

NORTHERN TERRITORY OF AUSTRALIA

PAY-ROLL TAX AMENDMENT ACT 2004

Act No. 39 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 39 of 2004

AN ACT

to amend the *Pay-roll Tax Act*

[Assented to 6 July 2004]

[Second reading 20 May 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Pay-roll Tax Amendment Act 2004*.

2. Commencement

(1) This Part comes into operation on the day on which the Administrator's assent to this Act is declared.

(2) Parts 2, 3 and 4 come into operation on 1 July 2004.

(3) Part 5 comes into operation on 1 July 2005.

3. Principal Act

A reference in a Part of this Act to the Principal Act is a reference to the *Pay-roll Tax Act* as in force immediately before the commencement of that Part.

PART 2 – \$800 000 THRESHOLD

4. General exemption

Section 8 of the Principal Act is amended by omitting from paragraphs (a) and (b) of the definition of "prescribed amount" in subsection (1) "\$50,000" and substituting "\$66 666.66".

5. Annual adjustments

Section 10A of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (1) "600,000C" and substituting "800 000C".

6. Adjustment if employer ceases to pay taxable wages or joins group

Section 11 of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (1) "600,000C" and substituting "800 000C".

7. Registration

Section 12 of the Principal Act is amended by omitting from subsections (1) and (1B) "\$11,480" and substituting "\$15 384".

8. Annual adjustments

Section 17K of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (2) "600,000C" and substituting "800 000C".

9. Adjustment if group member ceases to pay taxable wages

Section 17L of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (2) "600,000C" and substituting "800 000C".

PART 3 – NOMINATION OF GENERAL EXEMPTION DEDUCTION

10. General exemption

Section 8 of the Principal Act is amended by omitting subsections (4) and (5) and substituting the following:

"(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."

PART 4 – GROUPING PROVISIONS

11. Grouping where employees used in other businesses

Section 17C of the Principal Act is amended by omitting from paragraphs (a) and (b) "a business" and substituting "one or more businesses".

12. Grouping of commonly controlled businesses

Section 17D of the Principal Act is amended –

- (a) by omitting subsection (3)(d) and substituting the following:
 - "(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;"; and
- (b) by omitting subsection (6) and substituting the following:
 - "(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."

13. Repeal and substitution of section 17G

Section 17G of the Principal Act is repealed and the following substituted:

"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."

14. Exclusion of persons from groups

Section 17H of the Principal Act is amended –

- (a) by inserting after subsection (1) the following:

"(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."

- (b) by omitting from subsection (2) "Where" and substituting "Where a group is constituted by virtue of sections 17D(3)(d) and 17G and"; and
- (c) by omitting from subsection (3) "subsection (2)" and substituting "subsection (1A) or (2)".

15. Designated group employer

Section 17J of the Principal Act is amended –

- (a) by omitting subsections (1), (1A) and (1B) and substituting the following:

"(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)."; and

(b) by omitting subsections (2A) and (3) and substituting the following:

"(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."

16. Annual adjustments

Section 17K of the Principal Act is amended –

- (a) by omitting from subsection (1)(a) "the whole" and substituting "the whole or part"; and

- (b) by omitting the description of variable "C" from the definition of "prescribed amount" in subsection (2) and substituting the following:

"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".

17. Adjustment if group member ceases to pay taxable wages

Section 17L of the Principal Act is amended by omitting the description of variable "C" from the definition of "prescribed amount" in subsection (2) and substituting the following:

"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".

PART 5 – \$1 000 000 THRESHOLD

18. General exemption

Section 8 of the Principal Act is amended by omitting from paragraphs (a) and (b) of the definition of "prescribed amount" in subsection (1) "\$66 666.66" and substituting "\$83 333.33".

19. Annual adjustments

Section 10A of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (1) "800 000C" and substituting "1 000 000C".

20. Adjustment if employer ceases to pay taxable wages or joins group

Section 11 of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (1) "800 000C" and substituting "1 000 000C".

21. Registration

Section 12 of the Principal Act is amended by omitting from subsections (1) and (1B) "\$15 384" and substituting "\$19 230".

22. Annual adjustments

Section 17K of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (2) "800 000C" and substituting "1 000 000C".

23. Adjustment if group member ceases to pay taxable wages

Section 17L of the Principal Act is amended by omitting from the definition of "prescribed amount" in subsection (2) "800 000C" and substituting "1 000 000C".