

**Legislative Council—No 38A**

As reported with suggested amendments, report adopted, Standing Orders suspended and passed remaining stages, 18 October 2018

South Australia

**Payroll Tax (Exemption for Small Business)  
Amendment Bill 2018**

A BILL FOR

An Act to amend the *Payroll Tax Act 2009*.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Payroll Tax (Exemption for Small Business) Amendment Act 2018*.

### **2—Commencement**

- (1) Subject to this section, this Act will come into operation on the day on which it is assented to by the Governor.
- (2) Part 2 (other than section 9) will be taken to have come into operation on 1 July 2018.
- (3) Section 9 will come into operation on 1 July 2019.

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Payroll Tax Act 2009***

### **4—Amendment of section 3—Interpretation**

Section 3—after the definition of *FBTA Act* insert:

*2018/19 financial year* means the financial year commencing on 1 July 2018;

### **5—Amendment of section 8—Amount of payroll tax**

Section 8—after its present contents (now to be designated as subsection (1)) insert:

- (2) Despite subsection (1)—
  - (a) the amount of payroll tax payable by an employer during the 2018/19 financial year is to be ascertained in accordance with Schedule 1A and Schedule 2; and
  - (b) Schedule 1 Parts 1 to 3 (inclusive) do not apply in relation to the 2018/19 financial year; and
  - (c) nothing in this subsection is to be taken to affect the operation of Schedule 1 Part 4 during the 2018/19 financial year.

### **6—Amendment of section 80—Designated group employers**

Section 80(3)—delete subsection (3) and substitute:

- (3) If none of the members of a group is a qualified member the members may, with the approval of the Commissioner, designate any member of the group to be the designated group employer for the group for the purposes of this Act.

## 7—Amendment of section 82—Determination of correct amount of payroll tax

Section 82(1)—delete subsection (1) and substitute:

- (1) For the purposes of this Part—
- (a) the *correct amount of payroll tax* payable by an employer in respect of the 2018/19 financial year is the amount determined in accordance with Schedule 1A in respect of that financial year; and
- (b) the *correct amount of payroll tax* payable by an employer in respect of any other financial year is the amount determined in accordance with Schedule 1 in respect of that financial year.

## 8—Amendment of section 86—Registration

- (1) Section 86(1)(a) and (b)—delete "\$11 538" wherever occurring and substitute in each case:

the prescribed amount

- (2) Section 86—after subsection (5) insert:

(6) For the purposes of subsection (1), the *prescribed amount* is—

- (a) for the period commencing on 1 July 2018 and ending on 31 December 2018—\$11 538; and
- (b) on and after 1 January 2019—\$28 846.

## 9—Amendment of Schedule 1—Calculation of payroll tax liability

- (1) Schedule 1, clause 1—before the definition of *financial year* insert:

*EA* is \$600 000

- (2) Schedule 1, clause 1, definition of *R*—delete the definition

- (3) Schedule 1, clause 1, definition of *TA or threshold amount*—delete "\$600 000" and substitute:

\$1 500 000

- (4) Schedule 1, clause 5, formula—delete the formula and substitute:

$$\left[ TW - \left( \frac{TW}{TW + IW} \times EA \times \frac{C}{FY} \right) \right] \times R$$

- (5) Schedule 1, clause 5—after its present contents as amended by this clause (now to be designated as subclause (1)) insert:

(2) In this clause—

*R* is to be determined as follows:

- (a) if the employer's total annualised relevant wages for the relevant financial year is more than \$1 500 000 and not more than \$1 700 000, *R* is calculated in accordance with the following formula:

$$\left[ \frac{TARW - \$1\,500\,000}{\$200\,000} \right] \times 4.95\%$$

- (b) if the employer's total annualised relevant wages for the relevant financial year is more than \$1 700 000, R is 4.95%.

- (3) For the purposes of this clause, an employer's **total annualised relevant wages** or **TARW** in respect of a financial year is calculated in accordance with the following formula:

$$(TW + IW) \times \frac{FY}{C}$$

- (6) Schedule 1, clause 9(2), formula—delete the formula and substitute:

$$\left[ TW - \left( \frac{GTW}{GTW + GIW} \times EA \times \frac{C}{FY} \right) \right] \times R$$

- (7) Schedule 1, clause 9—after subclause (3) insert:

- (4) In this clause—

**R** is to be determined as follows:

- (a) if the group's total annualised relevant wages for the relevant financial year is more than \$1 500 000 and not more than \$1 700 000, R is calculated in accordance with the following formula:

$$\left[ \frac{TARW - \$1\,500\,000}{\$200\,000} \right] \times 4.95\%$$

- (b) if the group's total annualised relevant wages for the relevant financial year is more than \$1 700 000, R is 4.95%.

- (5) For the purposes of this clause, a group's **total annualised relevant wages** or **TARW** in respect of a financial year is calculated in accordance with the following formula:

$$(GTW + GIW) \times \frac{FY}{C}$$

## 10—Insertion of Schedule 1A

After Schedule 1 insert:

### Schedule 1A—Calculation of payroll tax liability—2018/19 financial year

#### Part 1—Preliminary

##### 1—Application

This Schedule applies during the 2018/19 financial year.

## **Part 2—Calculation of payroll tax liability—first period of 2018/19 financial year**

### **Division 1—Interpretation**

#### **2—Interpretation**

In this Part—

*first period* means the period commencing on 1 July 2018 and ending on 31 December 2018;

*FY* is 365;

*R* is 4.95%;

*TA or threshold amount* is \$600 000.

### **Division 2—Employers who are not members of a group**

#### **3—Application of Division**

This Division applies only to an employer who is not a member of a group.

#### **4—Interpretation**

In this Division—

*C* is the number of days in the 2018/19 financial year in respect of which the employer paid or was liable to pay taxable wages or interstate wages (otherwise than as a member of a group);

*IW* represents the total interstate wages paid or payable by the employer concerned (otherwise than as a member of a group) during the 2018/19 financial year;

*TW* represents the total taxable wages paid or payable by the employer concerned (otherwise than as a member of a group) during the 2018/19 financial year;

*TWFP* represents the total taxable wages paid or payable by the employer concerned (otherwise than as a member of a group) during the first period.

## 5—Payroll of employer under threshold

An employer is not liable to pay payroll tax for the first period if the total taxable wages and interstate wages paid or payable by the employer (otherwise than as a member of a group) during the 2018/19 financial year is not more than the *employer's threshold amount for the purposes of the first period*, being the amount calculated in accordance with the following formula:

$$\frac{TA \times C}{FY}$$

## 6—Payroll of employer over threshold

If the total taxable wages and interstate wages paid or payable by an employer (otherwise than as a member of a group) during the 2018/19 financial year is more than the employer's threshold amount for the purposes of the first period, the employer is liable to pay as payroll tax for the first period the amount calculated in accordance with the following formula:

$$\left[ TFWP - \left( \frac{TW}{TW + IW} \times \frac{C}{FY} \times \frac{TFWP}{TW} \times TA \right) \right] \times R$$

## Division 3—Groups with a designated employer

### 7—Application of Division

This Division applies only to an employer who is a member of a group for which there is a designated group employer.

### 8—Interpretation

In this Division—

*C* is the number of days in the 2018/19 financial year in respect of which at least 1 member of the group paid or was liable to pay (as a member of the group) taxable wages or interstate wages;

*GIW* represents the total interstate wages paid or payable by the group concerned during the 2018/19 financial year;

*GTW* represents the total taxable wages paid or payable by the group concerned during the 2018/19 financial year;

*TW* represents the total taxable wages paid or payable by the employer concerned (as a member of the group) during the 2018/19 financial year;

*TFWP* represents the total taxable wages paid or payable by the employer concerned (as a member of the group) during the first period.

## 9—Payroll of group under threshold

None of the members of a group is liable to pay payroll tax for the first period if the total taxable wages and interstate wages paid or payable by the group during the 2018/19 financial year is not more than the *group threshold amount for the purposes of the first period*, being the amount calculated in accordance with the following formula:

$$\frac{TA \times C}{FY}$$

## 10—Payroll of group over threshold

- (1) If the total taxable wages and interstate wages paid or payable by a group during the 2018/19 financial year is more than the group threshold amount for the purposes of the first period, payroll tax for the first period is payable as provided by subclauses (2) and (3).
- (2) The designated group employer for the group is liable to pay as payroll tax for the first period the amount calculated in accordance with the following formula:

$$\left[ TWFP - \left( \frac{GTW}{GTW + GIW} \times \frac{C}{FY} \times \frac{TWFP}{TW} \times TA \right) \right] \times R$$

- (3) Each member of the group (other than that designated group employer) is liable to pay as payroll tax for the first period the amount calculated in accordance with the following formula:

$$TWFP \times R$$

## Part 3—Calculation of payroll tax liability—second period of 2018/19 financial year

### Division 1—Interpretation

#### 11—Interpretation

In this Part—

*EA* is \$600 000;

*FY* is 365;

*second period* means the period commencing 1 January 2019 and ending on 30 June 2019;

*TA or threshold amount* is \$1 500 000.

### Division 2—Employers who are not members of a group

#### 12—Application of Division

This Division applies only to an employer who is not a member of a group.

### 13—Interpretation

In this Division—

*C* is the number of days in the 2018/19 financial year in respect of which the employer paid or was liable to pay taxable wages or interstate wages (otherwise than as a member of a group);

*IW* represents the total interstate wages paid or payable by the employer concerned (otherwise than as a member of a group) during the 2018/19 financial year;

*TW* represents the total taxable wages paid or payable by the employer concerned (otherwise than as a member of a group) during the 2018/19 financial year;

*TWSP* represents the total taxable wages paid or payable by the employer concerned (otherwise than as a member of a group) during the second period.

### 14—Payroll of employer under threshold

An employer is not liable to pay payroll tax for the second period if the total taxable wages and interstate wages paid or payable by the employer (otherwise than as a member of a group) during the 2018/19 financial year is not more than the *employer's threshold amount for the purposes of the second period*, being the amount calculated in accordance with the following formula:

$$\frac{TA \times C}{FY}$$

### 15—Payroll of employer over threshold

- (1) If the total taxable wages and interstate wages paid or payable by an employer (otherwise than as a member of a group) during the 2018/19 financial year is more than the employer's threshold amount for the purposes of the second period, the employer is liable to pay as payroll tax for the second period the amount calculated in accordance with the following formula:

$$\left[ TWSP - \left( \frac{TW}{TW + IW} \times \frac{C}{FY} \times \frac{TWSP}{TW} \times EA \right) \right] \times R$$

- (2) In this clause—

*R* is to be determined as follows:

- (a) if the employer's total annualised relevant wages for the 2018/19 financial year is more than \$1 500 000 and not more than \$1 700 000, *R* is calculated in accordance with the following formula:

$$\left[ \frac{TARW - \$1\,500\,000}{\$200\,000} \right] \times 4.95\%$$

(b) if the employer's total annualised relevant wages for the 2018/19 financial year is more than \$1 700 000, R is 4.95%.

(3) For the purposes of this clause, an employer's *total annualised relevant wages* or *TARW* in respect of the 2018/19 financial year is calculated in accordance with the following formula:

$$(TW + IW) \times \frac{FY}{C}$$

### Division 3—Groups with a designated employer

#### 16—Application of Division

This Division applies only to an employer who is a member of a group for which there is a designated group employer.

#### 17—Interpretation

In this Division—

*C* is the number of days in the 2018/19 financial year in respect of which at least 1 member of the group paid or was liable to pay (as a member of the group) taxable wages or interstate wages;

*GIW* represents the total interstate wages paid or payable by the group concerned during the 2018/19 financial year;

*GTW* represents the total taxable wages paid or payable by the group concerned during the 2018/19 financial year;

*TW* represents the total taxable wages paid or payable by the employer concerned (as a member of the group) during the 2018/19 financial year;

*TWSP* represents the total taxable wages paid or payable by the employer concerned (as a member of the group) during the second period.

### 18—Payroll of group under threshold

None of the members of a group is liable to pay payroll tax for the second period if the total taxable wages and interstate wages paid or payable by the group during the 2018/19 financial year is not more than the *group threshold amount for the purposes of the second period*, being the amount calculated in accordance with the following formula:

$$\frac{TA \times C}{FY}$$

### 19—Payroll of group over threshold

- (1) If the total taxable wages and interstate wages paid or payable by a group during the 2018/19 financial year is more than the group threshold amount for the purposes of the second period, payroll tax for the second period is payable as provided by subclauses (2) and (3).
- (2) The designated group employer for the group is liable to pay as payroll tax for the second period the amount calculated in accordance with the following formula:

$$\left[ TWSP - \left( \frac{GTW}{GTW + GIW} \times \frac{C}{FY} \times \frac{TWSP}{TW} \times EA \right) \right] \times R$$

- (3) Each member of the group (other than that designated group employer) is liable to pay as payroll tax for the second period the amount calculated in accordance with the following formula:

$$TWSP \times R$$

- (4) In this clause—

**R** is to be determined as follows:

- (a) if the group's total annualised relevant wages for the 2018/19 financial year is more than \$1 500 000 and not more than \$1 700 000, R is calculated in accordance with the following formula:

$$\left[ \frac{TARW - \$1\,500\,000}{\$200\,000} \right] \times 4.95\%$$

- (b) if the group's total annualised relevant wages for the 2018/19 financial year is more than \$1 700 000, R is 4.95%.

- (5) For the purposes of this clause, a group's *total annualised relevant wages* or *TARW* in respect of the 2018/19 financial year is calculated in accordance with the following formula:

$$(GTW + GIW) \times \frac{FY}{C}$$

5 **11—Amendment of Schedule 2—South Australia specific provisions**

- (1) Schedule 2, Part 2, Division 1—delete the Division  
(2) Schedule 2, clause 5(1), definition of *R*—delete the definition and substitute:

*R*—see subclause (1a)

- (3) Schedule 2, clause 5—after subclause (1) insert:

10 (1a) In this clause—

*R* is to be determined as follows:

- (a) for the period commencing on 1 July 2018 and ending on 31 December 2018, *R* is 4.95%;  
(b) on and after 1 January 2019, *R* is to be determined as follows:

- 15 (i) if the employer's total annualised relevant wages for the financial year in which the month occurs is more than \$1 500 000 and not more than \$1 700 000—*R* is calculated in accordance with the following formula:

$$\left[ \frac{TARW - \$1\,500\,000}{\$200\,000} \right] \times 4.95\%$$

- 20 (ii) if the employer's total annualised relevant wages for the financial year in which the month occurs is more than \$1 700 000—*R* is 4.95%.

- 25 (1b) For the purposes of this clause, an employer's *total annualised relevant wages* or *TARW* in respect of a financial year is calculated in accordance with the following formula:

$$(TW + IW) \times \frac{FY}{C}$$

Where—

30 *C* is the number of days in the relevant financial year in respect of which the employer paid or was liable to pay taxable wages or interstate wages (otherwise than as a member of a group)

*FY* is the number of days in the relevant financial year

*IW* represents the estimated interstate wages in the relevant financial year

35 *TW* represents the estimated taxable wages in the relevant financial year.

~~{(4)} Schedule 2, clause 6(3), formula—delete the formula and~~

$$D = \frac{T}{(T+I)} \times \frac{C}{FY} \times EA \times \frac{1}{12}$$

~~substitute:—~~

~~{(5)} Schedule 2, clause 6(3)—after the definition of *D* insert:~~

~~*EA* is \$600 000~~

5 (4) Schedule 2, clause 6(3), formula—delete the formula and

$$D = \frac{T}{(T+I)} \times \text{prescribed amount}$$

substitute:

(6) Schedule 2, clause 6(3), definition of *TA or threshold amount*—delete the definition

(7) Schedule 2, clause 8(1)(a), definition of *R*—delete the definition and substitute:

*R*—see subclause (2a)

10 (8) Schedule 2, clause 8(1)(b), definition of *R*—delete the definition and substitute:

*R*—see subclause (2a)

(9) Schedule 2, clause 8(2)(a), definition of *R*—delete the definition and substitute:

*R*—see subclause (2a)

(10) Schedule 2, clause 8(2)(b), definition of *R*—delete the definition and substitute:

15 *R*—see subclause (2a)

(11) Schedule 2, clause 8—after subclause (2) insert:

(2a) In this clause—

*R* is to be determined as follows:

20 (a) for the period commencing on 1 July 2018 and ending on 31 December 2018, *R* is 4.95%;

(b) on and after 1 January 2019, *R* is to be determined as follows:

25 (i) if the group's total annualised relevant wages for the financial year in which the month occurs is more than \$1 500 000 and not more than \$1 700 000—*R* is calculated in accordance with the following formula:

$$\left[ \frac{TARW - \$1\,500\,000}{\$200\,000} \right] \times 4.95\%$$

30 (ii) if the group's total annualised relevant wages for the financial year in which the month occurs is more than \$1 700 000—*R* is 4.95%.

- (2b) For the purposes of this clause, a group's ***total annualised relevant wages*** or ***TARW*** in respect of a financial year is calculated in accordance with the following formula:

$$(TW + IW) \times \frac{FY}{C}$$

5 Where—

*C* is the number of days in the relevant financial year in respect of which any member of the group paid or was liable to pay taxable wages or interstate wages

*FY* is the number of days in the relevant financial year

10 *IW* represents the estimated interstate wages in the relevant financial year

*TW* represents the estimated taxable wages in the relevant financial year.

~~[(12)] [Schedule 2, clause 9(3), formula—delete the formula and~~

$$D = \frac{T}{(T + I)} \times \frac{C}{FY} \times EA \times \frac{1}{12}$$

15 substitute: ~~[[~~ 
$$\frac{T}{(T + I)} \times \text{prescribed amount}$$
 ~~]]~~

~~[(13)] [Schedule 2, clause 9(3)—after the definition of *D* insert:]~~

~~[*EA* is \$600 000]~~

~~(12) Schedule 2, clause 9(3), formula—delete the formula and~~

$$D = \frac{T}{(T + I)} \times \text{prescribed amount}$$

substitute:

20 (14) Schedule 2, clause 9(3), definition of ***TA*** or ***threshold amount***—delete the definition