

Serial 110
Pay-roll Tax Amendment Bill 2007
Mr Stirling

**A BILL
for
AN ACT**

to amend the *Pay-roll Tax Act*

NORTHERN TERRITORY OF AUSTRALIA
PAY-ROLL TAX AMENDMENT ACT 2007

Act No. [] of 2007

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2007

AN ACT

to amend the *Pay-roll Tax Act*

[Assented to [] 2007]

[Second reading [] 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Pay-roll Tax Amendment Act 2007*.

2. Commencement

This Act commences on 1 January 2008.

3. Act amended

This Act amends the *Pay-roll Tax Act*.

4. New section 2A

After section 2

insert

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

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

5. Amendment of section 3 (Interpretation)

- (1) Section 3(1), definitions "approved designated group employer", "approved member", "corresponding law", "interstate wages", "return period", "tax" and "the Commissioner"

omit

- (2) Section 3(1)

insert (in alphabetical order)

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

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

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

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

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

"related" – a corporation is related to another corporation if they are related corporations under section 50 of the *Corporations Act 2001*;

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

- (3) Section 3(5) and (6)

omit, substitute

(5) If a Government Business Division is an employer, but is not a corporation, this Act applies to the Government Business Division as if it were a corporation.

(6) If a Government Business Division or a statutory corporation is an employer, it (rather than the Commissioner for Public Employment) will be regarded, for the purposes of this Act, as the employer of all employees assigned to work in it.

(7) A word or expression defined in the *Taxation Administration Act* has, unless some other meaning is clearly intended, the same meaning when used in this Act.

6. Repeal of Part II

Part II

repeal

7. Amendment of section 6 (Pay-roll tax)

Section 6(3)(c)

omit

corresponding law

substitute

corresponding pay-roll tax law

8. Amendment of section 10A (Annual adjustments)

Section 10A(2) and (3)

omit, substitute

(2) If the tax payable by an employer for a financial year exceeds the amount paid by way of periodic payments for the financial year, the employer must pay to the Commissioner, within the time allowed for lodging a return for the month of June in the relevant financial year (or the return period that includes that month) the amount required to make up the difference.

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

9. Amendment of section 11 (Adjustment if employer ceases to pay taxable wages or joins group)

Section 11(2)

omit, substitute

(2) If an employer ceases to pay taxable wages or becomes a member of a group during the course of a financial year and the tax payable by the employer for the prescribed period exceeds the amount paid by way of periodic payments for that period, the employer must pay to the Commissioner, within the time allowed for lodging a return for the return period in which the prescribed period ends, the amount required to make up the difference.

10. Amendment of section 11B (Arrangement for avoidance of tax by labour hire agents)

Section 11B(6), definition "client"

omit, substitute

"client" includes an associate of a client;

11. Repeal of note for Part III

Part III, note at the end

repeal

12. Amendment of section 12 (Registration)

(1) Section 12(1)

omit

, in accordance with a form, and in a manner, determined by the Commissioner,

(2) Section 12(1B)

omit

, in accordance with a form, and in a manner determined by the Commissioner,

(3) Section 12(2)

omit

13. Repeal and substitution of sections 12A to 17

Sections 12A to 17

repeal, substitute

13. Returns and payment of tax

(1) An employer who is registered or required to apply for registration must, within 21 days after the end of each return period:

- (a) lodge with the Commissioner a return specifying the taxable wages paid or payable by the employer during the return period; and
- (b) pay to the Commissioner the pay-roll tax payable in respect of those taxable wages.

(2) An approved designated group employer must, within 21 days after the end of each return period:

- (a) lodge with the Commissioner a return specifying the taxable wages paid or payable by each member of the group during the return period; and
- (b) pay to the Commissioner the aggregate pay-roll tax payable by the members of the group in respect of those taxable wages.

(3) If an approved designated group employer lodges a return and pays tax as required by subsection (2), a member of the group is taken to have complied with its obligations under subsection (1).

(4) If taxable wages include fringe benefits, the value of the fringe benefits is to be calculated in accordance with the regulations and included in the return.

(5) The requirements of this section as to the lodging of returns and the payment of tax are subject to modification by arrangement approved under the *Taxation Administration Act*.

14. Further returns

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

14. Repeal and substitution of section 17B

Section 17B

repeal, substitute

17B. Grouping of corporations

Two corporations constitute a group if they are related corporations.

15. Amendment of section 17D (Grouping of commonly controlled businesses)

Section 17D(4)

omit, substitute

(4) If a corporation has a controlling interest under subsection (3) in a business, it is taken to have a controlling interest in any other business in which a related corporation has a controlling interest.

16. Amendment of section 17J (Designated group employer)

(1) Section 17J(1) to (1C)

omit, substitute

(1) The Commissioner must, on application by the members of a group, designate a member of the group as the designated group employer for the group.

(1A) The members of a group may nominate a deduction (to be calculated as specified by the Commissioner but not exceeding the prescribed amount fixed under section 8(1)) to be made from taxable wages for each return period.

(1B) The Commissioner may, by notice to the designated group employer (or the person to become the designated group employer) for a group, exercise one or both the following powers:

- (a) in the absence of an application from the members of the group, the Commissioner may designate a member of the group as the designated group employer for the group;
- (b) in the absence of a nomination made in accordance with subsection (1A), the Commissioner may nominate a deduction to be made from taxable wages for each return period.

- (2) Section 17J(2)(b)

omit, substitute

- (b) the members of the group apply to the Commissioner to have the designation revoked;

- (3) Section 17J(2A)(a)

omit, substitute

- (a) may, by notice to the designated group employer, revoke the designation or nomination; and

17. Amendment of section 17K (Annual adjustments)

Section 17K(4A) to (8)

omit, substitute

(5) If the amount of tax paid by way of periodic payments by the members of a group for a financial year is less than the amount payable for the financial year, the designated group employer for the group must pay to the Commissioner, within the time allowed for lodging a return for the month of June in the relevant financial year (or the return period that includes that month) the amount required to make up the difference.

(6) If the amount of tax paid by way of periodic payments by the members of a group for a financial year exceeds the amount payable for the financial year, the Commissioner must, subject to the *Taxation Administration Act*, refund the amount of the excess to the designated group employer.

18. Amendment of section 17L (Adjustment if group ceases to pay taxable wages or interstate wages)

- (1) Section 17L(4)

omit, substitute

(4) If the tax payable for a group for a prescribed period exceeds the amount paid by way of periodic payments for that period, the designated group employer for the group must pay to the Commissioner, within the time allowed for lodging a return for the return period in which the prescribed period ends, the amount required to make up the difference.

- (2) Section 17L(5)

omit

17K(4A), (5)

substitute

17K(5)

- (3) Section 17L(6)

omit

19. Repeal of note for Part IVA

Part IVA, note at the end

repeal

20. Repeal of Parts V, VII and VIII

Part V, VII and VIII

repeal

21. Amendment of section 58 (Public officers of companies and partnerships)

Section 58(2)

omit

in writing

22. Amendment of section 59 (Agents and trustees)

Section 59(1)(b), (c) and (f)

omit (all references)

furnish

substitute

lodge

23. Repeal of sections 60 to 62

Sections 60 to 62

repeal

24. Repeal and substitution of section 64

Section 64

repeal, substitute

64. Regulations

The Administrator may make regulations under this Act.

25. Amendment of *Pay-roll Tax Regulations*

(1) This section amends the *Pay-roll Tax Regulations*.

(2) The Schedule has effect.

SCHEDULE

Section 25

AMENDMENT OF PAY-ROLL TAX REGULATIONS

Provision	Amendment	
	omit	substitute
Regulation 3, heading	whole heading	Definitions
Regulation 3(1)	(1)	
Regulation 3(2)	whole subregulation	
Regulations 6, 11, 12, 15 and 16	whole regulation	
Part III	whole Part	
Regulations 27G, 27M and 27R	section 61 of the Act	section 74 of the <i>Taxation Administration Act</i>
Regulations 30 to 41 and 43	whole regulation	