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SCHEDULE

REGULATIONS 1978, No. 18*

Regulations under the *Pay-roll Tax Ordinance*

I, JOHN ARMSTRONG ENGLAND, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Pay-roll Tax Ordinance*.

Dated this thirtieth day of June, 1978.

J. A. ENGLAND
Administrator

PAY-ROLL TAX REGULATIONS

PART I—PRELIMINARY

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| Citation | 1. These Regulations may be cited as the Pay-roll Tax Regulations. |
| Commencement | 2. These Regulations shall come into operation on the date of commencement of the Ordinance.† |
| Interpretation | 3. A reference in these Regulations to the office of the Commissioner is a reference to the office of the Commissioner at the address specified in the Schedule. |

PART II—REGISTRATION, RETURNS AND APPLICATIONS

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| Nomination by employer where required to include wages in return under corresponding law | 4. A nomination pursuant to section 8(4) of the Ordinance of an amount as the deduction that an employer claims to be entitled to make pursuant to that sub-section, shall be made in accordance with a form determined by the Commissioner and shall be made to the Commissioner at the office of the Commissioner. |
| Application for determination of prescribed amount | 5. An application pursuant to section 8(6) or (7) of the Ordinance for a determination specifying an amount or that no amount, as the case may be, may be claimed as the prescribed amount referred to in section 8(3) of the Ordinance shall be made in writing to the Commissioner at the office of the Commissioner. |
| Application for refund or rebate of tax on annual adjustments | 6. An application pursuant to section 10(1) or (2) of the Ordinance for a refund or rebate of tax shall be made in writing to the Commissioner at the office of the Commissioner. |
| Application for registration | 7. An application pursuant to section 12 of the Ordinance for registration as an employer shall be made in accordance with a form determined by the Commissioner and shall be made at the office of the Commissioner. |
| Issue of certificate | 8. The Commissioner, or a person authorized by the Commissioner, may issue to every person registered as an employer, a certificate to the effect that the employer is registered. |
| Returns | 9. A return required to be furnished in pursuance of section 13 of the Ordinance shall be in accordance with a form determined by the Commissioner and shall be furnished in triplicate to the Commissioner at the office of the Commissioner. |

*Notified in the *Northern Territory Government Gazette* on 30 June, 1978.

†That date was 1 July, 1978.

- 10.** An application pursuant to section 14 of the Ordinance for a certificate exempting an employer from furnishing monthly returns may be made in writing to the Commissioner at the office of the Commissioner. Exemption from furnishing returns
- 11.** An annual return required to be furnished in pursuance of section 14 of the Ordinance, by an employer to whom a certificate of exemption has been issued, shall be in accordance with a form determined by the Commissioner and shall be furnished to the Commissioner at the office of the Commissioner. Annual returns
- 12.** A return or application shall be deemed not to have been duly furnished to the Commissioner unless and until the proper form, duly signed, in accordance with these Regulations, containing a full, true and complete statement of all matters and things required to be stated by the Ordinance and these Regulations, by the Commissioner, and by the form itself, has, at the office of the Commissioner, been received by an officer authorized by the Commissioner to receive returns or applications, as the case may be. When return or application deemed to be furnished
- 13.** Where a person is required by the Ordinance or these Regulations or by the Commissioner to furnish a return to the Commissioner, that person shall make the required return and shall take all steps necessary to ensure that the return is received by the Commissioner, or by an officer authorized by the Commissioner to receive returns, at the office of the Commissioner. Employer to take necessary steps for due lodging
- 14.** Where, pursuant to section 16 of the Ordinance, a person is required by the Commissioner to furnish the Commissioner with any information, that person—
 (a) shall take all steps necessary to ensure that the information so required to be furnished is received by the Commissioner at the place at which the information is required to be furnished; and
 (b) shall be deemed not to have furnished the Commissioner with such information unless and until such information has been received by the Commissioner at the place at which the information is required to be furnished. Persons to take necessary steps to furnish information
- 15.** Where a person (other than the employer or a representative of the employer concerning whom the evidence is required) is required under section 16 of the Ordinance to attend and give evidence before the Commissioner or an officer authorized by him, there shall be paid to that person such fees and expenses at the same rates, and subject to the same conditions, as the witnesses' expenses that are, from time to time, provided under Rules of Court made under section 86 of the *Judiciary Act* 1903 of the Commonwealth. Expenses of persons required to give evidence
- 16.** (1) The Commissioner may cause or permit an officer to make on any return such marks, figures and annotations as he thinks fit. Annotations on returns
 (2) The marks, figures and annotations shall be made in ink which is different in colour from the ink used in the return and, except in the case of a date stamp, shall be initialled by the officer making them.

PART III—COLLECTION AND RECOVERY OF TAX

- 17.** An employer may pay pay-roll tax—
 (a) by delivery of cash, bank notes or cheques at the office of the Commissioner;
 (b) by remitting the tax to the Commissioner by bank draft, cheque, postal money order or postal note payable in the city to which the remittance is sent; or
 (c) by depositing the net amount of the tax to the credit of the Commissioner at any branch of the Commonwealth Bank of Australia. How tax to be paid
- 18.** Where a remittance is posted by or on behalf of an employer addressed to the Commissioner, payment shall not be deemed to have been made until the remittance has been received by the Commissioner or an officer authorized by the Commissioner to receive such a remittance. Remittance by post

- Payment by cheque** **19.** Where a cheque has been delivered or remitted to the Commissioner in payment of pay-roll tax, the tax shall (notwithstanding the issue of a receipt) not be deemed to have been paid until the amount for which the cheque is drawn has been collected.
- Receipts** **20.** Receipts for pay-roll tax may be issued by such persons as the Commissioner authorizes.
- Part-payment of tax** **21.** Subject to regulation 23, no money shall be accepted on account or in part-payment of pay-roll tax, except with the express consent of the Commissioner.
- Postage to be prepaid** **22.** The postage on every return, statement, communication, remittance or other matter sent by post, addressed to the Commissioner shall be fully prepaid by the sender.
- Deficient postage** **23.** Where any sum is received as payment of pay-roll tax, the Commissioner shall first deduct from that sum the amount of postage and surcharge (if any) paid upon any unstamped or insufficiently stamped matter received through the post from the employer and shall credit in payment of tax only the net amount then remaining.
- Certificate as to service of notice of assessment, &c.** **24.** In an action against a person for the recovery of pay-roll tax, a certificate in writing, signed by the Commissioner, certifying that—
 (a) the employer named in the certificate was liable to pay-roll tax for the period specified in the certificate;
 (b) an assessment of pay-roll tax was duly made against him;
 (c) the particulars of the assessment are as stated in the certificate;
 (d) notice of the assessment was duly served upon the employer; or
 (e) the sum named in the certificate was at the date of the certificate due by the employer to the Territory,
 shall be evidence of the facts stated in the certificate.
- Evidence of affidavit** **25.** In an action for the recovery of pay-roll tax, evidence may be given by affidavit, but the court may require the deponent to attend for the purpose of being cross-examined.
- Officer may appear for Commissioner** **26.** An officer authorized in writing by the Commissioner, whether generally or in respect of any particular proceedings, may appear on behalf of the Commissioner before the Supreme Court or a court of summary jurisdiction in a suit instituted in the name of the Commissioner for the recovery of any tax unpaid, including any further or additional tax, or in a taxation prosecution under section 45 of the Ordinance, and an officer so appearing shall be deemed to represent the Commissioner and shall be entitled to conduct the proceedings on his behalf and to give evidence.
- Certificate of official copies** **27.** A writing certified by the Commissioner to be a true copy of or a true extract from an assessment, determination, return, list, declaration, statement, book, document or writing of any nature whatsoever in the custody of the Commissioner or an officer of the Commissioner shall for all purposes be evidence of the original of or from which it purports to be a copy or extract and shall be receivable in evidence to the same extent as the original.

PART IV—MISCELLANEOUS

- Address for lodging objection** **28.** An objection under section 30(3), (7) or 34(1) of the Ordinance shall be posted to or lodged with the Commissioner at the office of the Commissioner.
- Notice of appeal** **29.** Where a person wishes to appeal to the Supreme Court under section 35(1) of the Ordinance that person shall, within the period referred to in that sub-section, post to or lodge with the Commissioner, at the office of the Commissioner, written notice of his intention to appeal.

30. In any proceedings against a person for failing or neglecting duly to furnish a return, a certificate in writing signed by the Commissioner, certifying that no return has been received from that person by an officer authorized by the Commissioner to receive returns at the office of the Commissioner, shall be evidence that the defendant has failed or neglected duly to furnish a return.

Certificate as to failure to furnish a return

31. In any proceedings against a person for failing or neglecting duly to furnish the Commissioner with any information required by the Commissioner in pursuance of section 16 of the Ordinance, at the place at which the information was required to be furnished, a certificate in writing signed by the Commissioner, certifying—

Certificate as to failure to furnish information

- (a) that the defendant was required by the Commissioner by notice in writing to furnish the Commissioner with information; and
- (b) that the defendant failed or neglected fully to furnish the Commissioner with the information as and when required by the Commissioner,

shall be evidence of the facts so certified.

32. A defendant in a taxation prosecution may make an election under section 47 of the Ordinance to have the case tried in the Supreme Court by serving on the prosecutor and filing in the court in which the prosecution was instituted, a notice in accordance with a form determined by the Commissioner.

Right of trial in Supreme Court

33. (1) Every application, statement, return, certificate, notice or other communication required by the Ordinance or these Regulations to be made or forwarded to or furnished to the Commissioner shall be signed—

Signature of documents required by Ordinance or Regulations

- (a) in the case of an individual so required—in the name of that individual;
- (b) in the case of trustees so required—in the name of any one or more of the trustees resident in Australia, or where there is no trustee resident in Australia—of the agent in Australia for the trustees;
- (c) in the case of a company—in the name of the public officer of the company;
- (d) in the case of the Territory—by the officer or officers duly authorized under an Ordinance or Act; and
- (e) in the case of a municipal corporation, local governing body or any public authority—by the officer or officers duly authorized by the corporation, local governing body or authority concerned.

(2) Subject to sub-regulation (3), the documents specified in sub-regulation (1) shall be signed personally by the person in whose name they are required to be signed.

(3) Where it is not possible or practicable for the person specified in sub-regulation (2) personally to sign documents required to be signed in his name, or where, on account of special circumstances, the Commissioner so permits, the person who is required to make, forward or furnish that document, or the directors of a company which is so required, may authorize, in writing, another person to sign the documents in the name of the person so specified, before his own signature as a person so authorized.

(4) An authority under sub-regulation (3) is not effective in relation to a return, notice or other document required to be made, given or furnished at the office of the Commissioner unless and until notice of the authority, accompanied by a specimen signature of the authorized person and a statement of the capacity in which the authorized person acts in the business of the person giving the authority, has been given to the Commissioner by the person giving the authority.

(5) The Commissioner may, at any time, if he thinks fit, disapprove of the authorization of a person to sign documents in pursuance of sub-regulation (3) and direct that documents signed by that person under the authorization shall not be accepted.

(6) Every document signed in accordance with these Regulations in the name of the person in whose name it is required by this regulation to be signed shall be deemed to have been signed by that person.

(7) Notice in writing of the cancellation of the authorization of a person under these Regulations shall be given to the Commissioner.

(8) A person shall not, except in accordance with these Regulations (proof of which accordance lies upon the person charged)—

- (a) authorize, permit, suffer or procure to be signed otherwise than in his own name and by himself personally, or to be used unsigned; or
- (b) be party or privy to, or be directly or indirectly concerned in, the signing otherwise than in his own name and by himself personally, or the use unsigned, of,

a document required by these Regulations to be signed either in his own name and by himself personally, or in his own name before the signature of some other person.

(9) A person shall not, except in accordance with these Regulations (proof of which accordance lies upon the person charged), sign, or purport to sign either in his own name, or in any other name, or use unsigned, a document required by these Regulations to be signed personally by, or in the name of, some other person.

Official signatures

34. A notice to be given by the Commissioner may be given by an officer authorized by the Commissioner and a notice purporting to be signed by the authority of the Commissioner shall be as valid and effectual for all purposes as if signed by the Commissioner in person.

Presumptions as to signatures

35. (1) Judicial notice shall be taken of the name and signature of a person who is, or was at any time, the Commissioner.

(2) A certificate, notice or other document bearing the printed or stamped name (including a facsimile of the signature) of the Commissioner, in lieu of his signature, shall, unless it is proved that the document was issued without his authority, be deemed to have been duly signed by him.

Notice of appointment of public officer

36. The notice of appointment of a public officer of a company referred to in section 58(2) of the Ordinance shall be given to the Commissioner at the office of the Commissioner.

Address for service

37. Every person who furnishes a return shall in that return give an address in Australia for service.

Notice of change of address

38. Every person who has given an address for service and who subsequently changes that address shall, within one month after changing that address, give to the Commissioner at the office of the Commissioner, notice in writing of his new address in Australia for service.

Address which may be regarded as address for service

39. The address for service last given to the Commissioner by a person is, for all purposes of the Ordinance and of these Regulations, his address for service, but, where no address for service has been given to the Commissioner, or where the departmental records disclose that the person has subsequently changed his address and he has not notified the Commissioner, either in a return or by separate written advice, of the change, then the address of the person, as described in any record in the custody of the Commissioner, is his address for service.

Failure to notify change of address

40. A person who changes his address, and fails to give to the Commissioner notice of his new address in Australia for service, shall not be permitted to plead that change of address as a defence in any proceedings (whether civil or criminal) instituted against him under the Ordinance or these Regulations.

Service of notices, &c.

41. Any notice or other communication by or on behalf of the Commissioner may be served upon a person—

- (a) by causing it to be personally served on him;
- (b) by leaving it at his address for service; or
- (c) by post, addressed to him at his address for service.

Offences

42. A person who contravenes, or fails to comply with, a provision of these Regulations shall be guilty of an offence punishable upon conviction by a fine of 100 dollars.

SCHEDULE

Regulation 3

OFFICE OF THE COMMISSIONER

First Floor,
Royal Globe Building,
13 Cavenagh Street,
DARWIN,
Northern Territory 5790.
