group under section 20 in respect of the tax paid or payable by any such member when returns relating to that year were made or required to be made under this Act by that member.
- (5) Where the actual amount of tax paid or payable in respect of a financial year by the members of a group is greater than the annual amount of tax in relation to those members for that financial year, the Commissioner shall, on an application made in accordance with subsection (8) by the person who is the designated group employer in respect of that group on 30 June in that financial year, refund or rebate to that employer an amount equal to the difference, reduced by the total of any amounts refunded to any member of that group under section 20 in respect of the tax paid or payable by any such member when returns relating to that year were made or required to be made under this Act by that member.
- (6) Where the actual amount of tax paid or payable in respect of a financial year by the members of a group is less than the annual amount of tax in relation to those members for that financial year,

the person who is the designated group employer in respect of that group on 30 June in that financial year shall pay to the Commissioner as tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the months of June in that financial year, an amount equal to the difference.

- (7) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under subsection (6) in respect of a financial year, every member of the group who paid or was liable to pay taxable wages during that financial year is liable jointly and severally to pay that amount to the Commissioner.
- (8) An application under subsection (5) shall be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

#### **17L Adjustment if group member ceases to pay taxable wages**

- (1) This section applies in relation to a group in which:
  - (a) at least one 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:

**financial year** has the same meaning as it has in section 17K.

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

$$\frac{TW}{TW + IW} \left[ \frac{1\,250\,000C}{D} \right]$$

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;

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

**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 one 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 one 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 one designated group employer in respect of that group during that prescribed period, would have been applicable to that designated group employer had he paid all of the wages referred to in paragraph (a) paid or payable during that prescribed period.
- (4) Where, at the expiration of a prescribed period relating to a group, the total amount of tax paid or payable when returns were made or required to be made under this Act, being returns in which the taxable wages referred to in subsection (3)(a) were included or required to be included, is less than the total amount of tax paid or payable for that prescribed period by the members of that group, the person who is the designated group employer in respect of that group on the last day of that prescribed period shall pay to the

Commissioner as tax, within the period during which he is required to furnish a return under this Act or the last return under this Act relating to that prescribed period, an amount equal to the difference.

- (5) Section 17K(4A), (5) and (6) applies in relation to a group to which this section applies as if:
- (a) at least one 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;
  - (b) the reference in section 17K(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.
- (6) If a designated group employer in respect of a group fails to pay any amount that he is required to pay under subsection (4) in respect of a prescribed period, every member of the group who paid or was liable to pay taxable wages during the financial year that includes that prescribed period is liable jointly and severally to pay that amount to the Commissioner.

*Note for Part IVA*

*Part V of the Taxation (Administration) Act provides for objections and appeals in relation to decisions, determinations and assessments made under this Part by which the person's liability to pay tax is affected.*

## **Part V                      Collection and recovery of tax**

### **18                      Time for payment of tax**

- (1) Subject to section 13A, an employer liable to pay tax referred to in section 6 shall pay the tax within the time within which he is required by this Act to furnish the return of the wages in respect of which the tax is payable.
- (2) Subject to section 13A, an employer liable to pay tax referred to in section 11 or 17L in respect of taxable wages paid or payable during a financial year must pay the tax within the time within which

the employer is required to furnish a return in respect of the last month of that year in which the employer paid or was liable to pay taxable wages.

## **19 Assessments**

- (1) Where the Commissioner finds in any case that tax or further tax is payable by an employer, the Commissioner may:
  - (a) assess the amount of wages or, where relevant, interstate wages paid or payable by the employer; and
  - (b) calculate the tax or further tax payable thereon.
- (2) Where:
  - (a) an employer makes default in furnishing a return;
  - (b) the Commissioner is not satisfied with the return furnished by an employer; or
  - (c) the Commissioner has reason to believe or suspect that an employer, whether or not he has furnished a return, is liable to pay tax,

the Commissioner may cause an assessment to be made of the amount of wages in respect of which, in his judgment, tax ought to be paid and that person is liable to pay tax in respect of that amount, except in so far as he establishes on objection under Part V of the *Taxation (Administration) Act* that the assessment is excessive

- (2A) Subsection (2) does not operate so as to authorize the Commissioner to cause an assessment to be made as referred to in that subsection by reason that any deduction made from the wages included in any return is not correctly made if the deduction is made in accordance with this Act.
- (2B) Where the Commissioner makes a determination in respect of a return period ending before the determination is made as to the deduction that may be made from the taxable wages included or required to be included in returns made or required to be made under this Act, the Commissioner may cause an assessment to be made of the further tax that would have been payable by the employer concerned had the deduction been made from the wages included in the return for that month or period at the rate specified in the determination, and that employer shall be liable to pay that further tax, except in so far as he establishes on objection under Part V of the *Taxation (Administration) Act* that the amount determined by the Commissioner is too little.

- (3) An employer who becomes liable to pay tax by virtue of an assessment made under subsection (2) is also liable to pay, by way of additional tax, double the amount of that tax or the amount of \$20, whichever is the greater, but the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the whole or part of the additional tax.
- (4) As soon as conveniently may be after an assessment is made under this section, the Commissioner shall cause notice in writing of the assessment and of the tax or further tax to be given to the employer liable to pay the tax or further tax.
- (5) The amount of tax or further tax specified in the notice is payable on or before the date specified in the notice together with any other amount that may be payable in accordance with any other provision of this Act.
- (6) An omission to give such a notice does not invalidate the assessment and calculation made by the Commissioner.

## **20 Refunds**

Where the Commissioner finds in any case that tax has been overpaid, he may refund to the employer who paid the tax the amount of tax found to be overpaid.

### **20A Refund of certain tax**

- (1) The Commissioner shall, on an application made in accordance with subsection (5), repay to an employer who has paid tax the prescribed proportion of the amount of the tax paid by him attributable to the inclusion in taxable wages of wages, paid or payable:
  - (a) for prescribed services performed or rendered after the prescribed date;
  - (b) for services performed or rendered after the prescribed date in a prescribed locality; or
  - (c) after the prescribed date to an employee who is a member of a prescribed class of employees.
- (2) Subject to subsection (3), payments under subsection (1) shall be made in the financial year immediately following the financial year in which the wages referred to in that subsection were paid or became payable.

- (3) Regulations made by reference to this section may prescribe different dates in respect of different services, localities or classes of employees, or different financial years in which an application may be made or tax may be repaid.
- (4) Amounts payable under subsection (1) shall be paid from the public moneys of the Territory and the Allocation for that purpose is hereby established or increased to the extent necessary.
- (5) Subject to subsection (3), an application under subsection (1) shall be made within the financial year next following the financial year in respect of which the repayment is applied for and shall contain such information, and be in such form, as the Commissioner requires.

## **21 Employer leaving Australia**

When the Commissioner has reason to believe that an employer may leave Australia before tax or further tax becomes due and payable by him, the tax or further tax is due and payable on such date as the Commissioner fixes and notifies to the employer.

## **22 Time to pay – extensions and instalments**

The Commissioner may, in such cases as he thinks fit:

- (a) extend the time for payment of any tax, further tax or additional tax by such period as he considers the circumstances warrant; or
- (b) permit the payment of tax, further tax or additional tax to be made by instalments within such time as he considers the circumstances warrant.

## **23 Additional tax**

- (1) If tax, further tax or additional tax is not paid before the expiration of the time for payment, additional tax is payable at the rate of 18% per annum on the amount of tax, further tax or additional tax, to be computed from the expiration of the time for payment.
- (2) The Commissioner may, in a particular case, for reasons which in his discretion he thinks sufficient, remit the whole or part of the additional tax.
- (3) In subsection (1):

***time for payment*** means:

- (a) the time specified under section 13A, 18 or 19 for the payment of tax, further tax or additional tax;

- (b) the further time specified for the payment of tax, further tax or additional tax allowed by the Commissioner under section 22(a); or
- (c) if the Commissioner permits the tax, further tax or additional tax to be paid by instalments under section 22(b) – the time for payment of the tax, further tax or additional tax had permission to pay by instalments not been given.

## **24 Recovery of tax**

- (1) Any tax or further tax, when it becomes due and payable, or any additional tax, is a debt due to the Territory and is payable at such place as is prescribed.
- (2) Any tax, further tax or additional tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner suing in his official name.
- (3) Any tax, further tax or additional tax payable under this Act by a member of a group is a debt due jointly and severally by each person who is a member of the group during the period in which the tax, further tax or additional tax becomes due.

## **24A Labour hire agent not prevented from recovering tax from client**

Nothing in this Act prevents a labour hire agent who is liable to tax in relation to an arrangement referred to in section 3(6) recovering an amount equal to the tax paid or payable from the client under the arrangement.

## **25 Substituted service**

If, in proceedings against an employer for the recovery of tax, further tax or additional tax, the defendant:

- (a) is absent from Australia and has not, to the knowledge of the Commissioner after reasonable inquiry in that behalf, any attorney or agent in Australia on whom service of process can be effected; or
- (b) cannot after reasonable inquiry be found,

any process in the proceedings may, without leave of the court, be served on him by post addressed to his last known place of business or residence in Australia.

**26 Liquidator to give notice**

- (1) A person who is liquidator of a company, being a company that is being wound-up and is an employer registered or required to be registered under this Act, shall, within 14 days after he has become liquidator of that company, give notice in writing to the Commissioner of his appointment as liquidator.
- (2) The Commissioner shall, as soon as practicable after the receipt by him of the notice, notify to the liquidator the amount that appears to the Commissioner to be sufficient to provide for any tax that is or will become payable by the company.
- (3) The liquidator:
  - (a) shall not, without leave of the Commissioner, part with any of the assets of the company until he has been so notified;
  - (b) shall set aside, out of the assets available for the payment of the tax, assets to the value of the amount so notified, or the whole of the assets so available if they are of less than that value; and
  - (c) is, to the extent of the value of the assets that he is so required to set aside, liable as trustee to pay the tax.
- (4) If the liquidator fails to comply with a provision of this section or fails as trustee duly to pay tax for which he is liable under subsection (3), he is, to the extent of the value of the assets of which he has taken possession and that are, or were at any time, available to him for the payment of the tax, personally liable to pay the tax, and is guilty of an offence punishable, upon being found guilty, by a fine not exceeding 50 penalty units.
- (5) Where 2 or more persons are liquidators of a company, the obligations and liabilities attaching to a liquidator under this section attach to each of those persons, but, where any one of those persons has paid the tax due in respect of the company being wound-up, the other person or each of the other persons is liable to pay to that person his equal share of the amount of tax so paid.
- (6) Notwithstanding anything contained in this section, all costs, charges and expenses that, in the opinion of the Commissioner, have been properly incurred by the liquidator in the winding-up of a company, including the remuneration of the liquidator, may be paid out of the assets of the company in priority to any tax payable in respect of the company.

(7) Nothing in this section:

- (a) limits the liability of a liquidator under section 27 or his liability, as a trustee, under section 59 or Part IVA; or
- (b) affects any of the provisions of the Companies Act, the Companies (Northern Territory) Code or the Corporations Act 2001.

(8) In this section, **tax** includes further tax and additional tax.

## **27 Agent for absentee principal winding-up business**

- (1) Where an agent for an absentee principal has been required by the principal to wind-up the business of his principal, he shall, before taking any steps to wind-up the business, notify the Commissioner of his intention to do so, and shall set aside such sum out of the assets of the principal as appears to the Commissioner to be sufficient to provide for any tax that may become payable.
- (2) The agent who fails to give notice to the Commissioner or fails to provide for payment of tax as required by this section is personally liable for any tax, further tax or additional tax that becomes payable in respect of the business of the principal.

## **28 Where tax not paid during lifetime**

- (1) The following provisions of this section apply where, whether intentionally or not, an employer escapes full payment of tax in his lifetime by reason of his not having duly made full, complete and accurate returns.
- (2) The Commissioner has the same powers and remedies against the trustees of the estate of the employer in respect of the liability to which the employer was subject as he would have had against the employer if he were alive.
- (3) The trustees shall furnish such returns as the Commissioner requires.
- (4) The trustees are subject to additional tax to the same extent as the deceased employer would have been subject to additional tax if he were alive, but the Commissioner may, in a particular case, for reasons that he thinks sufficient, remit the whole or part of the additional tax.
- (5) The amount of any tax, further tax or additional tax payable by the trustee is a charge on all the deceased employer's estate in their hands in priority to all other encumbrances other than charges in respect of debts payable to the Commissioner.

**29 Provision for payment of tax by trustees of deceased employers**

- (1) Where, at the time of an employer's death, he had not paid the whole of the tax payable up to the date of his death, the Commissioner has the same powers and remedies for the assessment and recovery of tax from the trustees as he would have had against that employer if he were alive.
- (2) The trustees shall furnish such of the returns referred to in Part IV as have not been furnished by the deceased.
- (3) Where the trustees are unable or fail to furnish a return, the Commissioner may estimate and make an assessment of the amount of wages in respect of which, in his judgment, tax ought to be paid.

**30 Where no administration of estate of deceased employer**

- (1) Where, in respect of the estate of a deceased employer, probate has not been granted, or letters of administration have not been taken out, within 6 months of his death, the Commissioner may cause an assessment to be made of the amount of tax due by the deceased employer.
- (2) The Commissioner shall cause notice of the assessment to be published twice in a daily newspaper circulating in the State or Territory in which the deceased employer resided.
- (3) A person claiming an interest in the estate of the deceased employer may object to the assessment under Part V of the *Taxation (Administration) Act* and that Part applies in relation to the objection as if the person were the deceased employer.
- (4) Subject to an amendment of the assessment in accordance with this Act, the assessment so made is conclusive evidence of the indebtedness of the deceased employer to the Commissioner.
- (5) The Commissioner may issue an order, in such form as he thinks appropriate, authorizing a member of the Police Force of the Territory, or any other person named in the order, to levy the amount of tax due by the deceased employer, with costs, by distress and sale of any property of the deceased employer.
- (6) Upon the issue of such an order, the member or person so authorized has power to levy that amount in accordance with the order.
- (7) Despite subsections (4), (5) and (6), if at any time there is a grant of probate of the deceased employer's will or a grant of letters of

administration of the deceased employer's estate, the person granted probate or letters of administration may, within 60 days after the grant, object to the assessment under Part V of the *Taxation (Administration) Act* and that Part applies in relation to the objection accordingly.

### **31 Joint taxpayers**

Where 2 or more persons are jointly liable to pay tax, they are jointly and severally liable to pay the tax.

### **32 Commissioner may collect tax from person owing money to taxpayer**

(1) The Commissioner may, by notice in writing (a copy of which shall be furnished to the taxpayer) require:

- (a) a person by whom any money is due or accruing, or may become due, to a taxpayer;
- (b) a person who holds, or may subsequently hold, money for or on account of a taxpayer;
- (c) a person who holds, or may subsequently hold, money for or on account of some other person for payment to a taxpayer; or
- (d) a person having authority from another person to pay money to a taxpayer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held, or at or within a time specified in the notice (not being a time before the money becomes due or is held):

- (e) so much of the money as is sufficient to pay an amount of tax due by the taxpayer, or the whole of the money when it is equal to or less than that amount; or
- (f) such amount as is specified in the notice out of each of any payments that the person so notified becomes liable from time to time to make to the taxpayer, until the amount of tax due by the taxpayer is satisfied,

and may at any time, by further notice in writing, amend or revoke the first-mentioned notice, or extend the time for making any payment in pursuance of that notice.

(2) A person making a payment in pursuance of this section shall be deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is, by force of this subsection, indemnified in respect of that payment.

(3) If the Commissioner receives a payment of an amount or part of an amount of tax due by the taxpayer before payment is made by the person so notified, he shall forthwith give notice of receipt of the payment to that person.

(4) In this section:

**tax** includes further tax or additional tax, a judgment debt or costs in respect of tax, further tax or additional tax and any fine or costs imposed by a court in respect of an offence against this Act or the regulations.

**taxpayer** means a person who is liable (whether solely, severally or jointly and severally liable) to pay an amount of tax and whose liability to pay the tax is the subject of a notice referred to in subsection (1).

### 33 Evidence

(1) The production of an instrument under the hand of the Commissioner purporting to be a copy or record of a notice of a decision, determination or assessment:

(a) is conclusive evidence of the due making of the decision, determination or assessment; and

(b) except in a proceeding under Part V of the *Taxation (Administration) Act*, is conclusive evidence that the amount and particulars of the decision, determination or assessment are correct.

(2) The production of a document under the hand of the Commissioner, purporting to be a copy of a document issued or given by the Commissioner, is conclusive evidence that the document was so issued or given.

(3) The production of a document under the hand of the Commissioner, purporting to be a copy of or extract from a return or notice of assessment is evidence of the matter set forth in the document so produced to the same extent as the original return or notice would be if it were produced.

**34 Validity of decision etc.**

The validity of a decision, determination or assessment is not affected merely because a provision of this Act has not been complied with.

*Note for Part V*

*Part V of the Taxation (Administration) Act provides for objections and appeals in relation to decisions, determinations and assessments made under this Part by which the person's liability to pay tax is affected.*

**Part VII Penal provisions**

**37 Offences**

(1) A person who fails or neglects duly to furnish a return or information, or to comply with a requirement of the Commissioner, as and when required by or under this Act or the Regulations is guilty of an offence punishable, on being found guilty, by a fine not exceeding 50 penalty units.

(1A) A person who, without just cause shown by the person, refuses or neglects:

- (a) to attend and give evidence when required by the Commissioner or an officer duly authorised by the Commissioner;
- (b) to answer truly and fully any questions put to the person by the Commissioner or any such officer; or
- (c) to produce a book, document or paper required of the person by the Commissioner or any such officer,

is guilty of an offence punishable, on being found guilty, by a fine not exceeding 50 penalty units.

(1B) A person who:

- (a) furnishes a return that is false in a material particular; or
- (b) makes a false answer, whether orally or in writing, to a question put to the person by the Commissioner or an officer authorised by the Commissioner,

is guilty of an offence punishable, on being found guilty, by a fine not exceeding 100 penalty units.

- (2) In any prosecution of a person for an offence against subsection (1B), being a person who has not previously been found guilty of an offence against this Act, it is a defence if the defendant proves:
- (a) that the return or answer to which the prosecution relates was prepared or made by him personally; and
  - (b) that the false particulars were given or the false statement was made, as the case may be, through ignorance or inadvertence.
- (2A) A person who contravenes a provision of this Act for the contravention of which no penalty is expressly provided is guilty of an offence punishable, on being found guilty, by a fine not exceeding 50 penalty units.
- (3) A court that finds a person guilty of an offence against this section may, at the time of making that finding, order the person to comply within the period specified in the order with the requirements of the Commissioner under the provision in respect of which that person was found guilty.
- (4) A person the subject of an order referred to in subsection (3) who fails to comply with the requirements of the order within the period specified in that order is guilty of an offence and punishable as provided in section 40.
- (5) For the purposes of this section and section 38, an employer who fails to comply with section 13A(2) is to be taken to have failed to have furnished a return as and when required by or under this Act or the Regulations.

### **38 Additional tax in certain cases**

- (1) Notwithstanding anything contained in section 37, an employer who:
- (a) fails or neglects duly to furnish a return or information as and when required by or under this Act or the regulations; or
  - (b) fails to include in a return any particulars of taxable wages paid or payable by him,

is, if paragraph (a) applies, liable to pay additional tax at the rate of 18% per annum upon the amount of tax payable by him (such percentage to be calculated for the period commencing on the last day allowed for furnishing the return or information and ending on the day upon which the return or information is furnished or the day upon which the assessment is made, whichever first happens), or

the sum of \$20, whichever is the greater, or, if paragraph (b) applies, liable to pay by way of additional tax the amount of \$20 or double the amount of the difference between the tax properly payable and the tax payable upon the basis of the return lodged, whichever is the greater.

- (2) The Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the whole or part of the additional tax.
- (3) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by section 37, that action may be taken by the Commissioner, and, in that case, the additional tax payable under this section shall not be charged.

### **39 False declarations**

A person who, in a declaration made under, or authorized or prescribed by, this Act or the regulations, knowingly declares to any matter or thing that is false in a material particular is guilty of an offence punishable, on being found guilty, by imprisonment for a period not exceeding 2 years.

### **40 Avoiding tax**

A person who, or a company or partnership on whose behalf a director, partner, servant or agent of the company or partnership, by any wilful act, default or neglect or by any fraud, trick or contrivance avoids or attempts to avoid tax is guilty of an offence punishable, on being found guilty, by a fine not exceeding 100 penalty units and, in addition, the court may order the person, company or partnership to pay to the Commissioner an amount not exceeding treble the amount of the tax avoided or attempted to be avoided.

### **41 Time for commencing prosecutions**

- (1) A prosecution in respect of an offence against section 40 may be commenced at any time within 3 years after the commission of the offence.
- (2) A prosecution in respect of an offence against section 37(1) or (1B) may be commenced at any time.

### **42 Penalties not to relieve from tax**

Payment of penalties under this Act does not relieve a person from liability to any tax for which he would otherwise be liable.

**43 Obstructing persons**

A person shall not obstruct or hinder a person acting in the discharge of his duty under this Act or the regulations.

Penalty: Imprisonment for 2 years.

**Part VIII Taxation prosecutions**

**44 Taxation prosecutions**

In this Part, **taxation prosecution** means a proceeding for the recovery of a pecuniary penalty under this Act.

**45 How instituted**

A taxation prosecution may be instituted in the name of the Commissioner by action, information or other appropriate proceeding in the Supreme Court and when the prosecution is for a pecuniary penalty not exceeding 50 penalty units, the taxation prosecution may be instituted in the name of the Commissioner in a court of summary jurisdiction.

**46 Evidence of authority to institute proceedings**

- (1) Where a taxation prosecution has been instituted by an officer in the name of the Commissioner, the prosecution shall, in the absence of evidence to the contrary, be deemed to have been instituted by the authority of the Commissioner as the case may be.
- (2) The production of a document purporting to have been written by the Commissioner and purporting to authorize an officer to institute any taxation prosecution or proceedings is evidence of the authority of the officer to institute the prosecution or proceedings in the name of the Commissioner.

**47 Defendant to have right to trial in Supreme Court**

In a taxation prosecution where the penalty exceeds 50 penalty units, the defendant, within 7 days after service of process, has the right to elect, in the prescribed manner, to have the case tried, in the Supreme Court, and thereupon the proceedings shall stand removed accordingly and may be conducted as if originally instituted in the Supreme Court.

**48 Prosecution in accordance with practice rules**

A taxation prosecution in the Supreme Court may be commenced, prosecuted and proceeded with in accordance with the usual practice and procedure of the court in civil cases or in accordance with the directions of the court or a judge.

**49 Appeals**

In a taxation prosecution in a court of summary jurisdiction in the Territory, an appeal lies from a finding of guilt or order of dismissal to such court and in such manner as is provided by the law of the Territory for appeals from findings of guilt or orders of dismissal.

**50 Information, &c., to be valid if in words of Act or regulations**

All informations, summonses, findings of guilt and warrants suffice if the offence is set forth as nearly as may be in the words of this Act or the regulations.

**51 No objection for informality**

- (1) An objection shall not be taken or allowed to an information or summons for any alleged defect therein in substance or in form or for any variance between the information or summons and the evidence adduced at the hearing in support thereof, and the court shall at all times make any amendment that is necessary to determine the real question in dispute or that may appear desirable.
- (2) If any such defect or variance appears to the court to be such that the defendant has been thereby deceived or misled the court may, upon such terms as it thinks just, adjourn the hearing of the case to some future day.

**52 Finding of guilt not to be quashed**

A finding of guilt, warrant of commitment or other proceeding, matter or thing done or transacted in relation to the execution or carrying out of this Act shall not be held void, quashed or set aside by reason of any defect therein or want of form, and a party is not entitled to be discharged out of custody on account of such a defect or want of form.

**53 Protection to witnesses**

A witness on behalf of the Commissioner in a taxation prosecution shall not be compelled to disclose the fact that he received any information, or the nature thereof or the name of the person who gave the information, and an officer appearing as a witness shall not be compelled to produce any reports made or received by him

confidentially in his official capacity or containing confidential information.

#### **54 Averment of prosecutor sufficient**

- (1) In a taxation prosecution, the averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim is evidence of the matter averred.
- (2) This section applies to any matter so averred although:
  - (a) evidence in support or rebuttal of the matter averred or of any other matter is given; or
  - (b) the matter averred is a mixed question of law and fact,but, where the matter is a mixed question of law and fact, the averment is evidence of the fact only.
- (3) Evidence given by a witness in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of that evidence shall be neither increased nor diminished by reason of this section.
- (4) This section does not apply to:
  - (a) an averment of the intent of the defendant; or
  - (b) proceedings for an indictable offence or an offence directly punishable by imprisonment.
- (5) This section does not lessen or affect any onus of proof otherwise falling on the prosecutor or the person charged with the offence.

#### **57 Parties may recover costs**

In all taxation prosecutions, the court may award costs against any party, and the provisions of this Act relating to the recovery of penalties, except commitment to gaol, extend to the recovery of any costs adjudged to be paid.

## **Part IX 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

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officer of the company or partnership for the purposes of this Act, and to keep the office of public officer constantly filled.

- (2) An appointment of a public officer shall be deemed not to be duly made until after notice of the appointment in writing, 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 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, furnish 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 furnish;
  - (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 furnish 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

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- (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 IVA in relation to trustees.

## **60 Person in receipt or control of money for absentee**

Subject to this Act, the following provisions apply with respect to a person who has the receipt, control or disposal of money belonging to a person who is resident out of Australia and liable to pay tax under this Act:

- (a) he shall, when required by the Commissioner, pay the tax due and payable by the person on whose behalf he has the control, receipt or disposal of money;
- (b) where he pays tax in accordance with paragraph (a), he may recover the amount so paid from the person on whose behalf he paid it or deduct it from any money in his hands belonging to that person;
- (c) he shall retain from time to time out of any money that comes to him on behalf of the person resident out of Australia so much as is sufficient to pay the tax that is or will become due by that person;
- (d) he is personally liable for the tax payable by him on behalf of the person resident out of Australia after the tax becomes payable, or if, after the Commissioner has required him to pay the tax, he disposes of or parts with any fund or money then in his possession, or that comes to him, and from or out of which the tax could legally be paid, but he is not otherwise personally liable for the tax, but the Commissioner may, upon application, permit disposal of the fund or money or such part thereof as he considers necessary; and
- (e) 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.

## **61 Books, accounts, &c., to be preserved**

- (1) A person who is an employer registered or required to be registered under this Act shall, for the purposes of this Act, keep proper books or accounts in the English language, and shall preserve those

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books or accounts for a period of not less than 5 years after the completion of the transactions to which they relate.

Penalty: 100 penalty units.

- (1A) Subject to subsection (2), an offence of contravening or failing to comply with subsection (1) is a regulatory offence.
- (2) This section does not apply so as to require the preservation of any books, accounts or documents:
- (a) in respect of which the Commissioner has notified the employer that such preservation is not required; or
  - (b) of a company that has gone into liquidation and has been finally dissolved.

## **62 Access to books, &c.**

- (1) For the purposes of this Act, an officer authorized by the Commissioner to exercise powers under this section:
- (a) may, at all reasonable times, enter upon any land;
  - (b) shall have full and free access at all reasonable times to all books, documents and other papers; and
  - (c) may, for those purposes, take extracts from, and make copies of, any books, documents or papers.
- (2) An officer who enters upon land in pursuance of this section is not authorized to remain on the land if, on request by the occupier of the land, he does not produce a certificate in writing under the hand of the Commissioner certifying that he is an officer authorized to exercise powers under this section.

## **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**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing penalties not exceeding a fine of 50 penalty units for offences against the regulations.
- (2) Without limiting the generality of subsection (1), the regulations may make provision with respect to the place at which, and the manner in which, a return, declaration, notice, application or other document required or permitted by this Act to be made, furnished or given to, or by, or lodged with, the Commissioner may be, or is to be, so made, furnished, given or lodged.

## Schedule 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.

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**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.

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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)

**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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**4 LIST OF AMENDMENTS**

lt	amd No. 14, 1981, s 6
ss 1 – 2	amd No. 14, 1981, s 6
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. 49, 2001, s 4; No. 62, 2001, s 15; No. 17, 2001, s 21; No. 43, 2002, s 4; No. 52, 2002, s 3; No. 36, 2003, s 4; No. 19, 2006, s 111
s 3A	ins No. 29, 1999, s 5
s 3B	ins No. 29, 1999, s 5
	amd No. 34, 2000, s 5; No. 43, 2002, s 5
s 3C	ins No. 29, 1999, s 5
	amd No. 34, 2000, s 6
s 3D	ins No. 32, 2000, s 42
s 4	rep No. 37, 1980, s 29
s 4A	ins No. 71, 1979, s 5
	amd No. 37, 1980, s 29
s 5	amd No. 14, 1981, s 6; No. 28, 1993, s 3; No. 58, 1993, s 3; No. 27, 1999, s 15; No. 29, 1999, s 6
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
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
	amd No. 125, 1979, s 5; No. 37, 1980, s 29; No. 29, 1985, s 6; No. 41, 1988, s 5; No. 50, 1992, s 5; No. 40, 1994, s 4; No. 29, 1999, s 8; No. 39, 2004, ss 4, 10 and 18; No. 19, 2006, s 112
s 9	amd No. 14, 1981, s 4; No. 29, 1999, s 9
s 9A	ins No. 34, 2000, s 8
s 10	sub No. 71, 1979, s 7
s 10A	ins No. 71, 1979, s 7
	amd No. 125, 1979, s 6; No. 37, 1980, s 29; No. 29, 1985, s 7; No. 41, 1988, s 6; No. 50, 1992, s 6; No. 40, 1994, s 5; No. 29, 1999, s 10; No. 39, 2004, ss 5 and 19; No. 19, 2006, s 113
s 11	sub No. 71, 1979, s 8
	amd No. 37, 1980, s 29; No. 29, 1985, s 8; No. 49, 2001, s 6; No. 39, 2004, ss 6 and 20; No. 19, 2006, s 114
s 11A	ins No. 14, 1985, s 4
	amd No. 29, 1999, s 12
s 11B	ins No. 34, 2000, s 9
	amd No. 3, 2001, s 8; No. 52, 2002, s 4
pt III note	ins No. 5, 2005, s 14
s 12	amd No. 71, 1979, s 9; No. 125, 1979, s 7; No. 37, 1980, s 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, ss 7 and 21; No. 19, 2006, s 115
ss 12A – 12B	ins No. 36, 2003, s 6
s 13	amd No. 14, 1981, s 6; No. 29, 1999, s 13; No. 34, 2000, s 10; No. 36, 2003, s 7
s 13A	ins No. 49, 2001, s 8
	amd No. 36, 2003, s 8
s 14	amd No. 71, 1979, s 10; No. 37, 1980, s 29; No. 14, 1981, s 6; No. 36, 2003, s 9
s 15	amd No. 29, 1981, s 2

## ENDNOTES

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s 16	amd No. 14, 1981, s 6
pt IVA hdg	ins No. 71, 1979, s 11
s 17A	ins No. 71, 1979, s 11 amd No. 27, 2005, s 4
s 17B	ins No. 71, 1979, s 11 amd No. 18, 1986, s 3; No. 59, 1990, s 4; No. 17, 2001, s 21
s 17C	ins No. 71, 1979, s 11 amd No. 39, 2004, s 11
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. 49, 2001, s 9; No. 17, 2001, s 21; No. 39, 2004, s 12
ss 17E – 17F	ins No. 71, 1979, s 11
s 17G	ins No. 71, 1979, s 11 amd No. 49, 2001, s 10; No. 36, 2003, s 10
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
s 17J	ins No. 71, 1979, s 11 amd No. 37, 1980, s 29; No. 29, 1999, s 14; No. 39, 2004, s 15
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, 16 and 22; No. 19, 2006, s 116
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, 17 and 23; No. 19, 2006, s 117
pt IVA note	ins No. 5, 2005, s 15
s 18	amd No. 14, 1981, s 6; No. 49, 2001, s 14
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
s 20A	ins No. 46, 1980, s 2 amd No. 14, 1981, s 5; No. 80, 1981, s 2; No. 62, 1986, s 2; No. 14, 1995, s 6
s 22	amd No. 49, 2001, s 15
s 23	amd No. 22, 1991, ss 3 and 5; No. 49, 2001, s 16
s 24	amd No. 88, 1982, s 3; No. 74, 2002, s 3
s 24A	ins No. 34, 2000, s 11
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
s 30	amd No. 14, 1981, s 6; No. 5, 2005, s 17
s 32	amd No. 14, 1981, s 6; No. 74, 2002, s 4
s 33	amd No. 19, 2006, s 118
pt V note	ins No. 5, 2005, s 18
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
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
s 38	amd No. 14, 1981, s 6; No. 22, 1991, s 6
s 39	amd No. 14, 1981, s 6; No. 17, 1996, s 6; No. 29, 1999, s 19
s 40	amd No. 17, 1996, s 6; No. 29, 1999, s 20; No. 52, 2002, s 5
s 41	amd No. 29, 1999, s 21
s 42	amd No. 14, 1981, s 6
s 43	amd No. 14, 1981, s 6; No. 29, 1999, s 22
s 44	amd No. 14, 1981, s 6

## ENDNOTES

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s 45	amd No. 29, 1999, s 23
s 46	amd No. 44, 2005, s 35
s 47	amd No. 29, 1999, s 24
s 49	amd No. 17, 1996, s 6
s 50	amd No. 14, 1981, s 6; No. 17, 1996, s 6
s 52	amd No. 14, 1981, s 6; No. 17, 1996, s 6
s 54	amd No. 14, 1981, s 6
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
s 58	amd No. 14, 1981, s 6; No. 17, 1996, s 6; No. 29, 1999, s 26; No. 52, 2002, s 5
s 59	amd No. 71, 1979, s 14; No. 14, 1981, s 6
s 60	amd No. 14, 1981, s 6
s 61	amd No. 14, 1981, s 6; No. 68, 1983, s 90; No. 29, 1999, s 27
s 62	amd No. 14, 1981, s 6
s 64	amd No. 14, 1981, s 6; No. 29, 1999, s 28; No. 5, 2005, s 19
sch	ins No. 29, 1999, s 29