South Australia

Pay-roll Tax Act 1971

An Act to make provision for a tax on employers in respect of certain wages; and for other purposes.

Contents

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Pay-roll Tax Act 1971*.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

Australia means the States of the Commonwealth;

the Commissioner means the person appointed or acting as the Commissioner of State Taxation, and includes a person appointed or acting as a Deputy Commissioner of State Taxation (see Part 9 of the *Taxation Administration Act 1996*);

the Commonwealth Act means the *Pay-roll Tax Assessment Act 1941* of the Commonwealth as subsequently amended;

company includes all bodies or associations (corporate or unincorporate) and partnerships;

corporation means a corporation within the meaning of the *Corporations Act 2001* of the Commonwealth;

corresponding law, in relation to another State, means a law in force in that State relating to the imposition upon employers of a tax on wages paid or payable by them and the assessment and collection of that tax, but does not include the Commonwealth Act;

council means a council or council subsidiary under the *Local Government Act 1999*;

designated group employer, in relation to a group, means the member of that group who, under section 18J, 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 any wages and includes the Crown in right of the State of South Australia;

employment termination payment means—

(a) an employment termination payment within the meaning of section 82-130 of the ITAA; or

(b) a payment that would be an employment termination payment within the meaning of section 82-130 of the ITAA but for the fact that it was received later than 12 months after the termination of a person's employment; or

(c) a transitional termination payment within the meaning of section 82-10 of the *Income Tax (Transitional Provisions) Act 1997* of the Commonwealth;

FBTA Act means the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth;

financial year means any year commencing on 1 July;

foreign wages means wages that are not taxable wages and are not interstate wages;

fringe benefit has the same meaning as in the FBTA Act, but does not include—

(a) a tax-exempt body entertainment fringe benefit within the meaning of that Act; or

(b) anything that is prescribed by the regulations not to be a fringe benefit for the purposes of this definition;

group has the meaning given by section 18A;

GST means the tax payable under the GST law;

GST law means—

(a) *A New Tax System (Goods and Services Tax) Act 1999* (Cwth); and

(b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods and services;

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

ITAA means the *Income Tax Assessment Act 1997* of the Commonwealth;

option means an option or right, whether actual, prospective or contingent, of a person to acquire a share or to have a share transferred or allotted to the person;

partly funded scheme of superannuation means a scheme of superannuation (including a provident or retirement fund or scheme) under which the employer's liability for superannuation benefits is partly satisfied by a payment within the meaning of paragraph (a) of the definition of ***superannuation benefit***;

pay, in relation to any form of wages, includes provide, confer or assign;

pay-roll tax means pay-roll tax chargeable under section 9;

person includes a company;

return period, in relation to an employer, means a period relating to which that employer is required to lodge a return under this Act;

share means a share in a company and includes a stapled security within the meaning of section 139GCD of the *Income Tax Assessment Act 1936* of the Commonwealth;

State includes—

(a) the Australian Capital Territory; and

(b) the Northern Territory;

superannuation benefit means—

(a) —

(i) a payment of money by an employer on behalf of an employee to, or the setting apart of money by an employer on behalf of an employee as, a superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth; or

(ii) a payment by an employer of a superannuation guarantee charge within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth; or

(iii) a payment of money by an employer on behalf of an employee to, or the setting apart of money by an employer on behalf of an employee as, any other form of superannuation, provident or retirement fund or scheme; or

(iv) —

(A) the crediting of an account of an employee, or any other allocation to the benefit of an employee (other than the actual payment of a benefit), so as to increase the entitlement or contingent entitlement of the employee under any form of superannuation, provident or retirement fund or scheme; or

(B) the crediting or the debiting of any other account, or any other allocation or deduction, so as to increase the entitlement or contingent entitlement of an employee under any form of superannuation, provident or retirement fund or scheme;

(b) in the case of a person who is a member of the old or new scheme under the *Superannuation Act 1988* or of any other unfunded or partly funded scheme of superannuation—the Treasurer's estimate of the contingent liability of the person's employer for superannuation benefits under that Act or scheme in respect of that person;

taxable wages means wages that are liable to pay-roll tax under section 8;

termination payment means—

(a) a payment made in consequence of the retirement from, or termination of, any office or employment of an employee, being—

(i) an unused annual leave payment; or

(ii) an unused long service leave payment; or

(iii) so much of an employment termination payment paid or payable by an employer, whether or not paid to the employee or to any other person or body, that would be included in the assessable income of an employee under Part 2-40 of the ITAA if the whole of the employment termination payment had been paid to the employee; or

(b) an amount paid or payable by a company as a consequence of the termination of the services or office of a director of the company, whether or not paid to the director or to any other person or body, that would be an employment termination payment if that amount had been paid or payable as a consequence of termination of employment; or

(c) an amount paid or payable by a person who is an employer under a service contract within the meaning of section 4 as a consequence of the termination of the supply of the services of an employee under the contract, whether or not paid to the employee or to any other person, if the amount would be an employment termination payment if that amount had been paid or payable as a consequence of termination of employment;

unfunded scheme of superannuation means a scheme of superannuation (including a provident or retirement fund or scheme) under which no payment within the meaning of paragraph (a) of the definition of ***superannuation benefit*** is made by the employer in total or partial satisfaction of his, her or its liability for superannuation benefits;

unused annual leave payment has the same meaning as in section 83-10 of the ITAA;

unused long service leave payment has the same meaning as in section 83-75 of the ITAA;

voting share has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

wages means any wages, remuneration, salary, commission, bonuses or allowances paid or payable to a person in relation to his or her capacity as an employee and, without limiting the generality of the foregoing, includes—

(a) any amount paid or payable by way of remuneration to a person holding office under the Crown in right of the State of South Australia or in the service of the Crown in right of the State of South Australia;

(b) any amount paid or payable under any contract of a prescribed class to the extent to which that payment is attributable to labour;

(c) any amount paid or payable by a company by way of remuneration to a director or member of the governing body of that company;

(d) any amount paid or payable by way of commission to an insurance or time-payment canvasser or collector;

(e) any fringe benefit;

(f) the value of any payments made in kind;

(g) any other amount or benefit determined by or under a provision of this Act to be wages.

(1a) Schedule 1 has effect with respect to motor vehicle allowances and accommodation allowances.

(1ab) Wages include a termination payment.

(1b) Wages do not include anything that is prescribed by the regulations not to be wages for the purposes of this Act.

(1c) For the purposes of this Act, the value of taxable wages comprising a fringe benefit is to be determined in accordance with the following formula:

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

Where

VTW is the value of the taxable wages

TV is the value that would be the taxable value of the benefit as a fringe benefit for the purposes of the FBTA Act

FBT rate is the rate of fringe benefits tax imposed by the FBTA Act that applies when the liability to pay-roll tax under this Act arises.

(1d) If a person to whom taxable wages are paid is liable to GST on the supply of services for which the wages are paid, the amount of the taxable wages is to be reduced, for the purpose of calculating pay-roll tax, by the amount of the GST referable to the services for which the wages are paid.

(2) Wages include a superannuation benefit.

(2a) For the purposes of this Act, where a superannuation benefit arises under this Act because of subparagraph (iv) of paragraph (a) of the definition of ***superannuation benefit***—

(a) subject to paragraphs (b) and (c), the amount of wages attributable to that superannuation benefit will be taken to be the value of the increase of the entitlement or contingent entitlement of the relevant employee;

(b) if that superannuation benefit can be directly attributed to a payment or setting apart of money within the ambit of subparagraph (i), (ii), or (iii) of paragraph (a) of the definition of ***superannuation benefit***, the value of the superannuation benefit under subparagraph (iv) (and therefore the relevant amount of wages) will only be the amount (if any) by which the value of that benefit exceeds the amount of the payment or setting apart of money (as the case may be);

(c) if that superannuation benefit can be directly attributed to an increase in the capital of the relevant fund or scheme or to the payment of interest, over and above any contribution that the employer is required to make, or would be required to make but for the increase in capital or the payment of interest, the value of the superannuation benefit (to the extent that it exceeds any contribution that the employer is required, or would be required, to make as mentioned above), will be taken to be nil;

(d) if there is a crediting or a debiting of an account, or any other allocation or deduction, and a corresponding debiting or crediting, or deduction or allocation, then liability for pay-roll tax will only arise with respect to one crediting or debiting, or allocation or deduction, so as to avoid double taxation.

(3) The Treasurer may estimate the contingent liability of an employer for benefits that will be payable to or in respect of an employee who is a member of the old or new scheme of superannuation under the *Superannuation Act 1988* or of any other unfunded or partly funded scheme of superannuation.

(3a) For the purposes of this Act, wages that are comprised of the Treasurer's estimate of an employer's contingent liability for superannuation benefits will be taken to be payable as soon as the contingent liability accrues.

(3b) The Treasurer's estimation—

(a) must be based on the following assumptions:

(i) that the employee will continue in employment with the same employer until he or she reaches the age of retirement under the superannuation scheme concerned and that the employee will then retire; and

(ii) that the employee's rate of salary will remain constant until the age of retirement; and

(iii) in the case of a contributory scheme—that the employee will from the time at which the estimation is made be an active contributor at the standard rate until retirement (even though the contributor may not be an active contributor when the estimation is made); and

(b) must (where applicable) make allowance for the fact that the liability of the employer will effectively be reduced because part of the benefits paid to or in respect of the employee will be charged against his or her contribution account.

(3c) For the purposes of—

(a) the operation of the definition of ***superannuation benefit***; and

(b) the operation of subsections (2a) to (3b) (inclusive),

a reference to an employee will be taken to include a reference to a director or member of the governing body of a company to whom, by virtue of a paragraph of the definition of ***wages***, an amount paid or payable in the circumstances referred to in that paragraph constitutes wages (and the company will be taken to be the employer).

(3d) Wages include the grant of a share or option to an employee by an employer in respect of services performed by the employee.

(3e) Schedule 2 has effect for the purposes of subsection (3d).

(4) Where for the purposes of section 13A or 18K it is necessary to calculate an amount in accordance with a formula and, but for this subsection, an amount included in the formula would be an amount of dollars and cents, the cents are disregarded.

(5) A liability for pay-roll tax is assessed in accordance with the provisions of this Act as in force at the time the liability arises and such a liability, once having arisen, is not affected by a subsequent amendment to this Act (except to the extent that the amendment operates retrospectively).

4—Application of Act to service contracts

(1) Subject to subsection (2), a service contract is a contract (not being a contract of employment) under which a person (in this section referred to as a ***designated person***), in the course of a business carried on by the person—

(a) supplies services to another person for or in relation to the performance of work; or

(b) is supplied with the services of another person for or in relation to the performance of work; or

(c) gives out goods to a person for work to be performed by the person in respect of the goods and for resupply of the goods to the designated person or, where the designated person is a member of a group, to another member of that group.

(2) A service contract for the purposes of this section does not include a contract—

(a) where the services are ancillary—

(i) to the supply of goods by the person supplying the services; or

(ii) to the use of goods that are the property of the person supplying the services; or

(b) where the services are provided—

(i) for a period that does not exceed 90 days; or

(ii) for periods that in aggregate do not exceed 90 days in a financial year,

and the services are not services—

(iii) provided by a person who provides similar services to the designated person; or

(iv) for or in relation to the performance of work where any person who performs the work also performs similar work for the designated person; or

(c) where the services are of a kind ordinarily required by the designated person for less than 180 days in a financial year; or

(d) where—

(i) the services are of a kind not ordinarily required by the designated person; and

(ii) the services are supplied by a person who, in the financial year in which the services are supplied, renders (or can be reasonably expected to render) services of that kind to the public generally; or

(e) where the Commissioner is satisfied that the services are supplied by a person who ordinarily renders services of that kind to the public generally; or

(f) where the services are supplied by a person (the ***contractor***) and the work to which the services relate is performed—

(i) by two or more persons employed by, or who provide services for, the contractor in the course of business carried on by the contractor; or

(ii) where the contractor is a partnership, by one or more members of the partnership and one or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor; or

(iii) where the contractor is a natural person, by the contractor and one or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor,

unless the Commissioner determines that the contract under which the services are so supplied was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person; or

(g) where—

(i) the services are ancillary to the conveyance of goods by means of a vehicle provided by the person conveying the goods; or

(ii) the services are supplied to a person for or in relation to the procurement of persons to take out insurance with the person; or

(iii) the services are supplied to a person for or in relation to the door-to-door sale of goods to consumers on the person's behalf, unless the Commissioner determines that the contract under which the services are so supplied was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person; or

(h) where the services are supplied by an employment agent, or a contract worker procured by an employment agent, under an employment agency contract within the meaning of section 4A; or

(i) where the service contract is of a class excluded from the operation of this section by the regulations.

(3) For the purposes of this Act—

(a) a person—

(i) who is supplied with services for or in relation to the performance of work under a service contract; or

(ii) who gives out goods to another person under a service contract,

will be taken to be an employer; and

(b) a person—

(i) who performs work for or in relation to which services are supplied to another person under a service contract; or

(ii) who is a person who resupplies goods to a person under a service contract,

will be taken to be an employee of the person who is taken to be an employer under the contract; and

(c) subject to this section, any amount paid or payable for or in relation to the performance of work under a service contract or the resupply of goods under a service contract will be taken to be wages paid or payable by the person who is taken to be an employer under the contract.

(4) Where an amount referred to in subsection (3)(c) is included in a larger amount paid or payable, or provided, by an employer under a service contract, that proportion of the larger amount that is not to be attributable to the performance of work under a service contract or the resupply of goods under a service contract may be determined by the Commissioner.

(5) Where—

(a) the supplier of the service under a service contract employs or engages a person to carry out some or all of the work to be performed by the supplier under the contract; and

(b) pay-roll tax is paid by the employer under the service contract in respect of the amounts paid or payable under the service contract for or in relation to the performance of that work,

pay-roll tax is not payable on any amount paid or payable by the supplier of the service to the person employed or engaged by the supplier to carry out the work to the extent that the amount can be related to the performance of that particular work.

(5a) For the purposes of this section, an amount paid or payable for or in relation to the performance of work under a service contract will be taken to include—

(a) the value of any benefits provided for or in relation to the performance of work under a service contract that would be a fringe benefit if provided to a person in the capacity of an employee; and

(b) any payment made by a person who is taken to be an employer under a service contract in relation to a person who is taken to be an employee under the service contract that would be a superannuation benefit if made in relation to a person in the capacity of an employee.

(6) A reference in this section to a contract includes a reference to an agreement, arrangement or undertaking whether formal or informal and whether express or implied.

(7) In this section—

resupply, in relation to goods acquired from a person, includes the supply to the person—

(a) of goods in an altered form or condition; or

(b) of goods that incorporate the goods acquired from the person; or

(c) of an article manufactured or produced from any such goods;

services includes the results (whether goods or services) of work performed;

supply includes—

(a) the supply of goods by way of sale, exchange, lease, hire or hire-purchase; and

(b) in relation to services, the providing, granting or conferring of services.

4A—Employment agents

(1) An employment agency contract is a contract (not being a contract of employment) under which a person (in this section referred to as an ***employment agent***) by arrangement procures the services of another (in this section referred to as a ***contract worker***) for a client of his or hers and as a result receives directly or indirectly payment, whether by way of a lump sum or ongoing fee, during or in respect of the period when the services are provided by the contract worker to the client.

(1a) For the purposes of this section, where an employment agent under an employment agency contract engages a third party to procure the services of a contract worker for the client of the employment agent (whether or not a further party or parties are in turn engaged to procure those services)—

(a) the services of the contract worker will be taken to have been procured for the client by the employment agent; and

(b) any amount received directly or indirectly by the third party as a result of being so engaged, whether by way of a lump sum or ongoing fee, during or in respect of the period when the services are provided by the contract worker to the employment agent's client, will be taken to be remuneration paid or payable to the contract worker in respect of the provision of those services.

(2) For the purposes of this Act—

(a) the employment agent under an employment agency contract will be taken to be an employer; and

(b) the contract worker under an employment agency contract will be taken to be an employee of the employment agent; and

(c) —

(i) any amount paid or payable by way of remuneration to the contract worker in respect of the provision of services in connection with an employment agency contract; and

(ii) the value of any benefits provided for or in relation to the provision of services in connection with an employment agency contract that would be a fringe benefit if provided to a person in the capacity of an employee; and

(iii) any payment made in relation to the contract worker that would be a superannuation benefit if made in relation to a person in the capacity of an employee,

other than to the extent that such an amount, benefit or payment would be exempt from pay-roll tax had the contract worker been paid by the client as an employee, will be taken to be wages paid or payable by the employment agent.

(3) If it is not reasonably practicable to determine the extent to which an amount, benefit or payment constitutes wages under subsection (2)(c), the Commissioner may accept a return, or make an assessment, in which the amount on which pay-roll tax is levied is determined on the basis of estimates.

(4) Where an employment agent under an employment agency contract—

(a) by arrangement procures the services of a contract worker for a client of the employment agent; and

(b) pays pay-roll tax in respect of an amount, benefit or payment that is, under subsection (2)(c), taken to constitute wages paid or payable by the employment agent in respect of the provision of those services in connection with the contract,

no other person (including any other person engaged to procure the services of the contract worker for the employment agent's client as part of the arrangement) is liable to pay pay-roll tax in respect of wages paid or payable for the procurement or performance of those services by the contract worker for the client.

4B—Third party payments

(1) If—

(a) an amount or benefit is paid or payable, or provided, to, on behalf of or in relation to a person other than the employee in relation to the performance of work by an employee or otherwise on account of the existence of the relationship of employee and employer; and

(b) the payment of the amount or the provision of the benefit is or will be made by the employer or a person acting for or in concert, or under or pursuant to a contract with, the employer; and

(c) the amount or benefit, if it were paid or payable, or provided, to, on behalf of or in relation to the employee, would constitute wages paid or payable by the employer for the purposes of this Act,

the amount or value of the benefit will be taken to be wages paid or payable by the employer to the employee.

(2) If—

(a) an amount or benefit is paid or payable, or provided, to, on behalf of or in relation to an employee by a person other than the employer in relation to the performance or work by the employee or otherwise on account of the existence of the relationship of employer and employee; and

(b) the amount or benefit, if it were paid or payable, or provided, by the employer, would constitute wages paid or payable by the employer for the purposes of this Act,

the amount or value of the benefit will be taken to be wages paid or payable by the employer to the employee (and the person by whom the amount or benefit is paid or payable, or provided, is not liable to pay-roll tax to the extent to which the employer pays pay-roll tax in respect of that amount or benefit).

(3) A reference in subsection (1) to a contract includes a reference to an agreement, arrangement or undertaking whether formal or informal and whether express or implied.

4C—Agreement etc to reduce or avoid liability to pay-roll tax

(1) Without derogating from the operation of a preceding provision of this Part, where—

(a) a person enters into any agreement, arrangement or transaction, whether in writing or otherwise, under which a natural person performs or renders, for or on behalf of another person, services in respect of which any payment is made or benefit provided to some other person related or connected to the natural person performing or rendering the services; and

(b) the Commissioner has reason to believe or suspect that the purpose of the agreement, arrangement or transaction is to reduce or avoid the liability of any person to the assessment, imposition or payment of pay-roll tax,

the Commissioner may—

(c) disregard the agreement, arrangement or transaction; and

(d) determine that any party to the agreement, arrangement or transaction will be taken to be an employer for the purposes of this Act; and

(e) determine that any payment made or benefit provided in respect of the agreement, arrangement or transaction will be taken to be wages for the purposes of this Act.

(2) Where the Commissioner makes a determination under subsection (1), the Commissioner must serve a notice to that effect on the person taken to be an employer for the purposes of this Act and set out in the notice the facts on which the Commissioner relies and the reasons for making the determination.

5—Taxation Administration Act

This Act should be read together with the *Taxation Administration Act 1996* which provides for the administration and enforcement of this Act and other taxation laws.

Part 3—Liability to taxation

8—Wages liable to pay-roll tax

(1) Subject to subsection (1a), all wages are liable to pay-roll tax under this Act.

(1a) Wages paid or payable by an employer to a particular employee in a particular month are, however, not liable to pay-roll tax under this Act if—

(a) the wages are paid or payable in the State and—

(i) the wages relate, in their entirety, to services performed or rendered (or to be performed or rendered) wholly in one other State; or

(ii) the wages relate, in their entirety, to services performed by a person wholly in another country for a continuous period of more than 6 months beginning on the day on which wages were first paid or payable to that person for services so performed; or

(b) the wages are paid or payable outside the State (or outside Australia) and relate, in their entirety, to services performed or rendered (or to be performed or rendered) wholly outside the State or mainly outside Australia; or

(c) the wages are exempt from pay-roll tax under section 12.

(2) Wages that are payable to a person by an employer, but have not been paid (not being wages that, under the terms of employment, are payable in this State or in another State) are to be taken—

(a) where those wages are payable in respect of services performed or rendered wholly in this State—to be wages payable to that person in this State; or

(b) where those wages are not payable in respect of services performed or rendered wholly in this State or wholly in one other State and the wages that were last paid or payable to that person by that employer were included or are required to be included in a return under this Act—to be wages payable to that person in this State; or

(c) where those wages are not to be taken under paragraph (a) or (b) or under any provision of a corresponding law that corresponds with either of those paragraphs, to be wages payable to that person in this State or in another State—to be wages payable to that person by that employer at the place where that person last performed or rendered any service for that employer before those wages became payable.

(3) For the purposes of this section—

(a) wages paid by way of a cheque, bill of exchange, promissory note, money order or postal order issued by a post office or any other instrument, and sent or given by an employer to a person or his or her agent at a place in Australia, are to be taken to have been paid at that place and to have been paid when the instrument was sent or given; and

(b) wages paid by way of the electronic transfer of funds by an employer to an ADI account maintained by a person or his or her agent at a place in Australia are to be taken to have been paid at that place and to have been paid when the funds were transferred.

9—Imposition of pay-roll tax on taxable wages

(1) Subject to, and in accordance with, the provisions of this Act, pay-roll tax is imposed and chargeable on all taxable wages at the rate of—

(a) in relation to wages paid or payable before 1 December 1994—6.1 per cent of those wages;

(b) in relation to wages paid or payable on or after 1 December 1994 and before 1 July 2001—6 per cent of those wages;

(c) in relation to wages paid or payable on or after 1 July 2001 and before 1 July 2002—5.75 per cent of those wages;

(d) in relation to wages paid or payable on or after 1 July 2002 and before 1 July 2004—5.67 per cent of those wages;

(e) in relation to wages paid or payable on or after 1 July 2004 and before 1 July 2007—5.5 per cent of those wages;

(f) in relation to wages paid or payable on or after 1 July 2007 and before 1 July 2008—5.25 per cent of those wages;

(g) in relation to wages paid or payable on or after 1 July 2008 and before 1 July 2009—5% of those wages;

(h) in relation to wages paid or payable on or after 1 July 2009—4.95% of those wages.

(2) Pay-roll tax is levied and collected for the credit of the Consolidated Account at the Treasury.

10—Employer to pay pay-roll tax

Pay-roll tax must be paid by the employer by whom the taxable wages are paid or payable.

11—Time for payment of tax

Every employer liable to pay pay-roll tax must pay the pay-roll tax within the time within which the employer is required by this Act to lodge the return of the wages in respect of which the pay-roll tax is payable.

11A—Deduction from taxable wages

(1) In this section—

interstate wages does not include interstate wages paid or payable by a member of a group;

prescribed amount in relation to a return for a return period—

(a) where the return period is a period of one month—

(i) ending before 1 January 1992, means $36 000;

(ii) commencing on or after 1 January 1992 and ending before 1 July 1992, means $37 000;

(iii) commencing on or after 1 July 1992 and ending before 1 July 2002, means $38 000;

(iv) commencing on or after 1 July 2002 and ending before 1 July 2008, means $42 000;

(v) commencing on or after 1 July 2008 and ending before 1 July 2009, means $46 000;

(vi) commencing on or after 1 July 2009, means $50 000;

(b) where the return period is a period of more than one month, means for each month of the return period the amount referred to in paragraph (a) of this definition in relation to that month;

taxable wages does not include taxable wages paid or payable by a member of a group.

(3) For the purposes of ascertaining the pay-roll tax payable in respect of a return period commencing on or after 1 October, 1990, by an employer who does not pay and is not liable to pay interstate wages during that return period, a deduction is made from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer as follows:

(a) where the employer pays or is liable to pay taxable wages for the whole of the return period—the deduction is the prescribed amount;

(b) where the employer pays or is liable to pay taxable wages for part only of the return period—the deduction is an amount that bears to the prescribed amount the same proportion as the number of days in that part of the return period bears to the number of days in the whole of the return period.

(5) An employer who during any return period pays or is liable to pay taxable wages and interstate wages may, by notice in the form approved by the Commissioner, served on the Commissioner, nominate an amount, calculated in the prescribed manner, not exceeding the prescribed amount, as the deduction that the employer claims to be entitled to make for that return period and for subsequent return periods.

(6) For the purpose of ascertaining the pay-roll tax payable by an employer who has served on the Commissioner a notice under subsection (5), the amount nominated in that notice is, subject to subsection (7), deducted 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 the return period that last ended before service of the notice or any subsequent return period).

(7) The Commissioner may, on an application made in writing by, or on the Commissioner's own initiative in relation to, an employer who pays or is liable to pay taxable wages and interstate wages during any return period, 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 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 the amount so specified will 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).

(8) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (7) and such a revocation has effect on and from the first day of the return period specified in the instrument, whether that return period is the one in which the instrument of revocation is executed or a return period falling before or after that return period (but the revocation cannot take effect before the date of the determination).

(9) The Commissioner must, as soon as practicable after making a determination under subsection (7), serve notice of the determination on the employer concerned.

12—Exemptions

(1) The wages liable to pay-roll tax under this Act do not include wages paid or payable—

(a) by the Governor of a State; or

(b) by—

(i) a religious institution to a person during a period in respect of which the institution satisfies the Commissioner that the person is engaged exclusively in religious work of the religious institution; or

(ii) a public benevolent institution to a person during a period in respect of which the institution satisfies the Commissioner that the person is engaged exclusively in work of the institution of a public benevolent nature; or

(iii) a public hospital 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 public hospitals; or

(c) by a hospital that 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; or

(ca) by an employer who provides health services otherwise than for the purpose of profit or gain, being wages paid or payable to an employee during a period in respect of which the employer satisfies the Commissioner that the employee is engaged exclusively in the provision of those health services or is engaged exclusively in work that is incidental to the provision of those health services; or

(cb) by the Family Planning Association of South Australia Incorporated; or

(cc) by a non-profit organisation having wholly charitable objects during a period in respect of which the organisation satisfies the Commissioner that the person is engaged exclusively in work of a kind ordinarily performed in connection with the charitable objects of the organisation, but not so as to include under this paragraph an organisation that is a school, a college, an educational institution, an educational company or an instrumentality of the State; or

(d) by a school or college that—

(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 State; and

(ii) provides education at or below, but not above, the secondary level,

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 providing education of that kind; or

(daa) by a university or a college of advanced education to a person in relation to employment by the university or college pursuant to the Work Experience Training in Commonwealth Establishments scheme established by the Government of the Commonwealth; or

(dab) by, or on behalf of, an association or other body the principal function of which is to represent and serve the interests of employers in a particular industry, being wages paid or payable to an apprentice pursuant to an agreement entered into between the association or other body and the apprentice for the purpose of training the apprentice in a trade or other vocation; or

(dad) by an employer who conducts a kindergarten otherwise than for the purpose of profit or gain, being wages paid or payable to an employee during a period in respect of which the employer satisfies the Commissioner that the employee is engaged exclusively in work of the kindergarten of a kind ordinarily performed in connection with the conduct of a kindergarten; or (da) by a child care centre that is an eligible organisation within the meaning of the *Child Care Act 1972* of the Commonwealth, being wages paid or payable to a person during a period in respect of which the child care centre satisfies the Commissioner that the person is engaged exclusively in work of the centre of a kind ordinarily performed in connection with the conduct of child care centres; or

(db) to an Aboriginal person who is employed under an employment project under the Community Development Employment Project funded by the Department of Employment and Workplace Relations of the Commonwealth or the Torres Strait Regional Authority; or

(e) by a council, 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 the construction of any works or the installation of plant, machinery or equipment for use in or in connection with,

the generation or supply of electricity or gas, water supply, sewerage, the conduct of abattoirs, of public markets, of parking stations, of cemeteries, of crematoria or of hostels or any prescribed activity; or

(g) to a person who is a member of the Defence Force of the Commonwealth or of the armed forces of any 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 being such a member; or

(h) to a member of official staff by—

(i) a consular or other representative other than a diplomatic 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; or

(i) by the Commonwealth War Graves Commission; or

(j) by the Australian-American Educational Foundation; or

(k) by a University College affiliated with the University of Adelaide or the Flinders University of South Australia; or

(l) by a motion picture production company, being wages paid or payable to a person who is involved in the production of a feature film in respect of which the motion picture production company satisfies the Treasurer—

(i) that the film will be produced wholly or substantially within the State; and

(ii) that the production of the film will involve or result in the employment of South Australian residents; and

(iii) that economic benefits will accrue to the State of South Australia on account of the production of the film; or

(m) to an employee in respect of any period when he or she was engaged as a volunteer member of an emergency services organisation under the *Fire and Emergency Services Act 2005* in responding to any situation that involved or may have involved an emergency under that Act, but not so as to include under this paragraph wages paid or payable as recreation leave, annual leave, long service leave or sick leave; or

(n) to an employee in respect of—

(i) maternity leave, being leave given to a female employee in connection with her pregnancy or the birth of the child; or

(ii) adoption leave, being leave given to an employee in connection with the adoption of a child by him or her,

but not so as to include under this paragraph—

(iii) leave taken as sick leave, recreation leave, annual leave or similar leave; or

(iv) wages paid or payable in respect of maternity or adoption leave that comprise fringe benefits; or

(v) wages paid or payable after 14 weeks maternity leave in respect of any 1 pregnancy or after 14 weeks adoption leave in respect of any 1 adoption.

(2) For the purposes of subsection (1)(cc), an ***educational company*** is a company—

(a) in which an educational institution has a controlling interest; and

(b) that provides, promotes or supports the educational services of that institution.

(3) For the purposes of subsection (2), an educational institution has a ***controlling interest*** in an educational company if—

(a) members of the board of management of the company who are entitled to exercise a majority in voting power at meetings of the board of management are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the educational institution; or

(b) the educational institution 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, or any class of voting shares, issued by the company; or

(c) the educational institution has power to appoint more than 50% of the members of the board of management of the company.

(4) For the avoidance of doubt, a reference in subsection (1)(n)(v) to a period of 14 weeks leave is a reference to—

(a) a period that is the equivalent of 14 weeks leave on full pay, in the case of full-time employees who take leave on less than full pay; or

(b) a period of 14 weeks leave at part-time rates of pay, in the case of part-time employees.

(5) An employer—

(a) wishing to claim an exemption under subsection (1)(n) in respect of maternity leave must obtain and keep a medical certificate in respect of, or statutory declaration by, the employee—

(i) stating that the employee is or was pregnant; or

(ii) stating that the employee has given birth and the date of birth; or

(b) wishing to claim an exemption under subsection (1)(n) in respect of adoption leave must obtain and keep a statutory declaration by the employee—

(i) that a child has been placed in the custody of the employee pending the making of an adoption order; or

(ii) that an adoption order has been made or recognised in favour of the employee.

(6) In this section—

educational institution means an entity that provides education above secondary level;

health service means—

(a) a service designed to promote health; or

(b) a therapeutic or other service designed to cure, alleviate, or afford protection against, any mental or physical illness, abnormality or disability; or

(c) a paramedical or ambulance service; or

(d) the care of, or assistance to, sick or disabled persons at their place of residence; or

(e) a prescribed service.

13A—Meaning of prescribed amount

(1) In this section and sections 13B and 13C, unless the contrary intention appears—

financial year means—

(a) the period commencing on 1 July 1994 and ending on 30 November 1994;

(b) the period commencing on 1 December 1994 and ending on 30 June 1995;

(c) any financial year commencing on or after 1 July 1995;

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) A reference in section 13B or 13C to the prescribed amount—

(a) in relation to the financial year commencing on 1 July 1994, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW+IW}\times\frac{CU}{153}$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

C is $190 000

U is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages); and

(b) in relation to the financial year commencing on 1 December 1994, is an amount calculated in accordance with the following formula:

$$\frac{TW}{TW+IW}\times\frac{DX}{213}$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

D is $266 000

X is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages); and

(c) in relation to a financial year commencing on or after 1 July 1995, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW+IW}\times\frac{AY}{Z}$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

A is—

(a) in relation to a financial year commencing before 1 July 2002—$456 000;

(b) in relation to a financial year commencing on or after 1 July 2002 and before 1 July 2008—$504 000;

(c) in relation to the financial year commencing on 1 July 2008—$552 000;

(d) in relation to a financial year commencing on or after 1 July 2009—$600 000

Y is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages)

Z is the number of days in that financial year.

(3) 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 the person's trade or business, the taxable wages and interstate wages, if any, paid or payable fluctuate with different periods of the financial year, the Commissioner may treat the person—

(a) if the person has conducted that trade or business in Australia during the whole of the financial year—as an employer throughout the financial year; or

(b) if the person has conducted that trade or business in Australia during part only of the financial year—as an employer during that last mentioned part of the financial year.

13B—Annual adjustments

(1) In this section—

annual amount of pay-roll tax, in relation to an employer, means the amount ascertained by applying the appropriate rate of pay-roll tax prescribed by section 9 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.

(2) Where taxable wages are paid or payable by an employer during a financial year—

(a) the Commissioner must, on application made by that employer in accordance with subsection (3), where the amount of pay-roll tax paid or payable by that employer when making the returns relating to that financial year is greater than the annual amount of pay-roll tax in relation to that employer for that financial year, refund to that employer an amount equal to the difference, reduced by the amount, if any, refunded to the employer in respect of the tax paid or payable by that employer when returns relating to that year were made or required to be made under this Act by that employer; or

(b) that employer must, where the amount of pay-roll tax paid or payable by that employer when making the returns relating to that financial year is less than the annual amount of pay-roll tax in relation to that employer for that financial year, pay to the Commissioner as pay-roll tax, within the period during which the employer is required to lodge a return under this Act in respect of the return period that is the last return period to be included in that financial year, an amount equal to the difference.

(3) An application under subsection (2)(a) must be made within the financial year next following the financial year in respect of which the refund is applied for.

(4) Where the Commissioner is satisfied that an employer has not received the full benefit of the deductions prescribed by section 11A by virtue of the prescription under section 13A(1) of two or more periods as financial years for a full financial year (being the period commencing on 1 July in any year and ending on 30 June in the next year), the Commissioner may, in such manner as the Commissioner thinks fit, apply any unused deduction from one period to any other period or periods in that same full financial year and refund to the employer the amount of tax that has, on the basis of that adjustment, been overpaid.

13C—Adjustment of pay-roll tax when employer ceases to be an employer during a financial year

(1) In this section—

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;

total amount of pay-roll tax, in relation to an employer, means the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by section 9 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 wages or becomes a member of a group, the employer must, where the amount of pay-roll tax paid or payable by the employer when making returns relating to the prescribed period is less than the total amount of pay-roll tax in relation to that employer for that prescribed period, pay to the Commissioner as pay-roll tax, within the period during which the employer is required to lodge a return under this Act relating to that prescribed period or the last return under this Act relating to that prescribed period, an amount equal to the difference.

(3) Where an employer, who has ceased to pay 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 or interstate wages during that financial year otherwise than as a member of a group, section 13B applies to and in respect of the employer as if the reference in section 13B(2) to the amount of pay-roll tax paid or payable by that employer included a reference to any pay-roll tax paid or payable by that employer under subsection (2) of this section.

Part 4—Registration and returns

14—Registration

(1) An employer (not being an employer who is registered as an employer) who, during a month, pays or is liable to pay anywhere wages at a rate in excess of the prescribed amount per week, the whole or any part of which is taxable wages or who, being a member of a group, during a month pays or is liable to pay any taxable wages must apply, within 7 days after the close of that month, to the Commissioner, in duplicate in the form and manner approved by the Commissioner for registration as an employer, and the Commissioner must then register the applicant as an employer under this Act.

(2) The Commissioner may cancel the registration of a person as an employer if—

(a) the person, not being a member of a group, is not an employer paying wages as referred to in subsection (1); or

(b) the 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).

(2b) 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, despite the fact that during any month the person pays or is liable to pay wages at a rate not in excess of the prescribed amount per week, apply to the Commissioner, in duplicate in the form and manner approved by the Commissioner, for registration as an employer and the Commissioner must then register the applicant as an employer under this Act.

(3) A person who fails to make an application to the Commissioner as required under subsection (1) is guilty of an offence.

Maximum penalty: $10 000.

(4) For the purposes of this section, the ***prescribed amount*** is—

(a) in relation to the financial year commencing on 1 July 2008—$10 000;

(b) in relation to a financial year commencing on or after 1 July 2009—$11 000.

15—Returns

(1) Every employer who is registered or required to apply for registration in accordance with section 14 must, within 7 days after the close of each month, lodge with the Commissioner, in accordance with a form approved by the Commissioner, a return, relating to that month and must specify in that return any taxable wages that were paid or payable by the employer during that month.

(2) The Commissioner may vary—

(a) the time within which a specified employer is required to furnish returns;

(b) the period in relation to which a specified employer, or employers of a specified class, are required to furnish returns generally, or returns relating to wages of a specified kind.

(3) A variation under subsection (2)—

(a) may be made subject to conditions or limitations;

(b) may be made, varied or revoked by notice in writing to an employer or by notice in the Gazette.

(4) Where an employer considers that it is not reasonably practicable to calculate the value of any fringe benefits for the purposes of a return under this section, the employer may request the Commissioner to agree to accept a return in which that value is an estimate of the value of those fringe benefits.

(5) A request under subsection (4) may be granted by the Commissioner on such conditions as the Commissioner thinks fit.

(6) The Commissioner may, at any time, by notice in writing, vary or revoke a condition under subsection (5).

16—Further returns

The Commissioner may, by notice in writing, require an employer or person to lodge with the Commissioner a return or further or fuller return as required by the Commissioner.

Part 4A—Grouping provisions

Division 1—Interpretation

18A—Interpretation

In this Part—

business includes—

(a) a profession or trade; and

(b) any other activity carried on for fee, gain or reward; and

(c) the activity of employing 1 or more persons who perform duties for or in connection with another business; and

(d) the carrying on of a trust (including a dormant trust); and

(e) the activity of holding any money or property used for or in connection with another business,

whether carried on by 1 person or 2 or more persons together;

group means a group constituted under this Part, but does not include any member of the group in respect of whom a determination under section 18I is in force.

Division 2—Business groups

18B—Constitution of groups

A ***group*** is constituted by all the persons or bodies forming a group that is not a part of any larger group.

18C—Groups of corporations

(1) Corporations constitute a group if they are related bodies corporate by reason of section 50 of the *Corporations Act 2001* of the Commonwealth.

(2) For the purpose of assessing whether corporations are related bodies corporate under that Act, they are taken to carry on a business and not to be trustee companies.

Note—

Section 18I allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances but not in the case of corporations that are related bodies corporate.

18D—Groups arising from the use of common employees

(1) If 1 or more employees of an employer perform duties for or in connection with 1 or more businesses carried on by the employer and 1 or more other persons, the employer and each of those other persons constitute a group.

(2) If 1 or more employees of an employer are employed solely or mainly to perform duties for or in connection with 1 or more businesses carried on by 1 or more other persons, the employer and each of those other persons constitute a group.

(3) If 1 or more employees of an employer perform duties for or in connection with 1 or more businesses carried on by 1 or more other persons, being duties performed in connection with, or in fulfilment of the employer's obligation under, an agreement, arrangement or undertaking for the provision of services to any 1 or more of those other persons in connection with that business or those businesses, the employer and each of those other persons constitute a group.

(4) Subsection (3) applies to an agreement, arrangement or undertaking—

(a) whether the agreement, arrangement or undertaking is formal or informal, express or implied; and

(b) whether or not the agreement, arrangement or undertaking provides for duties to be performed by the employees or specifies the duties to be performed by them.

Note—

Section 18I allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

18DA—Groups of commonly controlled businesses

(1) If a person or set of persons has a controlling interest in each of 2 businesses, the persons who carry on those businesses constitute a group.

Note—

Section 18I allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

(2) For the purposes of this section, a person or set of persons has a controlling interest in a business if—

(a) in the case of 1 person—the person is the sole owner (whether or not as trustee) of the business; or

(b) in the case of a set of persons—the persons are together the owners (whether or not as trustees) of the business; or

(c) in the case of a business carried on by a corporation—

(i) the person or each of the set of persons is a director of the corporation and the person or set of persons is entitled to exercise more than 50% of the voting power at meetings of the directors of the corporation; or

(ii) a director or set of directors of the corporation that is entitled to exercise more than 50% of the voting power at meetings of the directors of the corporation is under an obligation, whether formal or informal, to act in accordance with the direction, instructions or wishes of that person or set of persons; or

(d) in the case of a business carried on by a body corporate or unincorporated—that person or set of persons constitute more than 50% of the board of management (by whatever name called) of the body or control the composition of that board; or

(e) in the case of a business carried on by a corporation that has a share capital—that person or set of persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, more than 50% of the voting power attached to the voting shares, or any class of voting shares, issued by the corporation; or

(f) in the case of a business carried on by a partnership—that person or set of persons—

(i) own (whether beneficially or not) more than 50% of the capital of the partnership; or

(ii) is entitled (whether beneficially or not) to more than 50% of the profits of the partnership; or

(g) in the case of a business carried on under a trust—the person or set of persons (whether or not as a trustee of, or beneficiary under, another trust) is the beneficiary in respect of more than 50% of the value of the interests in the first-mentioned trust.

(3) If—

(a) 2 corporations are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth; and

(b) 1 of the corporations has a controlling interest in a business,

the other corporation has a controlling interest in the business.

(4) If—

(a) a person or set of persons has a controlling interest in a business; and

(b) a person or set of persons who carry on the business has a controlling interest in another business,

the person or set of persons referred to in paragraph (a) has a controlling interest in that other business.

(5) If—

(a) a person or set of persons is the beneficiary of a trust in respect of more than 50% of the value of the interests in the trust; and

(b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of another trust,

the person or set of persons has a controlling interest in the business.

(6) A person who may benefit from 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, is taken, for the purposes of this Part, to be a beneficiary in respect of more than 50% of the value of the interests in the trust.

(7) If—

(a) a person or set of persons has a controlling interest in the business of a trust; and

(b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of a corporation,

the person or set of persons is taken to have a controlling interest in the business of the corporation.

(8) If—

(a) a person or set of persons has a controlling interest in the business of a trust; and

(b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of a partnership,

the person or set of persons is taken to have a controlling interest in the business of the partnership.

18DB—Groups arising from tracing of interests in corporations

(1) An entity and a corporation form part of a group if the entity has a controlling interest in the corporation.

Note—

Section 18I allows the Commissioner, for pay-roll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

(2) For the purposes of this section, an entity has a controlling interest in a corporation if the corporation has share capital and—

(a) the entity has a direct interest in the corporation and the value of that direct interest exceeds 50%; or

(b) the entity has an indirect interest in the corporation and the value of that indirect interest exceeds 50%; or

(c) the entity has an aggregate interest in the corporation and the value of the aggregate interest exceeds 50%.

(3) Division 3 applies for the purposes of the interpretation of this section.

Note—

Division 3 sets out the manner for determining whether an entity has a direct interest, indirect interest or aggregate interest in a corporation, and the value of such an interest.

(4) In this section—

associated person means a person who is associated with another person in accordance with any of the following provisions:

(a) persons are associated persons if they are related persons;

(b) natural persons are associated persons if they are partners in a partnership;

(c) private companies are associated persons if common shareholders have a majority interest in each private company;

(d) trustees are associated persons if any person is a beneficiary common to the trusts (not including a public unit trust scheme) of which they are trustees;

(e) a private company and a trustee are associated persons if a related body corporate of the company (within the meaning of the *Corporations Act 2001* of the Commonwealth) is a beneficiary of the trust (not including a public unit trust scheme) of which the trustee is a trustee;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

entity means—

(a) a person; or

(b) 2 or more persons who are associated persons (as defined in this section);

private company means a company that is not limited by shares, or whose shares are not quoted on the Australian Stock Exchange or any exchange of the World Federation of Exchanges;

related person means a person who is related to another person in accordance with any of the following provisions:

(a) natural persons are related persons if—

(i) 1 is the spouse or domestic partner of the other; or

(ii) the relationship between them is that of parent and child, brothers, sisters, or brother and sister;

(b) private companies are related persons if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth;

(c) a natural person and a private company are related persons if the natural person is a majority shareholder or director of the company or of another private company that is a related body corporate of the company within the meaning of the *Corporations Act 2001* of the Commonwealth;

(d) a natural person and a trustee are related persons if the natural person is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee;

(e) a private company and a trustee are related persons if the company, or a majority shareholder or director of the company, is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee.

Division 3—Business groups—tracing of interests in corporations

18DC—Application

This Division applies for the purposes of section 18DB.

18DD—Direct interest

(1) An entity has a direct interest in a corporation if—

(a) in the case of an entity that is a person—the person can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation; or

(b) in the case of an entity that is 2 or more persons who are associated persons—each of the associated persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation.

(2) The value of the direct interest of the entity in the corporation is the proportion (expressed as a percentage) of the voting power of all voting shares issued by the corporation that—

(a) in the case of an entity that is a person—the person can directly or indirectly exercise, control the exercise of, or substantially influence the exercise of, as referred to in subsection (1); or

(b) in the case of an entity that is 2 or more persons who are associated persons—the associated persons can, if acting together, directly or indirectly exercise, control the exercise of, or substantially influence the exercise of, as referred to in subsection (1).

18DE—Indirect interest

(1) An entity has an indirect interest in a corporation if the corporation is linked to another corporation (the directly controlled corporation) in which the entity has a direct interest.

(2) A corporation is linked to a directly controlled corporation if the corporation is part of a chain of corporations—

(a) that starts with the directly controlled corporation; and

(b) in which a link in the chain is formed if a corporation has a direct interest in the next corporation in the chain.

Examples—

The following are examples of how subsections (1) and (2) work (the examples are cumulative):

1 Corporation A (a directly controlled corporation) has a direct interest in corporation B. Corporations A and B form part of a chain of corporations, and corporation B is linked to corporation A. Accordingly, an entity that has a direct interest in corporation A also has an indirect interest in corporation B.

2 Corporation B also has a direct interest in corporation C. In this case, corporations A, B and C form part of a chain of corporations. Both corporations B and C are linked to corporation A. The entity that has a direct interest in corporation A has an indirect interest in both corporations B and C.

3 Corporation B also has a direct interest in corporation D. There are now 2 chains of corporations, one consisting of A, B and C, and one consisting of A, B and D. Corporations B, C and D are all linked to corporation A and an entity that has a direct interest in corporation A would have an indirect interest in corporations B, C and D. An entity that has a direct interest in corporation B would have an indirect interest in corporations C and D. However, an entity that has a direct interest in corporation C only would not have an indirect interest in corporation D, as corporation D is not linked to corporation C.

(3) The value of the indirect interest of an entity in a corporation (an indirectly controlled corporation) that is linked to a directly controlled corporation is calculated by multiplying together the following:

(a) the value of the direct interest of the entity in the directly controlled corporation;

(b) the value of each direct interest that forms a link in the chain of corporations by which the indirectly controlled corporation is linked to the directly controlled corporation.

Examples—

The following are examples of how subsection (3) works (the examples are cumulative):

1 An entity has a direct interest (with a value of 80%) in corporation A. Corporation A has a direct interest (with a value of 70%) in corporation B. The value of the indirect interest of the entity in corporation B is 80% x 70% (that is, 56%). Accordingly, in this example the entity has a controlling interest (within the meaning of section 18DA) in corporation B.

2 Corporation B also has a direct interest (with a value of 40%) in corporation C. The value of the indirect interest of the entity in corporation C is 80% x 70% x 40% (that is, 22.4%). Accordingly, in this example the entity does not have a controlling interest in corporation C.

(4) It is possible for an entity to have more than 1 indirect interest in a corporation, which may occur if the corporation is linked to more than 1 corporation in which the entity has a direct interest, or if the corporation is linked to only 1 corporation in which the entity has a direct interest but is linked through more than 1 chain of corporations.

(5) In a case where subsection (4) applies, the entity has an aggregate interest in the corporation—see section 18DF.

18DF—Aggregation of interests

(1) An entity has an ***aggregate interest*** in a corporation if—

(a) the entity has a direct interest and 1 or more indirect interests in the corporation; or

(b) the entity has more than 1 indirect interest in the corporation.

(2) The value of the aggregate interest of an entity in a corporation is the sum of the following:

(a) the value of the direct interest (if any) of the entity in the corporation;

(b) the value of each indirect interest of the entity in the corporation.

Example—

(a) an entity has a direct interest (with a value of 40%) in corporation B;

(b) the entity also has a direct interest (with a value of 25%) in corporation A, which in turn has a direct interest (with a value of 60%) in corporation B (accordingly, the entity also has an indirect interest in corporation B with a value of 15% (that is, 25% x 60%));

(c) the value of the entity's aggregate interest in corporation B is the sum of the direct interest (40%) and the indirect interest (15%), which is 55%;

(d) accordingly, in this example, the entity has a controlling interest in corporation B (within the meaning of section 18DB).

Division 4—Other matters

18E—Grouping by regulation

(1) The Governor may make regulations—

(a) specifying circumstances in which two or more persons constitute a group; or

(b) declaring that two or more persons constitute a group in relation to such wages (excluding foreign wages) paid or payable by those persons as are specified or described in the regulation,

and, for the purposes of this Act, any such regulation has effect so as to constitute a group according to its terms.

(2) The power to make a regulation for the purposes of subsection (1) is not limited by any other provision of this Part.

(3) A regulation made for the purposes of subsection (1) takes effect, if it so provides, from a date antecedent to the date of its publication in the Gazette (but not from a date earlier than 1 January 1976).

18F—Smaller groups subsumed into larger groups

(1) Notwithstanding any other provision of this Part (except subsection (2) of this section), where a person is, whether or not by virtue of this subsection, a member of two 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).

18G—Grouping provisions to 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.

18I—Exclusion of persons from groups

(1) The Commissioner may, by order in writing, determine that a person who would, but for the determination, be a member of a group is not a member of the group.

(2) The Commissioner may only make such a determination if satisfied, having regard to the nature and degree of ownership and control of the businesses, the nature of the businesses and any other matters the Commissioner considers relevant, that a business carried on by the person, is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member of that group.

(3) The Commissioner cannot exclude a person from a group if the person is a body corporate that, by reason of section 50 of the *Corporations Act 2001* of the Commonwealth, is related to another body corporate that is a member of that group.

(4) This section extends to a group constituted by reason of section 18F.

(5) A determination can be expressed to take effect on a date that is earlier than the date of the determination.

(6) The Commissioner may by order in writing revoke a determination that applies in respect of a person if satisfied that the circumstances in which a determination may be made do not apply to the person.

(7) The revocation of a determination can be expressed to take effect on a date that is earlier than the date of the determination.

18J—Designated group employer

(1) The members of a group may, by an instrument in writing in the form approved by the Commissioner, executed by or on behalf of each member of the group and served on the Commissioner, designate one of the members of the group to be the designated group employer in respect of the group for the purposes of this Act and nominate an amount, calculated in the prescribed manner, not exceeding the prescribed amount as defined in section 11A(1), as the deduction to be made for any return period in relation to which that designated group employer is required to lodge returns under this Act.

(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 the employer during which—

(a) the composition of the group alters; or

(b) the members of the group, by an instrument in the 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 occurs the earlier.

(3) For the purpose of ascertaining the pay-roll tax payable by a designated group employer, the amount nominated in the instrument under subsection (1) is, subject to subsection (4), deducted 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 the return period that last commenced before service of the instrument on the Commissioner or a subsequent return period).

(4) The Commissioner may, on an application made in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or on the Commissioner's own initiative in relation to a group, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined in section 11A(1), that may be deducted for any return period specified or referred to in the determination (being a return period commencing before or after 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 the amount so specified will 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).

(5) The Commissioner may, at any time, by instrument in writing, revoke a determination made under subsection (4) and such a revocation has effect on and from the first day of the return period specified in the instrument, whether that return period is the one in which the instrument of revocation is executed or a return period falling before or after that return period (but the revocation cannot take effect before the date of the determination).

(6) An employer specified in a determination made under subsection (4) will, on the first day of the first return period specified or referred to in the determination, be taken to have been designated under subsection (1) as the designated group employer in respect of the group of which the employer was then a member and will, subject to subsection (2), thereafter be the designated group employer in respect of that group.

(7) The Commissioner must, as soon as practicable after making a determination under subsection (4), serve notice of the determination on the designated group employer in respect of the group concerned.

18K—Interpretation

(1) In this section and sections 18L and 18M, unless the contrary intention appears—

financial year means—

(a) the period commencing on 1 July 1994 and ending on 30 November 1994;

(b) the period commencing on 1 December 1994 and ending on 30 June 1995;

(c) any financial year commencing on or after 1 July 1995.

(2) A reference in section 18L or 18M to the prescribed amount—

(a) in relation to the financial year commencing on 1 July 1994, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW+IW}\times\frac{CU}{153}$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by the members of the group during the period referred to above

C is $190 000

U is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages); and

(b) in relation to the financial year commencing on 1 December 1994, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW+IW}\times\frac{DX}{213}$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by members of the group during the period referred to above

D is 266 000

X is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages); and

(c) in relation to a financial year commencing on or after 1 July 1995, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW+IW}\times\frac{AY}{Z}$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by the members of the group during the period referred to above

A is—

(a) in relation to a financial year commencing before 1 July 2002—$456 000;

(b) in relation to a financial year commencing on or after 1 July 2002 and before 1 July 2008—$504 000;

(c) in relation to the financial year commencing on 1 July 2008—$552 000;

(d) in relation to a financial year commencing on or after 1 July 2009—$600 000

Y is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages)

Z is the number of days in that financial year.

18L—Annual adjustments

(1) This section applies in relation to a group at least one member of which, as such a member, paid or was liable to pay taxable wages or interstate wages for the whole of a financial year.

(2) A reference in this section to the annual amount of pay-roll tax paid or payable by the members of a group is a reference to the amount ascertained by applying the appropriate rate or rates of pay-roll tax prescribed by section 9 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 two 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.

(3) A reference in this section to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of a group is a reference to the amount of pay-roll 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 (2)(a) were included or required to be included.

(4) Where the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of a group is greater than the annual amount of pay-roll tax in relation to those members for that financial year, the Commissioner must, on application made in accordance with subsection (7) by the person who is the designated group employer in respect of that group on the last day of that financial year, refund to that employer an amount equal to the difference, reduced by the total of the amounts, if any, refunded to any member of that group 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 pay-roll tax paid or payable in respect of a financial year by the members of a group is less than the annual amount of pay-roll tax in relation to those members for that financial year, the person who is the designated group employer in respect of that group on the last day of that financial year must pay to the Commissioner as pay-roll tax, within the period during which that person is required to lodge a return under this Act in respect of the return period that is the last return period to be included in that financial year, an amount equal to the difference.

(6) If a designated group employer in respect of a group fails to pay any amount required under subsection (5) 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.

(7) An application under subsection (4) must be made within the financial year next following the financial year in respect of which the refund is applied for.

(8) Where the Commissioner is satisfied that the members of a group have not received the full benefit of the deductions prescribed by section 11A by virtue of the prescription under section 18K(1) of two or more periods as financial years for a full financial year (being the period commencing on 1 July in any year and ending on 30 June in the next year), the Commissioner may, in such manner as the Commissioner thinks fit, apply any unused deduction from one period to any other period or periods in that same financial year and refund to the designated group employer the amount of tax that has, on the basis of that adjustment, been overpaid.

18M—Payment of pay-roll tax when members of a group cease to pay taxable wages or interstate wages during a financial year

(1) This section applies in relation to a group at least one member of which paid or was liable to pay, as such a member, taxable wages or interstate wages for part only (being a continuous part) of a financial year and no member of which paid or was liable to pay, as such a member, any such wages during the whole of that year.

(2) In this section—

prescribed period, in relation to a group, means that part only (being a continuous part) of a financial year for which at least one member of that group paid or was liable to pay, as such a member, taxable wages or interstate wages.

(3) A reference in this section to the total amount of pay-roll 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 or rates of pay-roll tax prescribed by section 9 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 two 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.

(4) Where, at the expiration of a prescribed period relating to a group, the total amount of pay-roll 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 pay-roll 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 must pay to the Commissioner as pay-roll tax, within the period during which that person is required to lodge 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 18L(4) and (5) apply 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; and

(b) the reference in section 18L(3) to the actual amount of pay-roll tax paid or payable in respect of a financial year by the members of that group included a reference to any pay-roll tax paid or payable under subsection (4) by a designated group employer 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 or interstate wages was the designated group employer in respect of that group on the last day of that financial year.

(6) If a designated group employer in respect of a group fails to pay any amount required under subsection (4) in respect of a period, every member of the group who paid or was liable to pay taxable wages during the financial year that includes that period is liable jointly and severally to pay that amount to the Commissioner.

33—Contributions from joint taxpayers

(1) Any tax payable by a member or members of a group is a debt due jointly and severally by every person who was a member of the group during the period in respect of which the tax became due.

(2) Subsection (1) does not apply to an amount that is payable by the designated group employer under section 18L(5) or 18M(4).

(3) Where two or more persons are jointly or jointly and severally liable to pay tax they are each liable for the whole tax, but any of them who have paid the tax may recover contributions as follows:

(a) a person who has paid the tax in respect of any wages may recover by way of contribution from any other person jointly liable to that tax a sum which bears the same proportion to the tax as the share of the taxable wages which that other person was liable to pay bears to the total amount of the taxable wages which the persons jointly liable to tax were liable to pay; and

(b) every person entitled to a contribution under this section may sue for it in any court of competent jurisdiction as money paid to the use of the person liable to contribute at his or her request, or may retain or deduct the amount of the contribution out of any money in his or her hands belonging or payable to the person liable to contribute.

(4) In this section—

tax means pay-roll tax, and includes penalty tax and interest payable under Part 5 of the *Taxation Administration Act 1996* in relation to pay-roll tax.

Part 5—Regulations

35—Regulations

(1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) The regulations may prescribe a fine not exceeding $2 500 for the contravention of, or failure to comply with, a regulation.

Schedule 1—Motor vehicle and accommodation allowances

Division 1—Motor vehicle allowances

1—Motor vehicle allowances—general

(1) For the purposes of this Act, ***wages***, in respect of a financial year, do not include the exempt component of a motor vehicle allowance paid or payable in respect of that year.

(2) Accordingly, if the total motor vehicle allowance paid or payable to an employee in respect of a financial year does not exceed the exempt component, the motor vehicle allowance is not ***wages*** for the purposes of this Act.

(3) If the total motor vehicle allowance paid or payable to an employee in respect of a financial year exceeds the exempt component (if any), only that amount that exceeds the exempt component of the motor vehicle allowance is included as ***wages*** for the purposes of this Act.

(4) The ***exempt component*** of a motor vehicle allowance paid or payable in respect of a financial year is calculated in accordance with the following formula:

$$E = K \times R$$

Where

K is the exempt component

E is the number of business kilometres travelled during the financial year

R is the exempt rate.

(5) The ***number of business kilometres travelled during the financial year*** ("K") is to be determined in accordance with the continuous recording method, or the averaging method, whichever method is selected and used by the employer in accordance with the succeeding clauses of this Division.

(6) The Commissioner, by notice in writing, may approve the use, by an employer or class of employer, of another method of determining the number of business kilometres travelled during the financial year (including the use of an estimate).

(7) If the Commissioner acts under subclause (6), the number of business kilometres travelled during the financial year is to be determined in accordance with the method approved by the Commissioner.

(8) For the purposes of this clause, the ***exempt rate*** for the financial year concerned is—

(a) the rate prescribed by the regulations under section 28-25 of the ITAA for calculating a deduction for car expenses for a large car using the "cents per kilometre method" in the financial year immediately preceding the financial year in which the allowance is paid or payable; or

(b) if no rate referred to in paragraph (a) is prescribed, the rate prescribed by the regulations under this Act.

2—Continuous recording method

If an employer selects the continuous recording method for the purposes of determining the number of business kilometres travelled during the financial year, the following details are required to be recorded by the employer:

(a) the odometer readings at the beginning and end of each business journey undertaken by the person during a financial year by means of a motor vehicle provided or maintained by the person;

(b) the specific purpose for which each such business journey was taken;

(c) the distance travelled by the person during the financial year in the course of all such business journeys (which is taken to be the ***number of business kilometres travelled during the financial year***), calculated on the basis of the odometer readings referred to in paragraph (a).

3—Averaging method

(1) If an employer selects the averaging method for the purposes of determining the number of business kilometres travelled during the financial year, the following details are required to be recorded by the employer:

(a) the odometer readings at the beginning and end of each business journey undertaken by the person during the relevant 12-week period by means of a motor vehicle provided or maintained by the person;

Note—

Clause 4 defines the relevant 12-week period.

(b) the specific purpose for which each such business journey was taken;

(c) the distance travelled by the person during the relevant 12-week period in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a);

(d) the odometer readings at the beginning and end of the relevant 12-week period for each motor vehicle provided or maintained by the person for the purpose of undertaking business journeys;

(e) the distance travelled by each such vehicle during the relevant 12-week period, calculated on the basis of the odometer readings referred to in paragraph (d);

(f) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the relevant 12-week period, calculated as a percentage of the distance travelled by that vehicle during that period (the ***relevant percentage***);

(g) the odometer readings at the beginning and end of the financial year for each vehicle provided or maintained by the person for the purpose of undertaking business journeys;

(h) the distance travelled by each such vehicle during the financial year, calculated on the basis of the odometer readings referred to in paragraph (g);

(i) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year (which is taken to be the ***number of business kilometres travelled during the financial year***), calculated on the basis that the percentage of that distance that was travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year is the same as the relevant percentage.

(2) For the next succeeding 4 financial years after the first financial year in which odometer details are recorded in accordance with subclause (1), an employer is not required to calculate the relevant percentage, or record the details referred to in subclause (1)(a) to (f), for the person but is required to record the other details referred to in that subclause.

(3) Accordingly, for the next succeeding 4 financial years after the first financial year in which odometer details are recorded in accordance with subclause (1), the number of business kilometres travelled during the financial year is to be calculated (as referred to in subclause (1)(i)) on the basis of the relevant percentage calculated for the first financial year.

(4) Despite subclauses (2) and (3), an employer is required to calculate the relevant percentage for a financial year, and record the details referred to in subclause (1)(a) to (f), if—

(a) the Commissioner serves a notice on the employer before the commencement of a financial year during that period directing the employer to keep the details referred to in subclause (1)(a) to (f) for that financial year; or

(b) the employer wishes to use the recording method referred to in this clause for 1 or more additional motor vehicles used by the person in any financial year or for any other reason.

(5) In a situation referred to in subclause (4), the new record for the financial year replaces the relevant percentage details previously recorded and subclauses (2) and (3) apply in relation to the new record for the financial year as if it were the first financial year in which odometer details were recorded.

(6) An employer who has adopted and employed the method of recording referred to in subclauses (2) and (3) for a person for 4 successive financial years must, in the next succeeding financial year, make a fresh recording of all the details specified in subclause (1) if the employer intends to continue to use the same method of recording for the person and subclauses (2) and (3) then apply in relation to the new record for the financial year as if it were the first financial year in which odometer details were recorded.

(7) If the odometer of a motor vehicle is replaced or recalibrated during any period for which its readings are relevant for the purposes of this clause, the odometer readings immediately before and after the replacement or recalibration are to be recorded.

4—Meaning of relevant 12-week period

(1) In clause 3, ***relevant 12-week period*** means a continuous period of at least 12 weeks, selected by the employer, throughout which a motor vehicle is provided or maintained by a person and if the motor vehicle is provided or maintained for less than 12 weeks, the period must be the entire period for which the motor vehicle is provided or maintained.

(2) The period may overlap the start or end of the financial year, so long as it includes part of the year.

(3) If the averaging method is used for 2 or more motor vehicles for the same financial year, the odometer readings for those motor vehicles must cover periods that are concurrent.

5—Replacing 1 motor vehicle with another motor vehicle

(1) For the purposes of using the averaging method, an employer may nominate 1 motor vehicle as having replaced another motor vehicle with effect from a day specified in the nomination.

(2) After the nomination takes effect, the replacement motor vehicle is treated as the original motor vehicle, and the original motor vehicle is treated as a different motor vehicle.

(3) An employer need not repeat for the replacement vehicle the steps already taken for the original motor vehicle.

(4) An employer must record the nomination in writing in the financial year in which the nomination takes effect.

(5) However, the Commissioner may allow an employer to record the nomination at a later time.

6—Changing method of recording

(1) An employer may change from using the averaging method to using the continuous recording method with effect from the beginning of a financial year if the employer complies with clause 2 in respect of the financial year.

(2) An employer may change from using the continuous recording method to using the averaging method with effect from the beginning of a financial year if the employer complies with clause 3 in respect of the financial year.

7—Definition

In this Division—

business journey means—

(a) a journey undertaken in a motor vehicle by a person otherwise than in the application of the vehicle to a private use, being an application that, if the person is paid a motor vehicle allowance for that use, results in the provision of a fringe benefit (within the meaning of the FBTA Act) by the employer; or

(b) a journey undertaken in a motor vehicle by a person in the course of producing assessable income of the person (within the meaning of the *Income Tax Assessment Act 1936* of the Commonwealth).

Division 2—Accommodation allowances

8—Accommodation allowances

(1) For the purposes of this Act, ***wages*** do not include an accommodation allowance paid or payable to an employee in respect of a night's absence from the person's usual place of residence that does not exceed the exempt rate.

(2) If the accommodation allowance paid or payable to an employee in respect of a night's absence from the person's usual place of residence exceeds the exempt rate, ***wages*** include that allowance only to the extent that it exceeds the exempt rate.

(3) For the purposes of this clause, the ***exempt rate*** for the financial year concerned is—

(a) the total reasonable amount for daily travel allowance expenses using the lowest capital city for the lowest salary band for the financial year determined by the Commissioner of Taxation of the Commonwealth; or

(b) if no determination referred to in paragraph (a) is in force, the rate prescribed by the regulations.

Schedule 2—Shares and options

1—Preliminary

(1) Any wages constituted by a share or option under section 3(3d) are taken, for the purposes of the imposition of pay-roll tax, to be paid or payable on the relevant day.

(2) For the purposes of this Schedule, the ***relevant day*** is the day that the employer elects in accordance with this Schedule to treat as the day on which the wages are paid or payable.

2—Choice of relevant day

(1) The employer can elect to treat as the ***relevant day*** either the date on which the share or option is granted to the employee or the vesting date.

(2) A share or option is granted to a person in the following circumstances:

(a) in the case of a share—if the person acquires the share (within the meaning of section 139G of the *Income Tax Assessment Act 1936* of the Commonwealth) or in the circumstances prescribed by the regulations under this Act;

(b) in the case of an option—if the person acquires a right (within the meaning of section 139G of the *Income Tax Assessment Act 1936* of the Commonwealth) to the share to which the option relates or in the circumstances prescribed by the regulations under this Act.

(3) The ***vesting date*** in respect of a share is the date on which the share vests in the employee (that is, when any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded).

(4) The ***vesting date*** in respect of an option is 1 of the following dates (whichever happens first):

(a) the date on which the share to which the option relates is granted to the employee;

(b) the date on which the employee exercises a right under the option to have the share the subject of the option transferred to, allotted to or vest in him or her.

3—Deemed choice of relevant day in special cases

(1) If an employer grants a share or an option to an employee and the value of the grant of the share or option is not included in the taxable wages of the employer for the financial year in which the share or option was granted, the employer is taken to have elected to treat the wages constituted by the grant of that share or option as being paid or payable on the vesting date.

(2) If an employer grants a share or an option to an employee and the value of the grant of the share or option is nil or, if the employer were to elect to treat the date of grant as the relevant day, the wages constituted by the grant would not be liable to pay-roll tax, the employer is taken to have elected to treat the wages constituted by the grant of that share or option as being paid or payable on the date on which the share or option was granted.

4—Effect of rescission, cancellation of share or option

(1) If the grant of a share or option is withdrawn, cancelled or exchanged before the vesting date for any valuable consideration (other than the grant of other shares or options), the following provisions apply:

(a) the date of withdrawal, cancellation or exchange is taken to be the vesting date of the share or option;

(b) the market value of the share or option, on the vesting date, is taken to be the amount of the valuable consideration (and, accordingly, that amount is the amount paid or payable as wages on that date).

(2) If an employer includes the value of a grant of a share or option in the taxable wages of the employer for a financial year and the grant is rescinded because the conditions attaching to the grant were not met, the taxable wages of the employer, in the financial year in which the grant is rescinded, are to be reduced by the value of the grant as previously included in the taxable wages of the employer.

(3) Subclause (2) does not apply just because an employee fails to exercise an option or to otherwise exercise his or her rights in respect of a share or option.

5—Grant of share pursuant to exercise of option

The grant of the share by an employer does not constitute wages for the purposes of this Act if the employer is required to grant the share as a consequence of the exercise of an option by a person and—

(a) the grant of the option to the person constitutes wages for the purposes of this Act; or

(b) the option was granted to the person before 1 July 2008.

6—Value of shares and options

(1) If the grant of a share or option constitutes wages under this Act, the amount paid or payable as wages is taken, for the purposes of this Act, to be the market value of the share or option (expressed in Australian currency) on the relevant day, less the consideration (if any) paid or given by the employee in respect of the share or option (other than consideration in the form of services performed).

(2) The market value of a share or option on the relevant day is to be determined in accordance with the Commonwealth income tax provisions.

(3) For that purpose, the Commonwealth income tax provisions apply with the following modifications, and any other necessary modifications:

(a) the market value of an option is to be determined as if it were a right to acquire a share;

(b) a reference to a taxpayer is to be read as a reference to the employee;

(c) a reference to the Commissioner of Taxation is to be read as a reference to either that Commissioner or the Commissioner of State Taxation.

(4) Section 3(1c) does not apply to the grant of a share or option that constitutes wages, even if it constitutes a fringe benefit.

(5) In this clause—

Commonwealth income tax provisions means the provisions of Subdivision F of Division 13A of Part III of the *Income Tax Assessment Act 1936* of the Commonwealth.

7—Inclusion of shares and options granted to directors as wages

(1) For the purposes of this Act, wages include the grant of a share, or option, by a company to a director of the company by way of remuneration for the appointment or services of the director that would be wages under this Act if the director were an employee of the company.

(2) For that purpose, the other provisions of this Schedule apply in respect of any such grant as if a reference to the employer were a reference to the company and a reference to the employee were a reference to the director of the company.

(3) In this clause, a reference to a director of the company includes a reference to the following:

(a) a person who, under a contract or other arrangement, is to be appointed as a director of the company;

(b) a former director of the company.

(4) In the case of wages constituted by the grant of a share or option by a company to a director of the company by way of remuneration for the appointment of the director, but not for services performed—

(a) the grant of the share or option is taken, for the purposes of this Act, to be paid or payable for services performed during the month in which the relevant day occurs; and

(b) a reference in this Act to the place or places where services are performed is a reference to the place or places where it may reasonably be expected that the services of the director in respect of the company will be performed.

8—When services considered to have been performed

For the purposes of this Act, if the grant of a share or an option constitutes wages for the purposes of this Act, the services in respect of which those wages are paid or payable are taken to have been performed during the month in which the relevant day occurs.

9—Place where wages are payable

(1) The wages constituted by the grant of the share or option are taken to be paid or payable in this State if the share is a share in a local company or, in the case of an option, an option to acquire shares in a local company.

(2) In any other case, the wages constituted by the grant of the share or option are taken to be paid or payable outside this State.

Note—

If the wages concerned are taken to be payable outside this State, because the shares concerned are shares in a company that is not a local company, the grant of the share or option may still be liable to pay-roll tax under this Act if the grant is made for services performed or rendered wholly or mainly in this State (see section 8).

(3) In this clause—

local company means—

(a) a company incorporated or taken to be incorporated under the *Corporations Act 2001* of the Commonwealth that is taken to be registered in this State for the purposes of that Act; or

(b) any other body corporate that is incorporated under an Act of this State.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1971	52	*Pay-roll Tax Act 1971*	9.9.1971	9.9.1971
1973	26	*Pay-roll Tax Act Amendment Act 1973*	20.9.1973	20.9.1973
1974	52	*Pay-roll Tax Act Amendment Act 1974*	30.8.1974	30.8.1974
1975	94	*Pay-roll Tax Act Amendment Act 1975*	20.11.1975	1.1.1976: s 2
1976	6	*Pay-roll Tax Act Amendment Act 1976*	19.2.1976	1.1.1976: s 2
1976	80	*Pay-roll Tax Act Amendment Act (No. 2) 1976*	9.12.1976	1.1.1977: s 2
1977	37	*Pay-roll Tax Act Amendment Act 1977*	8.12.1977	1.1.1978: s 2
1978	76	*Pay-roll Tax Act Amendment Act 1978*	16.11.1978	1.1.1979: s 2
1979	64	*Pay-roll Tax Act Amendment Act 1979*	15.11.1979	1.10.1979: s 2
1980	113	*Pay-roll Tax Act Amendment Act 1980*	18.12.1980	1.1.1981 (*Gazette 23.12.1980 p2368*)
1982	33	*Pay-roll Tax Act Amendment Act 1982*	15.4.1982	1.7.1982: s 2
1982	101	*Pay-roll Tax Act Amendment Act (No. 2) 1982*	23.12.1982	1.1.1983: s 2
1983	26	*Pay-roll Tax Act Amendment Act 1983*	16.6.1983	1.7.1983 (*Gazette 30.6.1983 p1754*) except ss 4(a) & (e)—1.7.1982: s 2(3)
1985	82	*Pay-roll Tax Act Amendment Act 1985*	22.8.1985	1.7.1985: s 2
1986	6	*Pay-roll Tax Act Amendment Act 1986*	13.3.1986	13.3.1986

1986	61	*Pay-roll Tax Act Amendment Act (No. 2) 1986*	6.11.1986	1.9.1986: s 2
1987	2	*Statutes Amendment (Taxation) Act 1987*	5.3.1987	5.3.1987
1988	64	*Pay-roll Tax Act Amendment Act 1988*	27.10.1988	1.7.1988: s 2 except s 8 & Sch—1.12.1988 (*Gazette 10.11.1988 p1702*)
1989	46	*Pay-roll Tax Act Amendment Act 1989*	31.8.1989	1.7.1989: s 2
1990	45	*Pay-roll Tax Act Amendment Act 1990*	25.10.1990	1.10.1990: s 2
1991	55	*Pay-roll Tax (Miscellaneous) Amendment Act 1991*	28.11.1991	1.4.1992 (*Gazette 5.12.1991 p1668*) except ss 5—11—1.12.1991: s 2
1992	51	*Pay-roll Tax (Exemptions) Amendment Act 1992*	29.10.1992	1.7.1992: s 2
1992	71	*Statutes Amendment (Expiation of Offences) Act 1992*	19.11.1992	1.3.1993 (*Gazette 18.2.1993 p600*)
1994	5	*Pay-roll Tax (Miscellaneous) Amendment Act 1994*	14.4.1994	1.5.1994 (*Gazette 28.4.1994 p1098*)
1994	68	*Pay-roll Tax (Superannuation Benefits and Rates) Amendment Act 1994*	10.11.1994	1.12.1994: s 2
1995	71	*Pay-roll Tax (Exemption) Amendment Act 1995*	2.11.1995	2.11.1995
1996	79	*Pay-roll Tax (Superannuation Benefits) Amendment Act 1996*	5.12.1996	1.7.1996: s 2
1996	82	*Statutes Amendment (Taxation Administration) Act 1996*	5.12.1996	Pt 5 (ss 63—76) & Sch cl 4—1.7.1997 (*Gazette 19.12.1996 p1924*)
1997	30	*Statutes Amendment (References to Banks) Act 1997*	12.6.1997	Pt 11 (s 17)—3.7.1997 (*Gazette 3.7.1997 p4*)
1997	34	*Statutes Amendment (Pay-roll Tax and Taxation Administration) Act 1997*	19.6.1997	Pt 2 (ss 4 & 5)—1.7.1997 (*Gazette 26.6.1997 p3052*)
1999	33	*Financial Sector Reform (South Australia) Act 1999*	17.6.1999	Sch (item 38)—1.7.1999 being the date specified under s 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2000	21	*National Tax Reform (State Provisions) Act 2000*	8.6.2000	8.6.2000
2001	23	*Statutes Amendment (Corporations) Act 2001*	14.6.2001	Pt 26 (ss 93—96)—15.7.2001 being the day on which the *Corporations Act 2001* of the Commonwealth came into operation: *Commonwealth of Australia Gazette* No. S 285, 13 July 2001 (*Gazette 21.6.2001 p2270*)
2001	27	*Statutes Amendment (Taxation Measures) Act 2001*	26.7.2001	Pt 3 (ss 5—9)—26.7.2001: s 2(1)
2002	35	*Statutes Amendment (Stamp Duties and Other Measures) Act 2002*	28.11.2002	Pt 4 (s 12)—1.4.1992; Pt 4 (ss 11 & 13)—28.11.2002: s 2

2004	21	*Statutes Amendment (Budget 2004) Act 2004*	1.7.2004	Pt 3 (s 8)—1.7.2004: s 2(2)
2007	33	*Statutes Amendment (Budget 2007) Act 2007*	9.8.2007	Pt 2 (s 4)—1.7.2007: s 2(2)
2008	20	*Pay-roll Tax (Harmonisation Project) Amendment Act 2008*	26.6.2008	1.7.2008: s 2
2008	**34**	***Statutes Amendment (Budget 2008) Act 2008***	**31.7.2008**	**Pt 4 (ss 6—10)—1.7.2008: s 2(3)**
2008	38	*Statutes Amendment and Repeal (Taxation Administration) Act 2008*	23.10.2008	Pt 4 (ss 25—29)—1.1.2009 (*Gazette 11.12.2008 p5475*)

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 8 of The Public General Acts of South Australia 1837-1975 at page 81.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 82/1996 s 63	1.7.1997
Pt 1		
s 2	*deleted by 64/1988 s 8 (Sch)*	*1.12.1988*
s 3		
s 3(1)		
agent	*deleted by 82/1996 s 64(a)*	*1.7.1997*
the Commissioner	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 82/1996 s 64(b)	1.7.1997
the Commissioner of Stamps	*deleted by 82/1996 s 64(b)*	*1.7.1997*
corporation	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 5/1994 s 3(a)	1.5.1994
	substituted by 23/2001 s 93(a)	15.7.2001
council	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
	substituted by 20/2008 s 4(1)	1.7.2008
the Deputy Commissioner of Stamps	*deleted by 82/1996 s 64(c)*	*1.7.1997*
designated group employer	amended by 64/1988 s 8 (Sch)	1.12.1988
eligible termination payment	*inserted by 27/2001 s 5(a)*	*26.7.2001*
	deleted by 20/2008 s 4(2)	*1.7.2008*
employer	amended by 64/1988 s 8 (Sch)	1.12.1988

employment termination payment	inserted by 20/2008 s 4(3)	1.7.2008
FBTA Act	inserted by 20/2008 s 4(3)	1.7.2008
financial year	amended by 64/1988 s 8 (Sch)	1.12.1988
fringe benefit	inserted by 45/1990 s 3(a)	1.10.1990
	amended by 20/2008 s 4(4)	1.7.2008
group	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 20/2008 s 4(5)	1.7.2008
GST	inserted by 21/2000 s 13(a)	8.6.2000
GST law	inserted by 21/2000 s 13(a)	8.6.2000
ITAA	inserted by 20/2008 s 4(6)	1.7.2008
liquidator	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 64(d)	*1.7.1997*
option	inserted by 20/2008 s 4(6)	1.7.2008
partly funded scheme of superannuation	inserted by 79/1996 s 3(a)	1.7.1996
pay	inserted by 45/1990 s 3(b)	1.10.1990
pay-roll tax	amended by 64/1988 s 8 (Sch)	1.12.1988
record	*inserted by 5/1994 s 3(b)*	*1.5.1994*
	deleted by 82/1996 s 64(e)	*1.7.1997*
return period	amended by 82/1996 Sch cl 4	1.7.1997
share	inserted by 20/2008 s 4(7)	1.7.2008
State	inserted by 5/1994 s 3(b)	1.5.1994
superannuation benefit	inserted by 68/1994 s 3(a)	1.12.1994
	substituted by 79/1996 s 3(b)	1.7.1996
	amended by 35/2002 s 11(a)	28.11.2002
tax	*deleted by 82/1996 s 64(f)*	*1.7.1997*
taxable wages	amended by 64/1988 s 8 (Sch)	1.12.1988
termination payment	inserted by 20/2008 s 4(8)	1.7.2008
the Tribunal	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 64(g)	*1.7.1997*
trustee	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 64(g)	*1.7.1997*
unfunded scheme of superannuation	inserted by 79/1996 s 3(c)	1.7.1996
unused annual leave payment	inserted by 20/2008 s 4(9)	1.7.2008
unused long service leave payment	inserted by 20/2008 s 4(9)	1.7.2008
voting share	amended by 64/1988 s 8 (Sch)	1.12.1988

	substituted by 5/1994 s 3(c)	1.5.1994
	substituted by 23/2001 s 93(b)	15.7.2001
wages	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 3(c)	1.10.1990
	substituted by 55/1991 s 3(a)	1.4.1992
	amended by 35/2002 s 11(b)	28.11.2002
s 3(1a)	inserted by 82/1985 s 3	1.7.1985
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 45/1990 s 3(d)	1.10.1990
	substituted by 20/2008 s 4(10)	1.7.2008
s 3(1ab)	inserted by 27/2001 s 5(b)	26.7.2001
	substituted by 20/2008 s 4(11)	1.7.2008
s 3(1b)	inserted by 82/1985 s 3	1.7.1985
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 45/1990 s 3(d)	1.10.1990
s 3(1c)	inserted by 45/1990 s 3(d)	1.10.1990
	substituted by 27/2001 s 5(c)	26.7.2001
	substituted by 20/2008 s 4(12)	1.7.2008
s 3(1d)	inserted by 21/2000 s 13(b)	8.6.2000
s 3(2)	substituted by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 45/1990 s 3(d)	1.10.1990
	inserted by 55/1991 s 3(b)	1.4.1992
	substituted by 68/1994 s 3(b)	1.12.1994
s 3(2a)	inserted by 35/2002 s 11(c)	28.11.2002
s 3(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 5/1994 s 3(d)	1.5.1994
	inserted by 79/1996 s 3(d)	1.7.1996
s 3(3a) and (3b)	inserted by 79/1996 s 3(d)	1.7.1996
s 3(3c)—(3e)	inserted by 20/2008 s 4(13)	1.7.2008
s 3(4)	substituted by 80/1976 s 3	1.1.1977
	amended by 64/1988 s 8 (Sch)	1.12.1988
s 3(5)	inserted by 61/1986 s 3	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
s 4	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 55/1991 s 4	1.4.1992
s 4(3)	amended by 68/1994 s 4(a)	1.12.1994
s 4(5a)	inserted by 68/1994 s 4(b)	1.12.1994
s 4A	inserted by 55/1991 s 4	1.4.1992
s 4A(1a)	inserted by 35/2002 s 12(a)	1.4.1992
s 4A(2)	amended by 68/1994 s 5(a)	1.12.1994
s 4A(3)	substituted by 68/1994 s 5(b)	1.12.1994
s 4A(4)	inserted by 35/2002 s 12(b)	1.4.1992
s 4B	inserted by 55/1991 s 4	1.4.1992

s 4B(1)	substituted by 68/1994 s 6(a)	1.12.1994
s 4B(2)	substituted by 68/1994 s 6(b)	1.12.1994
s 4C	inserted by 55/1991 s 4	1.4.1992
s 4C(1)	amended by 68/1994 s 7	1.12.1994
s 5	inserted by 82/1996 s 65	1.7.1997
Pt 2	*amended by 2/1987 s 5*	*5.3.1987*
	amended by 64/1988 s 8 (Sch)	*1.12.1988*
	amended by 5/1994 s 4, Sch	*1.5.1994*
	deleted by 82/1996 s 65	*1.7.1997*
Pt 3		
s 8		
s 8(1)	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 5/1994 s 5(a)	1.5.1994
s 8(1a)	inserted by 5/1994 s 5(a)	1.5.1994
	amended by 20/2008 s 5	1.7.2008
s 8(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 5/1994 s 5(b)	1.5.1994
s 8(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 5/1994 s 5(c)	1.5.1994
	amended by 33/1999 Sch (item 38(a))	1.7.1999
s 8(4)	*inserted by 30/1997 s 17*	*3.7.1997*
	deleted by 33/1999 Sch (item 38(b))	*1.7.1999*
s 9	substituted by 64/1988 s 8 (Sch)	1.12.1988
s 9(1)	substituted by 45/1990 s 4	1.10.1990
	substituted by 55/1991 s 5	1.12.1991
	amended by 68/1994 s 8	1.12.1994
	amended by 27/2001 s 6	26.7.2001
	amended by 21/2004 s 8	1.7.2004
	amended by 33/2007 s 4	1.7.2007
	amended by 34/2008 s 6	**1.7.2008**
s 10	amended by 64/1988 s 8 (Sch)	1.12.1988
s 11	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 82/1996 s 66	1.7.1997
s 11A		
s 11A(1)		
minimum amount	*inserted by 6/1976 s 3(a)*	*1.1.1976*
	substituted by 80/1976 s 4	*1.1.1977*
	substituted by 37/1977 s 3	*1.1.1978*
	amended by 76/1978 s 3(a)	*1.1.1979*
	amended by 64/1979 s 3(a)	*1.10.1979*
	amended by 113/1980 s 3(a)	*1.1.1981*
	amended by 26/1983 s 3(a)	*1.7.1983*
	deleted by 61/1986 s 4(a)	*1.9.1986*

prescribed amount	substituted by 80/1976 s 4	1.1.1977
	substituted by 37/1977 s 3	1.1.1978
	amended by 76/1978 s 3(b)	1.1.1979
	amended by 64/1979 s 3(b)	1.10.1979
	amended by 113/1980 s 3(b)	1.1.1981
	amended by 33/1982 s 3	1.7.1982
	amended by 101/1982 s 3	1.1.1983
	amended by 26/1983 s 3(b)	1.7.1983
	substituted by 61/1986 s 4(b)	1.9.1986
	substituted by 64/1988 s 3	1.7.1988
	substituted by 46/1989 s 3	1.7.1989
	amended by 45/1990 s 5(a)	1.10.1990
	amended by 55/1991 s 6	1.12.1991
	amended by 27/2001 s 7	26.7.2001
	amended by 34/2008 s 7	**1.7.2008**
s 11A(2)	*deleted by 61/1986 s 4(c)*	*1.9.1986*
s 11A(3)	substituted by 6/1976 s 3(b)	1.1.1976
	amended by 82/1985 s 4(a)	1.7.1985
	substituted by 61/1986 s 4(d)	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 45/1990 s 5(b)	1.10.1990
s 11A(4)	*substituted by 6/1976 s 3(b)*	*1.1.1976*
	amended by 82/1985 s 4(b)	*1.7.1985*
	deleted by 61/1986 s 4(d)	*1.9.1986*
s 11A(5) and (6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 11A(7)	amended by 61/1986 s 4(e)	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
s 11A(8) and (9)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 12		
s 12(1)	s 12 redesignated as s 12(1) by 64/1979 s 4	1.10.1979
	amended by 113/1980 s 4	1.1.1981
	amended by 26/1983 s 4(a)	1.7.1982
	amended by 26/1983 s 4(b), (c)	1.7.1983
	amended by 6/1986 s 2	13.3.1986
	amended by 61/1986 s 5	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	(dac) deleted by 64/1988 s 8 (Sch)	1.12.1988
	(f) deleted by 64/1988 s 8 (Sch)	1.12.1988
	amended by 46/1989 s 4	1.7.1989
	amended by 51/1992 s 3	1.7.1992
	amended by 71/1995 s 2	2.11.1995
	amended by 20/2008 s 6(1)—(3)	1.7.2008
s 12(2)—(4)	inserted by 64/1979 s 4	1.10.1979

	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 20/2008 s 6(4)	1.7.2008
s 12(5)	inserted by 26/1983 s 4(d)	1.7.1983
	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 20/2008 s 6(4)	1.7.2008
s 12(6)	inserted by 26/1983 s 4(e)	1.7.1982
educational institution	inserted by 20/2008 s 6(5)	1.7.2008
health service	amended by 64/1988 s 8 (Sch)	1.12.1988
s 13	*deleted by 64/1988 s 8 (Sch)*	*1.12.1988*
s 13A		
s 13A(1)	amended by 61/1986 s 6(a)	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 6(a)	1.10.1990
	substituted by 55/1991 s 7	1.12.1991
financial year	substituted by 68/1994 s 9(a)	1.12.1994
s 13A(2)	substituted by 6/1976 s 4(a)	1.1.1976
	amended by 80/1976 s 5(a)—(c)	1.1.1977
	substituted by 37/1977 s 4	1.1.1978
	amended by 76/1978 s 4	1.1.1979
	amended by 64/1979 s 5	1.10.1979
	amended by 113/1980 s 5	1.1.1981
	amended by 33/1982 s 4	1.7.1982
	amended by 101/1982 s 4	1.1.1983
	amended by 26/1983 s 5	1.7.1983
	amended by 82/1985 s 5	1.7.1985
	substituted by 61/1986 s 6(b)	1.9.1986
	substituted by 64/1988 s 4	1.7.1988
	substituted by 46/1989 s 5	1.7.1989
	substituted by 45/1990 s 6(b)	1.10.1990
	substituted by 55/1991 s 7	1.12.1991
	amended by 68/1994 s 9(b)—(f)	1.12.1994
	amended by 27/2001 s 8	26.7.2001
	amended by 34/2008 s 8	**1.7.2008**
s 13A(2a) and (2b)	*inserted by 80/1976 s 5(d)*	*1.1.1977*
	deleted by 37/1977 s 4	*1.1.1978*
s 13A(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 13A(4)	*substituted by 6/1976 s 4(b)*	*1.1.1976*
	deleted by 80/1976 s 5(e)	*1.1.1977*
s 13B		
s 13B(1)		
annual amount of pay-roll tax	amended by 64/1988 s 8 (Sch)	1.12.1988

s 13B(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 7	1.10.1990
	amended by 82/1996 s 67(a), (b), Sch cl 4	1.7.1997
s 13B(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 s 67(c), (d)	1.7.1997
s 13B(4)	inserted by 55/1991 s 8	1.12.1991
	amended by 82/1996 s 67(e)	1.7.1997
s 13C		
s 13C(1)		
total amount of pay-roll tax	amended by 64/1988 s 8 (Sch)	1.12.1988
s 13C(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 13C(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
Pt 4		
s 14		
s 14(1)	amended by 80/1976 s 6(a)	1.1.1977
	amended by 37/1977 s 5(a)	1.1.1978
	amended by 76/1978 s 5(a)	1.1.1979
	amended by 64/1979 s 6(a)	1.10.1979
	amended by 113/1980 s 6(a)	1.1.1981
	amended by 33/1982 s 5(a)	1.7.1982
	amended by 101/1982 s 5(a)	1.1.1983
	amended by 26/1983 s 6(a)	1.7.1983
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 14(2)	amended by 80/1976 s 6(b)	1.1.1977
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 14(2a)	*deleted by 64/1988 s 8 (Sch)*	*1.12.1988*
s 14(2b)	amended by 80/1976 s 6(c)	1.1.1977
	amended by 37/1977 s 5(b)	1.1.1978
	amended by 76/1978 s 5(b)	1.1.1979
	amended by 64/1979 s 6(b)	1.10.1979
	amended by 113/1980 s 6(b)	1.1.1981
	amended by 33/1982 s 5(b)	1.7.1982
	amended by 101/1982 s 5(b)	1.1.1983
	amended by 26/1983 s 6(b)	1.7.1983
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 14(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 82/1996 s 68	1.7.1997
s 14(4)	inserted by 26/1983 s 6(c)	1.7.1983

	substituted by 61/1986 s 7	1.9.1986
	amended by 64/1988 s 5	1.7.1988
	amended by 46/1989 s 6	1.7.1989
	amended by 45/1990 s 8	1.10.1990
	amended by 55/1991 s 9	1.12.1991
	amended by 34/2008 s 9	**1.7.2008**
s 15		
s 15(1)	amended by 37/1977 s 6	1.1.1978
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 15(2) and (3)	amended by 64/1988 s 8 (Sch)	1.12.1988
	deleted by 82/1996 s 69(a)	1.7.1997
	inserted by 34/1997 s 4	1.7.1997
s 15(4) and (5)	deleted by 64/1988 s 8 (Sch)	1.12.1988
	inserted by 45/1990 s 9	1.10.1990
s 15(6)	inserted by 45/1990 s 9	1.10.1990
	substituted by 82/1996 s 69(b)	1.7.1997
s 16	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 82/1996 s 70	1.7.1997
s 17	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 70	*1.7.1997*
s 18	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 5/1994 s 6	*1.5.1994*
	deleted by 82/1996 s 70	*1.7.1997*
Pt 4A		
s 18A	*deleted by 20/2008 s 7*	*1.7.2008*
s 18B	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 5/1994 s 7	*1.5.1994*
	amended by 23/2001 s 94	*15.7.2001*
	deleted by 20/2008 s 7	*1.7.2008*
s 18C	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 20/2008 s 7	*1.7.2008*
s 18D		
s 18D(2)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
s 18D(3)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 82/1996 Sch cl 4	*1.7.1997*
s 18D(4)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 5/1994 s 8	*1.5.1994*
	amended by 23/2001 s 95	*15.7.2001*
s 18D(5) and (6)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
s 18D	*deleted by 20/2008 s 7*	*1.7.2008*
Pt 4A Div 1	inserted by 20/2008 s 7	1.7.2008
Pt 4A Div 2	inserted by 20/2008 s 7	1.7.2008

Pt 4A Div 3	inserted by 20/2008 s 7	1.7.2008
Pt 4A Div 4		
heading	inserted by 20/2008 s 8	1.7.2008
s 18E		
s 18E(1) and (2)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18E(3)	substituted by 64/1988 s 8 (Sch)	1.12.1988
s 18F	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18H	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 20/2008 s 9	*1.7.2008*
s 18I before substitution by 20/2008		
s 18I(1)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
s 18I(2)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 5/1994 s 9	*1.5.1994*
	amended by 23/2001 s 96	*15.7.2001*
s 18I(3)	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 82/1996 Sch cl 4	*1.7.1997*
s 18I	substituted by 20/2008 s 10	1.7.2008
s 18J		
s 18J(1)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 18J(2)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18J(3)	substituted by 64/1988 s 8 (Sch)	1.12.1988
s 18J(4)—(7)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18K	amended by 6/1976 s 5	1.1.1976
	amended by 80/1976 s 7(a)—(c)	1.1.1977
	amended by 37/1977 s 7	1.1.1978
	amended by 76/1978 s 6	1.1.1979
	amended by 64/1979 s 7	1.10.1979
	amended by 113/1980 s 7	1.1.1981
	amended by 33/1982 s 6	1.7.1982
	amended by 101/1982 s 6	1.1.1983
	amended by 26/1983 s 7	1.7.1983
	amended by 82/1985 s 6	1.7.1985
	amended by 61/1986 s 8	1.9.1986
	amended by 64/1988 s 6	1.7.1988
	amended by 64/1988 s 8 (Sch)	1.12.1988
	substituted by 46/1989 s 7	1.7.1989
	substituted by 45/1990 s 10	1.10.1990
	substituted by 55/1991 s 10	1.12.1991
s 18K(1)		
financial year	substituted by 68/1994 s 10(a)	1.12.1994

s 18K(2)	amended by 68/1994 s 10(b)—(f)	1.12.1994
	amended by 27/2001 s 9	26.7.2001
	amended by 34/2008 s 10	**1.7.2008**
s 18L		
s 18L(2) and (3)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18L(4)	amended by 61/1986 s 9	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 11(a)	1.10.1990
	amended by 82/1996 s 71(a), (b)	1.7.1997
s 18L(5)	amended by 61/1986 s 9	1.9.1986
	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 11(b), (c)	1.10.1990
	amended by 82/1996 Sch cl 4	1.7.1997
s 18L(6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18L(7)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 s 71(c)	1.7.1997
s 18L(8)	inserted by 55/1991 s 11	1.12.1991
	amended by 82/1996 s 71(d)	1.7.1997
s 18M		
s 18M(3)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 18M(4)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 82/1996 Sch cl 4	1.7.1997
s 18M(5)	amended by 64/1988 s 8 (Sch)	1.12.1988
	amended by 45/1990 s 12	1.10.1990
s 18M(6)	amended by 64/1988 s 8 (Sch)	1.12.1988
s 33		
s 33(1)	inserted by 5/1994 s 11(b)	1.5.1994
	amended by 82/1996 s 73(a)	1.7.1997
s 33(2)	inserted by 5/1994 s 11(b)	1.5.1994
s 33(3)	s 33 amended by 64/1988 s 8 (Sch)	1.12.1988
	s 33 amended and redesignated as s 33(3) by 5/1994 s 11	1.5.1994
s 33(4)	inserted by 82/1996 s 73(b)	1.7.1997
Pt 5 before deletion by 82/1996		
heading	*deleted by 82/1996 s 72*	*1.7.1997*
s 19	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 20	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 20A	*inserted by 82/1985 s 7*	*1.7.1985*
	deleted by 61/1986 s 10	*1.9.1986*
s 21	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*

	deleted by 82/1996 s 72	*1.7.1997*
s 21A	*inserted by 6/1976 s 6*	*1.1.1976*
	amended by 82/1985 s 8	*1.7.1985*
	substituted by 64/1988 s 7	*1.7.1988*
	deleted by 82/1996 s 72	*1.7.1997*
ss 22—25	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 26	*amended by 76/1978 s 7*	*1.1.1979*
	amended by 64/1988 s 8 (Sch)	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 27	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 28	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 71/1992 s 3(1) (Sch)	*1.3.1993*
	amended by 5/1994 s 10, Sch	*1.5.1994*
	deleted by 82/1996 s 72	*1.7.1997*
s 29	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 71/1992 s 3(1) (Sch)	*1.3.1993*
	amended by 5/1994 Sch	*1.5.1994*
	deleted by 82/1996 s 72	*1.7.1997*
s 30	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 31	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 32	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	deleted by 82/1996 s 72	*1.7.1997*
s 34	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 5/1994 Sch	*1.5.1994*
	deleted by 82/1996 s 74	*1.7.1997*
Pt 5	inserted by 82/1996 s 76	1.7.1997
Pt 6	*amended by 113/1980 s 8*	*1.1.1981*
	amended by 61/1986 s 11	*1.9.1986*
	amended by 64/1988 s 8 (Sch)	*1.12.1988*
	deleted by 82/1996 s 75	*1.7.1997*
Pt 7	*amended by 64/1988 s 8 (Sch)*	*1.12.1988*
	amended by 71/1992 s 3(1) (Sch)	*1.3.1993*
	amended by 5/1994 s 12, Sch	*1.5.1994*
	deleted by 82/1996 s 75	*1.7.1997*
Pt 8	*amended by 64/1979 s 8*	*1.10.1979*
	amended by 26/1983 s 8	*1.7.1983*
	amended by 64/1988 s 8 (Sch)	*1.12.1988*
	amended by 5/1994 ss 13—15, Sch	*1.5.1994*
	deleted by 82/1996 s 76	*1.7.1997*

Schs 1 and 2	inserted by 20/2008 s 11	1.7.2008

Transitional etc provisions associated with Act or amendments

Pay-roll Tax (Miscellaneous) Amendment Act 1991

12—Application of amendments

The amendments effected by sections 3 and 4 of this Act to the principal Act apply in relation to agreements, arrangements, undertakings or transactions made before, on or after the commencement of those sections but pay-roll tax is only payable in respect of any wages paid or payable on or after the commencement of those sections.

Statutes Amendment (Pay-roll Tax and Taxation Administration) Act 1997

5—Transitional provision

A notice given under section 15(2) of the principal Act and in force immediately before the commencement of this Act continues in force, subject to section 15 of that Act, as if it were a notice under that section as amended by this Act.

Commonwealth Places (Mirror Taxes Administration) (Modification of State Taxing Laws) Regulations 2000 (No. 8 of 2000)

4—Prescribed modification of State taxing laws (s 7(1))

Each State taxing law is modified under section 7(1) of the Act by the addition of a provision to the following effect:

(1) "This State taxing law is to be read together with its corresponding applied law as a single body of law.".

(2) The principle in subregulation (1) is subject to any express exceptions and qualifications prescribed under the Act and the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth.

Statutes Amendment (Stamp Duties and Other Measures) Act 2002

13—Application of amendments

Section 3 of the principal Act, as amended by section 11 of this Act, will be taken to have applied with respect to superannuation benefits from 1 December 1994 (subject to any necessary modifications to any cross-references to any other Act (whether of the State or the Commonwealth)), but not so as—

(a) to impose tax under paragraph (b) of the amended definition of "superannuation benefit" before 1 July 1996; or

(b) to validate the assessment of pay-roll tax made in relation to a payment or setting apart that were the subject of the Supreme Court's judgment in *Hills Industries Ltd & Anor v Commissioner of State Taxation & Anor* (Judgment No. [2002] SASC 67), or to authorise a reassessment of pay-roll tax in that case.

Historical versions

Reprint —1.12.1988

Reprint No 1—1.10.1990

Reprint No 2—1.12.1991

Reprint No 3—1.4.1992

Reprint No 4—29.10.1992

Reprint No 5—1.3.1993

Reprint No 6—1.5.1994

Reprint No 7—1.12.1994

Reprint No 8—2.11.1995

Reprint No 9—5.12.1996

Reprint No 10—1.7.1997

Reprint No 11—3.7.1997

Reprint No 12—1.7.1999

Reprint No 13—8.6.2000

Reprint No 14—15.7.2001

Reprint No 15—26.7.2001

Reprint No 16—28.11.2002

1.7.2004

1.7.2007