

PAY-ROLL TAX (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Pay-roll Tax Act 1971 so as—

- (a) to increase the threshold above which pay-roll tax and supplementary tax are payable for the period from 1 January 1989 to 30 June 1989; and
- (b) to introduce a new scheme for the assessment of pay-roll tax for the period from 1 July 1989; and
- (c) to enable employers to allocate part of the pay-roll tax paid by them to a proposed New South Wales Education and Training Foundation Fund; and
- (d) to bring the procedures concerning objections and appeals into line with those of the Stamp Duties Act 1920; and
- (e) to establish a Board of Review for the purpose of considering matters relating to the waiver, deferral and writing off of pay-roll tax; and
- (f) to make other amendments of a minor, consequential or ancillary nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act (with certain exceptions) is to commence on 1 January 1989. Schedule 3 is to commence on 1 July 1989.

Clause 3 is a formal provision that gives effect to the Schedules of amendments.

Clause 4 contains savings and transitional provisions. Clause 4 (1) ensures that the amendments made by the proposed Act will not affect any existing duty, obligation, liability, benefit or right in relation to wages paid or payable before the commencement of those amendments. Clause 4 (2) preserves the existing operation of sections 11B, 11C, 16K and 16L of, and clauses 5 and 6 of Schedule 1 to, the Principal Act in relation to the adjustment of pay-roll tax for the financial year commencing on 1 July 1988 and earlier financial years.

Pay-roll Tax (Amendment) 1988

**SCHEDULE 1—AMENDMENTS RELATING TO LIABILITY TO TAXATION
FROM 1 JANUARY 1989 TO 30 JUNE 1989**

The amendments made by this Schedule are intended to increase the pay-roll tax exemption threshold and taper band limits, for both sole employers and employers who are members of a group, by 8 per cent. The effect of this increase will be that the exemption threshold will rise from \$400,000 to \$432,000 over a full financial year and the upper threshold, at which full pay-roll tax at 5 per cent becomes payable, will rise from \$1,400,000 to \$1,512,000 over a full financial year.

**SCHEDULE 2—AMENDMENTS RELATING TO SUPPLEMENTARY PAY-ROLL
TAX FROM 1 JANUARY 1989 TO 30 JUNE 1989**

The amendments made by this Schedule are intended to increase the supplementary pay-roll tax exemption threshold and taper band limits, for both sole employers and employers who are members of a group, by 8 per cent. The effect of this increase will be that the exemption threshold will rise from \$1,400,000 to \$1,512,000 over a full financial year and the upper threshold, at which full supplementary pay-roll tax at 1 per cent becomes payable, will rise from \$2,100,000 to \$2,268,000 over a full financial year.

**SCHEDULE 3—AMENDMENTS RELATING TO LIABILITY TO TAXATION
FROM 1 JULY 1989**

The amendments made by this Schedule replace the current provisions relating to liability for pay-roll tax and supplementary pay-roll tax with new provisions that combine those two taxes into a single tax assessed by a series of marginal rates. Generally speaking, pay-roll tax under the new system will be calculated as follows:

For an annual pay-roll of less than \$432,000, the tax payable will be nil.

For an annual pay-roll of \$432,000–\$1,512,000, the tax payable will be 7 per cent of the amount by which the annual pay-roll exceeds \$432,000.

For an annual pay-roll of \$1,512,000–\$2,268,000, the tax payable will be \$75,600 plus 8 per cent of the amount by which the annual pay-roll exceeds \$1,512,000.

For an annual pay-roll of more than \$2,268,000, the tax payable will be \$136,080 plus 6 per cent of the amount by which the annual pay-roll exceeds \$2,268,000.

Modifications to this scale will be made depending on whether or not the employer is a member of a group and whether or not the employer or group pays interstate wages.

SCHEDULE 4—MISCELLANEOUS AMENDMENTS

Schedule 4 (1) (a) inserts definitions of “Education and Training Foundation Fund”, “pay” and “Pay-roll Tax Suspense Account” into section 3 (1).

Schedule 4 (1) (b) (i) amends the definition of “wages” in section 3 (1) as a consequence of the amendment to be made by Schedule 4 (1) (e).

Schedule 4 (1) (b) (ii) further amends that definition as a consequence of the amendments to be made by Schedule 4 (1) (c).

Schedule 4 (1) (c) substitutes section 3 (2) so as to vary the provisions of that subsection in relation to the way in which meals and accommodation are to be treated in the assessment of wages paid by an employer. It also inserts a new subsection (2A) into section 3. The new subsection defines the expressions “quarters” and “self-contained accommodation” that are used in the substituted section 3 (2).

Pay-roll Tax (Amendment) 1988

Schedule 4 (1) (d) amends section 3 (3) so as to reflect the fact that the Northern Territory is now, for pay-roll tax purposes, to be treated as a separate State.

Schedule 4 (1) (e) inserts a new subsection (4) into section 3. The proposed subsection ensures that the provisions of the Principal Act cannot be evaded when liability to pay wages is artificially split between an employer and some other person or when the payment of wages is artificially split between an employee and some other person.

Schedule 4 (2) amends section 10 so as to exempt from liability to pay-roll tax—

- (a) those wages that are paid to employees under a group apprenticeship scheme or group traineeship scheme approved by the Secretary of the Department of Industrial Relations; and
- (b) those wages that are payable, in the form of free or subsidised accommodation (other than holiday accommodation), pursuant to the Rural Workers Accommodation Act 1969 or for use by employees in connection with their employment.

Schedule 4 (3), (4) and (9) amend sections 11B and 16K, and Schedule 1, so as to replace obsolete references to the Department of Finance and the Minister for Finance with references to the Treasury and the Treasurer.

Schedule 4 (5) amends section 17 so as to ensure that the amount of pay-roll tax that is required to accompany a return under the Principal Act is a proportion (equivalent to the ratio of the number of days in the return period to the number of days in the relevant financial year) of the pay-roll tax that would (calculated on the basis of the taxable wages paid or payable during that period) be payable for the whole of that financial year.

Schedule 4 (6) inserts a new section 17A. The proposed section will enable an employer to elect to contribute 2 per cent of the tax paid in relation to the taxable wages paid or payable by the employer during a financial year to the New South Wales Education and Training Foundation Fund to be established under proposed section 31A. Proposed section 17A will apply only to tax paid in relation to pay-roll tax liability for the period from 1 January 1989 to 30 June 1993.

Schedule 4 (7) inserts a new section 31A. The proposed section establishes a Pay-roll Tax Suspense Account, into which all tax paid to the Chief Commissioner under the Principal Act will be paid. The proposed section also establishes a New South Wales Education and Training Foundation Fund, into which will be transferred funds in the Suspense Account that are the subject of notices of election under the proposed section 17A. The residue of the funds in the Suspense Account will be payable to the Consolidated Fund.

Schedule 4 (8) substitutes Part 6. The new Part contains 2 Divisions.

Division 1 contains a new section 32. The proposed section replaces the existing sections 32–34 with provisions that correspond to the procedures contained in section 124 of the Stamp Duties Act 1920 for dealing with objections to assessments of pay-roll tax and the stating of cases to the Supreme Court.

Division 2 contains new sections 33, 34, 34A, 34B and 34C.

Proposed section 33 establishes a Board of Review consisting of the Chief Commissioner, the Auditor-General and the Secretary of the Treasury.

Proposed section 34 enables the Board of Review to waive payment of pay-roll tax if payment would expose a person or a person's dependants to serious hardship.

Proposed section 34A enables the Board of Review to defer payment of pay-roll tax in such circumstances, and for such periods, as it thinks fit.

Pay-roll Tax (Amendment) 1988

Proposed section 34b enables the Board of Review to write off uncollectable pay-roll tax. The writing off of pay-roll tax will not affect either the liability of the person concerned to pay the tax or the power of the Chief Commissioner to take further steps to recover the tax.

Proposed section 34c enables the Chief Commissioner to exercise the powers of the Board of Review to waive and defer tax in the case of amounts not exceeding \$1,000 in any particular case for any financial year.
