

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

PAY-ROLL TAX (TERRITORIES) ASSESSMENT AMENDMENT BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,  
the Hon. John Howard, M.P.)

### General outline

This Bill will amend the Pay-roll Tax (Territories) Assessment Act 1971 to increase the level of exemption from pay-roll tax in the Australian Capital Territory from \$72,000 to \$80,400 per annum with effect from 1 January 1981.

### General exemption (Clause 3)

The amount that may be deducted by way of general exemption in monthly or other periodical returns is to be increased from \$6,000 per month to \$6,700 per month. As a general rule, the higher exemption is to first apply in this way in respect of the month during which the Bill receives the Royal Assent but end of the year adjustments will reflect the commencement date of 1 January 1981. The exemption will, as previously, be reduced by an amount of \$2 for every \$3 by which the amount of the pay-roll for the month or period exceeds the general exemption.

### Adjustment of liabilities on annual basis (Clause 4)

A refund or rebate is made of the whole of the pay-roll tax paid or payable by an employer over the course of a financial year if the total wages included in returns required to be furnished under the Commonwealth Act or corresponding State or Northern Territory laws does not exceed the relevant annual exemption.

A refund or rebate is also made if, over the course of a financial year, there has not been deducted in returns furnished by an employer under the Commonwealth Act or corresponding State or Northern Territory laws an amount equal to the annual exemption that would have been allowable if the total Australia-wide pay-roll was related to the Australian Capital Territory.

Additional tax is payable where there has been deducted in monthly or other periodical returns lodged for a financial year an amount in excess of the exemption entitlement calculated on an annual basis.

For the year commencing on 1 July 1980 any refund or rebate or any additional tax payable will be calculated by reference to an annual exemption of \$76,200 reduced by \$2 for every \$3 by which the Australia-wide pay-roll exceeds that amount. The exemption limit of \$76,200 represents \$36,000 (one-half of the present \$72,000) for the period 1 July 1980 to 31 December 1980 and \$40,200 (one-half of the proposed \$80,400) for the period 1 January 1981 to 30 June 1981. Where an employer is an employer for part only of the financial year any refund or rebate or additional tax will be calculated by reference to a proportion of the relevant amount.

Employers who lodge returns otherwise than on an annual basis (most lodge on a monthly basis) will not have received the benefit of the higher monthly exemption in returns covering months prior to the one during which the Bill receives the Royal Assent. The annual adjustment provisions will allow these employers to obtain the full benefit of the 1 January 1981 starting date for the higher annual exemption.

For the year commencing on 1 July 1981 and each subsequent year, any refund or rebate or any additional tax payable will be calculated by reference to an annual exemption of \$80,400 reduced by \$2 for every \$3 by which the Australia-wide pay-roll exceeds that amount, or a proportion of the amount of \$80,400 similarly reduced, where the employer was an employer in Australia for only part of the financial year.

Registration  
(Clause 5)

It will not be necessary for an employer to register as an employer for pay-roll tax purposes after the day on which the Bill comes into operation unless the employer's Australia-wide wage exceeds \$1,500 per week.

Notes on each clause of the Bill are set out hereunder.

Clause 1 : Short title, etc.

This clause formally provides for the short title of the amending Act to be the Pay-roll Tax (Territories) Assessment Amendment Act 1981, and for the Pay-roll Tax (Territories) Assessment Act 1971 to be referred to as the Principal Act.

Clause 2 : Commencement

Section 5(1A) of the Acts Interpretation Act 1901 provides that every Act shall come into operation on the 28th day after the day on which it receives the Royal Assent, unless the contrary intention appears in the Act. By this clause, the amending Act will come into operation, or be deemed to have come into operation, as the case requires, on the first day of the month in which it receives the Royal Assent.

Clause 3 : General exemption

Under the provisions of the Principal Act an employer who pays wages, either wholly in the Australian Capital Territory or partly in the Australian Capital Territory and partly in one or more States or the Northern Territory, at a rate in excess of \$1,350 per week is required to lodge a pay-roll tax return. For the purposes of determining the amount of the wages included in a return for a month or other period on which pay-roll tax is payable, sub-section 12(1) of the Principal Act authorises a deduction from those wages of an amount, determined by reference to a "prescribed amount".

In the case of an employer who pays wages only in the Australian Capital Territory, the amount of the monthly deduction entitlement is \$6,000. This "prescribed amount" is reduced by \$2 for every \$3 by which the wages included in the return exceed \$6,000.

Where an employer pays wages in the Australian Capital Territory and also in one or more States or the Northern Territory, no amount is allowable as a deduction unless a nomination has been served on the Commissioner of Taxation nominating an amount not exceeding \$6,000 as the amount the employer claims to be entitled to deduct for a month from wages related to the Australian Capital Territory.

Where a nomination is served on the Commissioner, the deduction is generally, by virtue of paragraph (3)(b) and succeeding provisions of section 12 of the Principal Act, an amount that bears to the maximum monthly entitlement (\$6,000 reduced by \$2 for every \$3 by which the Australia-wide wages exceed that amount) the same proportion as the wages paid by the employer in respect of the Australian Capital Territory bear to the employer's Australia-wide wages.

Sub-clause 3(1) proposes amendments of sub-sections 12(3), 12(4) and 12(7) of the Principal Act to increase the prescribed amount and the maximum amount that an employer may nominate from \$6,000 to \$6,700 per month to accord with the proposal to increase the annual exemption from \$72,000 to \$80,400.

By sub-clause 3(2) the amendments made by sub-clause (1) will apply, subject to sub-clause (3), to a return or assessment in respect of a month or period that commences on or after the first day of the month in which the amending Bill receives the Royal Assent, or which commences before that day but ends on or after that day. Where a return or assessment is in the latter category then, for the application of section 12 as amended, the return or assessment will be taken to relate to two periods, one period ending on the last day of the month prior to the month in which the Bill receives the Royal Assent, and the other period commencing on the following day.

Sub-clause 3(3) proposes that in respect of a return or assessment covering the whole of the financial year ending on 30 June 1981 the amendments made by sub-clause (1) apply as if the amending Act had come into operation on 1 January 1981.

Clause 4 : Refund or rebate of tax  
on annual adjustment

Adjustments of pay-roll tax liabilities on an annual basis are governed by provisions in section 14 of the Principal Act (as regards entitlements to refunds or rebates) and in section 15A (as regards liabilities to pay further tax). The extent of the adjustment in each case is determined by reference to the amount that is the "prescribed amount" in relation to the employer concerned.

The methods of ascertaining the prescribed amounts for a financial year are laid down -

- (a) for an employer who was an employer in Australia during the whole of the financial year concerned - in sub-section 14(4A); and
- (b) for an employer who was an employer in Australia during only a part of a financial year - in sub-section 14(4B).

The amendments to be effected by clause 4 will provide for the basis of operation of sub-sections 14(4A) and 14(4B) in ascertaining the prescribed amounts for 1980-81 and each subsequent year.

Sub-section 14(1A) of the Principal Act authorises the refund or rebate of all of the Australian Capital Territory pay-roll tax paid during a year where an employer's Australia-

wide wages do not exceed the prescribed amount (known as the "general exemption") applicable in the particular circumstances of the case.

Sub-section 14(2) covers the situation where the total deductions allowed in an employer's monthly, or other periodic, pay-roll tax returns lodged in a Territory or State are less than the prescribed amount, determined by reference to Australia-wide wages, applicable in the particular circumstances. Where that occurs and the employer makes the necessary application to the Commissioner, an appropriate refund or rebate of pay-roll tax is allowable.

The refund or rebate allowable for an employer who pays wages only in respect of the Australian Capital Territory is an amount equal to the tax on the amount by which the deductions allowed in Australian Capital Territory returns for the financial year fall short of the prescribed amount.

In the case of an employer who pays wages in the Australian Capital Territory and also in one or more States, the refund or rebate allowable is an amount equal to the tax on the lesser of the amount by which the deductions allowed on an Australia-wide basis for the financial year fall short of the prescribed amount and the amount by which deductions allowed in Australian Capital Territory returns fall short of the amount of "calculated deductions". The amount of "calculated deductions" is ascertained, in accordance with sub-section 14(5) by applying to the prescribed amount the fraction that the amount of the Australian Capital Territory wages bears to the employer's Australia-wide wages.

A refund or rebate under sub-section 14(1A) or 14(2) may be made only on the application of the employer in accordance with sub-section 14(3), which requires that the application be made in the financial year following that in respect of which the refund or rebate is claimed.

Clause 4 will amend sub-section 14(4A) of the Principal Act - which applies to employers who are employers in Australia during the whole of the relevant financial year - to increase, with effect from 1 January 1981, the level of the annual general exemption from the existing level of \$72,000 (reduced by \$2 for every \$3 by which the Australia-wide pay-roll exceeds that amount) to \$80,400, similarly reduced. For the financial year 1980-81 an exemption level of \$76,200 is proposed representing \$36,000 (one-half of the present \$72,000) for the period 1 July 1980 to 31 December 1980 and \$40,200 (one-half of the proposed \$80,400) for the period 1 January 1981 to 30 June 1981.

Clause 4 will also amend sub-section (4B) - which applies to employers who are employers in Australia during only part of the relevant financial year - to allow their

proportionate entitlement to be determined by reference to the higher general exemption.

Paragraph (a) of clause 4 is a drafting measure consequential on the inclusion of an additional paragraph in sub-section 14(4A).

Paragraph (b) will substitute a new paragraph for the existing paragraph 14(4A)(e) of the Principal Act. New paragraph (e) will authorise, for an employer who is an employer in Australia for the whole of the 1980-81 financial year, an exemption level of \$76,200 - expressed as the aggregate of \$36,000 and \$40,200 to secure proper inter-action with the proposed new paragraph (e) of sub-section 14(4B) - reducing by \$2 for each \$3 by which the employer's Australia-wide wages for that year exceed \$76,200. Paragraph (b) will also insert a new paragraph (f) in sub-section 14(4A). New paragraph 14(4A)(f) will apply for the 1981-82 financial year and each subsequent financial year to an employer who is an employer in Australia for the whole of the particular financial year. It specifies that for 1981-82 and subsequent financial years the prescribed amount for such employers (i.e., the amount of the general exemption calculated by reference to the employer's Australia-wide wages) is to be the amount of \$80,400 reduced by \$2 for every \$3 by which the employer's Australia-wide wages for the relevant financial year exceed \$80,400.

Paragraph (c) of clause 4 is another drafting measure consequential on the inclusion of an additional paragraph in sub-section 14(4B).

Paragraph (d) will substitute a new paragraph (e) for the existing paragraph (e) of sub-section 14(4B) of the Principal Act. The effect will be that an employer who is an employer in Australia for only part of the 1980-81 financial year, will be entitled to have his or her prescribed amount for pay-roll tax purposes calculated pro-rata as a proportion of the relevant amounts of \$36,000 (for the period 1 July 1980 to 31 December 1980) and \$40,200 (for the period 1 January 1981 to 30 June 1981) on a time basis. Paragraph (d) of clause 4 will also insert a new paragraph (f) into sub-section 14(4B) for cases where an employer is an employer in Australia for only part of the 1981-82 financial year or a subsequent financial year. In those circumstances the prescribed amount will be ascertained by scaling down the amount of \$80,400 referred to in paragraph 14(4A)(f) on a time basis by reference to the actual period during which the employer was an employer in Australia during the relevant financial year, and reducing the resultant amount by \$2 for every \$3 by which the Australia-wide wages exceed the resultant amount.

The effects of the amendments to section 14 will be reflected in the operation of section 15A of the Principal Act.

That section applies to employers who furnish returns otherwise than on an annual basis and provides for the payment of further tax on the basis of an adjustment at the end of a financial year where there has been deducted in monthly or other periodical returns, lodged by an employer in the Australian Capital Territory, an amount in excess of the exemption entitlement calculated on an annual basis. In the case of an employer who pays wages only in respect of the Australian Capital Territory the exemption entitlement is the prescribed amount applicable as determined under section 14. In the case of an employer who pays wages in the Australian Capital Territory and also in one or more States, the exemption entitlement is the amount of calculated deductions applicable in the employer's circumstances, also as determined under section 14.

#### Clause 5 : Registration

Clause 5 will amend section 16 of the Principal Act which requires an employer to register as an employer for Territory pay-roll tax purposes where wages are paid during a month, either wholly or partly in the Australian Capital Territory, at a rate in excess of \$1,350 per week on an Australia-wide basis. In line with the proposal to increase the general exemption level to \$80,400, by clause 5 there will be no liability to register as an employer for pay-roll tax purposes on or after the day on which the Bill comes into operation unless the Australia-wide wages payable by the employer exceed \$1,500 per week.