

PAY-ROLL TAX (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Stamp Duties (Further Amendment) Bill 1987.

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

- (a) to make the clients of employment agents liable for pay-roll tax on wages paid to workers who, by arrangement with the agents, perform services for those clients (Schedule 1);
- (b) to increase the amount of an employer's pay-roll below which the employer is exempt from pay-roll tax (Schedule 2);
- (c) to raise the upper limit of the band within which there are tapered deductions from taxable wages liable to pay-roll tax (Schedule 2);
- (d) to specify the method for calculating pay-roll tax payable from 1 July 1987 (Schedule 2);
- (e) to specify the method for calculating supplementary pay-roll tax payable from 1 July 1987, increasing the amount of an employer's pay-roll above which this tax is payable (Schedule 3); and
- (f) to provide for the use of forms approved by the Chief Commissioner of Pay-roll Tax for the purposes of the Principal Act rather than prescribed forms (Schedule 4).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the Act on 1 January 1988.

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

Clause 4 preserves the operation of the Principal Act as if it had not been amended by the proposed Act in respect of wages paid or payable prior to the date on which the amendments take effect.

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SCHEDULE 1—AMENDMENTS RELATING TO EMPLOYMENT AGENTS

The amendments in this Schedule make the client of an employment agent liable for pay-roll tax on wages paid to a worker whose services are provided to the client under an arrangement between the client and the agent. At present the agent is deemed to be the worker's employer and is liable for the tax.

Schedule 1 (1) (a) amends the definition of "employer" in section 3 (1) to remove the reference to an employment agent.

Schedule 1 (1) (b) amends the definition of "wages" in section 3 (1) to exclude remuneration paid by an employment agent to a person in connection with the performance of services by a person for a client of the agent.

Schedule 1 (1) (c) omits section 3 (4) which presently defines an employment agent for the purposes of paragraph (f) of the definition of "wages".

Schedule 1 (2) amends section 3A to provide that a person who supplies services under a relevant contract (such as an employment agent) will not be deemed to be an employer for the purposes of the Principal Act. The term "relevant contract" (as defined in section 3A) will still apply to a contract under which an employment agent arranges for services to be provided to a client, but the client will be the employer for the purposes of the Principal Act.

SCHEDULE 2—AMENDMENTS RELATING TO LIABILITY TO TAXATION,
REGISTRATION AND RETURNS

The amendments in this Schedule relate principally to liability for pay-roll tax and the amount of pay-roll tax payable from 1 July 1987.

Schedule 2 (1) amends section 9B to provide—

- (a) that the maximum deduction from taxable wages paid or payable after December 1987 to which an employer (not being a member of a group for the purposes of the Principal Act's grouping provisions) is entitled is \$33,334 for each one month return period (with a possible total deduction of \$400,000 in one year); and
- (b) that the deduction is to be tapered by reducing the maximum deduction of \$33,334 for each one month return period by \$4 for each \$10 by which the taxable wages in the one month return period exceed \$33,334.

Applying the tapering formula, the deduction will be reduced to zero when the taxable wages paid or payable are or exceed \$116,667 in a one month return period (or a total of \$1.4 million in one year). At present, section 9B provides a maximum deduction of \$25,000 for each one month return period after December 1987 (a possible total deduction of \$300,000 in a year), the deduction being reduced by \$3 for each \$2 by which the taxable wages in the one month return period exceed \$25,000, and tapering to zero when the taxable wages paid or payable in that period are or exceed \$41,667 (\$500,000 in one year).

Schedule 2 (2) amends section 11A to specify the method for calculating the prescribed amount for the purposes of the calculation of the amount of pay-roll tax payable by an employer (not being a member of a group for the purposes of the Principal Act's grouping provisions) from 1 July 1987. For the purposes of this calculation, the period from 1 July 1987 to 30 June 1988 is divided into 2 periods—the first commencing on 1 July 1987 and ending on 31 December 1987 and the second commencing on 1 January 1988 and ending on 30 June 1988.

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Schedule 2 (3) amends section 12 so that an employer who has not already registered under the Principal Act will only be required to do so if the employer pays or is liable to pay, or the members of a group of which the employer is a member together pay or are liable to pay, wholly or partly taxable wages of more than \$7,693 per week during a month. At present the figure is \$5,769.

Schedule 2 (4) amends section 16J to specify the method for calculating the prescribed amount for the purposes of the calculation of the amount of pay-roll tax payable by the members of a group of employers from 1 July 1987. As in section 11A (as amended by the proposed Act), the period from 1 July 1987 to 30 June 1988 is divided into 2 periods for the purposes of the calculation.

SCHEDULE 3—AMENDMENTS RELATING TO SUPPLEMENTARY PAY-ROLL TAX

The amendments in this Schedule relate principally to liability for supplementary pay-roll tax and the amount of supplementary pay-roll tax payable from 1 July 1987. All the amendments in this Schedule are to clauses in Schedule 1 to the Principal Act.

Schedule 3 (1) substitutes the present definition of “financial year” in clause 1. In Schedule 1 of the Principal Act, “financial year” will mean the financial year commencing on 1 July 1987 or any subsequent financial year commencing on 1 July.

Schedule 3 (2) amends clause 2 to provide that an employer or each member of a group of employers will only have to lodge a supplementary return—

- (a) within 7 days of the close of a month (other than June) if the wages paid or payable by the employer, or the total wages paid or payable by the members, during that month are or exceed \$116,667;
- (b) by 21 July 1988 if the wages paid or payable during the first half of the financial year commencing on 1 July 1987 are or exceed \$500,000;
- (c) by 21 July 1988 if the wages paid or payable during the second half of the financial year commencing on 1 July 1987 are or exceed \$700,000; and
- (d) within 21 days of the end of any financial year after 30 June 1988, if the wages paid or payable during the particular financial year are or exceed \$1,400,000.

At present the amount in respect of which a supplementary return must be lodged within 7 days of the close of a month is \$83,334 or more and the amount in respect of which a supplementary return must be lodged within 21 days of the close of a financial year is \$1,000,000 or more.

Schedule 3 (3) (a) amends clause 3 (1) to increase the prescribed amount (which constitutes the maximum deduction from supplementary pay-roll tax) from \$834 to \$1,167.

Schedule 3 (3) (b) amends clause 3 (2) to increase the amount of the monthly pay-roll of an employer (not being a member of a group for the purposes of the Principal Act's grouping provisions), below which supplementary pay-roll tax is not payable, from \$83,334 to \$116,667.

Schedule 3 (3) (c) and (d) amend clause 3 (3) and (4) to provide that the tapered deduction from supplementary pay-roll tax is to be calculated by reducing the maximum deduction of \$1,167 for each one month return period—

- (a) for the first half of the financial year commencing on 1 July 1987—by \$1 for each \$10 by which the taxable wages in that month exceed \$83,334; and

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- (b) for the second half of that financial year and for any subsequent financial year—by \$1 for each \$50 by which those wages exceed \$116,667.

At present the maximum deduction is reduced by \$1 for each \$10 by which the month's taxable wages exceed \$83,334, irrespective of the financial year.

Schedule 3 (4) amends clause 4 to specify the method for calculating the prescribed amount for the purposes of the calculation of the amount of supplementary pay-roll tax payable by an employer (not being a member of a group for the purposes of the Principal Act's grouping provisions) from 1 July 1987. As in sections 11A and 16J (as amended by the proposed Act), the period from 1 July 1987 to 30 June 1988 is divided into 2 periods for the purposes of the calculation.

Schedule 3 (5) amends clause 7 to provide—

- (a) that the members of a group of employers only have to lodge a supplementary return for a month if the total wages paid or payable by the group in that month are or exceed \$116,667 (compared with the present amount of \$83,334); and
- (b) that the maximum deduction which may be nominated for the month by the group is \$1,167 (compared with the present amount of \$834).

Schedule 3 (6) amends clause 8 to specify the method for calculating the prescribed amount for the purposes of the calculation of the amount of supplementary pay-roll tax payable by a group from 1 July 1987.

SCHEDULE 4—AMENDMENTS RELATING TO FORMS

This Schedule amends sections 9B, 12, 13, 15, 16I and 18 of, and Schedule 1 (2), (3) and (7) to, the Principal Act to enable the various forms required under the Principal Act to be in a form approved by the Chief Commissioner of Pay-roll Tax, rather than necessitating their prescription by regulation.
