

PAY-ROLL TAX CHANGES 2001-02 Budget Amendments

Pay-roll Tax Act

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TERRITORY REVENUE MANAGEMENT

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Purpose of this circular

1. This circular provides information on proposed amendments to the *Pay-roll Tax Act* that were announced as part of the 2001-02 Budget. The changes outlined in this circular commence from 1 July 2001.
2. Revenue Circular RA001, which sets out information on the revenue circular system, is incorporated into and is to be read as one with this Circular.

Summary

3. In summary, the measures:
 - (a) reduce the pay-roll tax rate from 6.6% to 6.5%;
 - (b) relax the application of the grouping rules by increasing the common control threshold for grouping businesses from 50% or more, to **more than 50%**;
 - (c) allow for the payment of pay-roll tax without the requirement to lodge a monthly return in order to facilitate electronic payment of tax;
 - (d) clarify that interest can be charged on instalment arrangements;
 - (e) allow the general exemption to be calculated at the time an employer or group of employers ceases paying wages in the Territory; and
 - (f) clarify that for the purposes of determining whether an employer is to be registered for pay-roll tax, that where wages are paid in another State or Territory, "wages" shall be defined according to the pay-roll tax legislation of the State or Territory in which the wages are paid.

Pay-roll tax rate

4. The pay-roll tax rate is reduced from 6.6% to 6.5%. This new rate applies in respect of wages paid or payable on or after 1 July 2001.

Grouping of commonly controlled businesses

5. Pay-roll tax is imposed on a business, or a group of businesses, which pay wages in excess of a certain threshold level, currently \$600,000 in a financial year. The grouping of businesses is necessary to prevent an otherwise liable employer from splitting the business operations into separate entities so that the wages paid by each entity falls below the pay-roll tax threshold.
6. Where a person or persons together have a controlling interest in two or more businesses, the businesses are grouped. The wages of these commonly controlled businesses are aggregated to determine any pay-roll tax liability.

7. Currently, a controlling interest is defined as controlling or being entitled to 50% or more of the:
 - voting power of directors of a corporation;
 - voting power attached to voting shares of a corporation;
 - capital of a partnership;
 - profits of the partnership; or
 - beneficial interest in the property of a trust.
8. The new measures relax these grouping provisions so that a controlling interest must be greater than 50%. As such, the grouping of businesses on the mere basis of a bare 50% controlling interest will no longer apply.
9. As a result of this change, transitional arrangements apply for those businesses that have been grouped on the basis of a bare 50% interest. To be removed from the group, those businesses must apply to the Commissioner. Application for de-grouping is necessary as the Commissioner must be satisfied that the businesses are not grouped under another provision of the *Pay-roll Tax Act*, such as the common use of employees or on the basis of being "related" under the *Corporations Law*.
10. As a consequence of this amendment, the discretion for the Commissioner to exclude a business from a group (known as a section 17H de-grouping) will be limited to situations where the business is grouped:
 - a) solely on the basis of common use of employees with the other business(s) (under section 17D of the *Pay-roll Tax Act*); or
 - b) with a business operated by a discretionary trust (under section 17G).

Payment of pay-roll tax without monthly returns

11. This change facilitates the electronic payment of tax by allowing employers to pay tax without lodging a monthly return in respect of their wages.
12. The amendment enables the Commissioner to approve mechanisms whereby tax may be paid without the requirement to lodge monthly returns so as to facilitate advancements in technology that may reduce the administrative requirements placed on employers in complying with the *Pay-roll Tax Act*. Initially, the approved mechanisms are for payments by electronic means. To pay by electronic means please contact the office to arrange registration. Payments by cheque will need to be accompanied by the monthly remittance slip.
13. For annual reconciliation purposes, employers are still required to lodge a single annual return within 21 days after the close of each financial year, or 21 days after the close of the month in which the employer ceases paying wages in the Territory.

Interest on instalment arrangements

14. The *Pay-roll Tax Act* authorises the Commissioner to permit an employer to pay tax, further tax or additional tax by way of instalments. This amendment clarifies that additional tax (ie. interest) is payable upon the outstanding amount under such an instalment plan.
15. This interest accrues from the date the tax, further tax or additional tax would have been payable had the Commissioner not permitted the employer to pay the amount by way of instalments.

Calculation of general exemption where employer ceases to pay taxable wages

16. The *Pay-roll Tax Act* provides a general exemption for the first \$600,000 of wages paid in the Territory by an employer or group of employers ("employer"). However this general exemption is apportioned where the employer pays wages in another jurisdiction, based on the proportion of the employer's NT wages to Australia-wide wages.
17. The current provisions require the general exemption to be calculated by reference to the employer's full year Australia-wide wages. As such, where an employer that pays interstate wages ceases to pay wages in the Territory part way through a year, the employer's Australia-wide wages for the full year are required before the employer can be deregistered. The result is that while an employer or group may cease its Territory operations part way through the year, it is unable to settle its obligations until the end of the financial year.
18. To resolve this problem, the employer or group will calculate the general exemption to reflect the proportion of Territory wages to Australia-wide wages up to and including the last day on which Territory wages were paid or payable.

"Wages" for the purpose of registration

19. The *Pay-roll Tax Act* requires an employer paying taxable wages in the Northern Territory to register for pay-roll tax where its total wages paid or payable anywhere exceeds a weekly threshold, currently \$11,480. However, the definition of "wages" differs in the various State and Territory pay-roll tax legislation.
20. This amendment clarifies that in determining whether an employer's "wages" exceeds the weekly threshold for registration purposes, "wages" has the meaning as defined in the pay-roll tax legislation of the State or Territory in which the wages are paid or payable.
21. This clarification also ensures alignment with the concept of "wages" for determining any reduction in the tax-free threshold associated with Australia-wide wages.

The above is a general summary of the amendments to the *Pay-roll Tax Act*. Reference should be made to the *Pay-roll Tax Amendment Bill 2001* for precise details. For general information, please contact this office on ☎ (08) 8999 7949 or ☎ 1300 305 353.

COMMISSIONER OF TAXES