

PAY-ROLL TAX (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 87, 1975.

An Act to amend the Pay-roll Tax Act, 1971, so as to provide for tapered deductions from taxable wages liable to pay-roll tax instead of the present exemption; and to specify the circumstances in which certain persons constitute a group for the purposes of that Act and to authorise only one member of a group to make a tapered deduction, calculated by reference to wages paid by all members of the group, from the taxable wages paid or payable by him. [Assented to, 10th December, 1975.]

BE

Pay-roll Tax (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 87, 1975
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows:—

1. This Act may be cited as the "Pay-roll Tax Short title.
(Amendment) Act, 1975".

2. (1) This section and section 1 shall commence on the Commence-
ment.
date of assent to this Act.

(2) Section 3, in its application to each item of
Schedule 1, except item (3) (a), and section 4 shall com-
mence on 1st January, 1976.

(3) Section 3, in its application to Schedule 1 (3)
(a), shall be deemed to have commenced on 1st September,
1971.

3. The Pay-roll Tax Act, 1971, is amended in the manner Amendment
of Act No.
22, 1971.
set forth in Schedule 1.

4. The power conferred on the Commissioner by section Transitional
provision.
12 (2) of the Pay-roll Tax Act, 1971, as substituted by
section 3 and Schedule 1 (7) (c), extends to authorising the
Commissioner to cancel the registration of a person as an
employer where that person was not, immediately before 1st
January, 1976, an employer paying wages as referred to in
section 12 (1) of that Act, as amended by section 3 and
Schedule 1 (7) (a).

SCHEDULE

Pay-roll Tax (Amendment).

No. 87, 1975

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO PAY-ROLL TAX ACT, 1971.

(1) Section 2—

After the matter relating to Part IV, insert :—

PART IVA.—GROUPING PROVISIONS—ss. 16A–16L.

(2) (a) Section 3 (1), definition of “corporation”—

After the definition of “company”, insert :—

“corporation” has the meaning ascribed to that expression by section 5 (1) of the Companies Act, 1961 ;

(b) Section 3 (1), definition of “designated group employer”—

After the definition of “council”, insert :—

“designated group employer”, in relation to a group, means the member of that group who, under section 16i, is for the time being the designated group employer in respect of that group;

(c) Section 3 (1), definitions of “financial year”, “foreign wages”, “group” and “interstate wages”—

Omit the definition of “financial year”, insert instead :—

“financial year” means each year commencing on 1st July;

“foreign

Pay-roll Tax (Amendment).

“foreign wages” means wages that are not No. 87, 1975
taxable wages and are not interstate
wages;

“group” means a group constituted under
Part IVA;

“interstate wages” means wages that are tax-
able wages within the meaning of a
corresponding law;

(d) Section 3 (1), definition of “return period”—

After the definition of “regulations”, insert :—

“return period”, in relation to an employer,
means the period relating to which that
employer is required to furnish a return
under this Act;

(e) Section 3 (1), definition of “voting share”—

After the definition of “trustee”, insert :—

“voting share” has the meaning ascribed to that
expression by section 5 (1) of the Com-
panies Act, 1961;

(f) Section 3 (1), definition of “wages”—

Omit from paragraphs (a), (b), (c) and (d)
“payment made” wherever occurring, insert
instead “amount paid or payable”.

Pay-roll Tax (Amendment).

No. 87, 1975 (3) (a) Section 9 (7)—

Omit “the return relating to the month or period in which the determination is made and to any subsequent month or period”, insert instead “any return specified in the determination whether relating to a month or period that is before or after or partly before and partly after the making of the determination”.

(b) Section 9 (10)—

After section 9 (9), insert :—

(10) This section does not apply so as to authorise a deduction to be made in accordance with this section in respect of any return period that commences after the month of December, 1975.

(4) Section 9A—

After section 9, insert :—

9A. (1) In this section—

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

“prescribed amount”—

(a) in relation to a return for a return period of one month, means \$3,466; and

(b)

Deduction
from tax-
able wages
after 1st
January,
1976.

Pay-roll Tax (Amendment).

(b) in relation to a return for a return No. 87, 1975 period of two or more months, means the product ascertained by multiplying \$3,466 by the number of months in that return period;

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

(2) This section applies only so as to authorise a deduction to be made for a return period that is after the month of December, 1975, from the taxable wages included in a return or assessment relating to that return period.

(3) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay taxable wages for the whole of a return period, but does not pay and is not liable to pay interstate wages during that return period, there shall be deducted, for that 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 that return period) the prescribed amount, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the prescribed amount.

(4) For the purpose of ascertaining the pay-roll tax payable by an employer who pays or is liable to pay wages during a return period and pays or is liable to pay taxable wages for part only of that return period, but does not pay and

is

Pay-roll Tax (Amendment).

No. 87, 1975

is not liable to pay interstate wages during that return period, there shall be deducted, for that 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 that return period) the amount that bears to the prescribed amount the same proportion as the number of days in that part of that return period bears to the total number of days in that return period, reduced by \$2 for each \$3 (disregarding any remainder) by which the amount of those taxable wages (in whole dollars) exceeds the same proportion of the prescribed amount.

(5) An employer who during any return period pays or is liable to pay taxable wages and interstate wages may, by notice in writing in the prescribed form containing the prescribed particulars, served on the Commissioner, nominate an amount, calculated in the prescribed manner, not exceeding the prescribed amount, as the deduction that he 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), there shall, subject to subsection (7), be deducted, for a return period (being the return period ending last before the day on which he served that notice on the Commissioner or any subsequent 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) the amount nominated in that notice.

(7)

Pay-roll Tax (Amendment).

(7) The Commissioner may, on an application made to him in writing by an employer who pays or is liable to pay taxable wages and interstate wages during any return period or of his own motion in relation to such an employer, 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, but not before 1st January, 1976, 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 there shall 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), the amount so specified. No. 87, 1975

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

(9) The Commissioner shall, as soon as practicable after making a determination under subsection (7) or a revocation under subsection (8), serve notice of the determination or revocation on the employer concerned.

(5)

Pay-roll Tax (Amendment).

No. 87, 1975 (5) (a) Section 11 (4)—

Omit the subsection, insert instead :—

(4) For the purposes of subsections (1) and (2), the amount prescribed in respect of the financial year—

(a) ending on 30th June, 1975, is \$20,800; and

(b) ending on 31st December, 1975, is \$10,400.

(b) Section 11 (8)—

After section 11 (7), insert :—

(8) In this section, except subsection (3), “financial year” includes the period commencing on 1st July, 1975, and ending on 31st December, 1975, but does not include the period commencing on 1st July, 1975, and ending on 30th June, 1976, or the financial year commencing on 1st July, 1976, or a financial year commencing on any subsequent 1st July.

(6) Sections 11A, 11B, 11C—

After section 11, insert :—

11A. (1) In this section and sections 11B and 11C—

“financial year” includes the period commencing on 1st January, 1976, and ending on 30th June, 1976;

“interstate

**Interpre-
tation
for purposes
of this
section and
sections 11B
and 11C.**

Pay-roll Tax (Amendment).

“interstate wages” does not include interstate wages paid or payable by a member of a group; No. 87, 1975

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

(2) Subject to subsection (3), a reference in sections 11B and 11C to the prescribed amount is, in relation to an employer—

- (a) who pays or is liable to pay taxable wages for the whole of a financial year but not any interstate wages during that financial year—a reference to the amount of \$41,600, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by that employer during that financial year exceeds \$41,600;
- (b) who during a financial year pays or is liable to pay wages (disregarding foreign wages), those wages being taxable wages that are paid or payable for part only of that financial year, but who does not pay and is not liable to pay any interstate wages during that financial year—a reference to the amount that bears to \$41,600 the same proportion as that part bears to that financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by that employer during that part exceeds the amount firstmentioned in this paragraph;

(c)

*Pay-roll Tax (Amendment).*No. 87, 1975

(c) who pays or is liable to pay wages (disregarding foreign wages) for the whole of a financial year at some time during which taxable wages are paid or payable and at some time during which interstate wages are paid or payable—a reference to the amount that bears to another amount (that other amount being \$41,600, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

(i) the taxable wages paid or payable by that employer during that financial year; and

(ii) the interstate wages paid or payable by that employer during that financial year,

exceeds \$41,600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by that employer during that financial year bears to the sum of the total (in whole dollars) of—

(iii) the taxable wages paid or payable by that employer during that financial year; and

(iv) the interstate wages paid or payable by that employer during that financial year; and

(d) who during a financial year pays or is liable to pay wages (disregarding foreign wages) otherwise than for the whole of that financial year, some of those firstmentioned wages being taxable wages and some being interstate wages—a reference to the amount

that

Pay-roll Tax (Amendment).

that bears to another amount (that other amount being an amount that bears to \$41,600 the same proportion as the part (excluding any period during which he paid or was liable to pay foreign wages only) of that year for which he pays or is liable to pay wages bears to that financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

- (i) the taxable wages paid or payable by that employer during that part; and
- (ii) the interstate wages paid or payable by that employer during that part,

exceeds that proportionate amount of \$41,600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by that employer during that part bears to the sum of the total (in whole dollars) of—

- (iii) the taxable wages paid or payable by that employer during that part; and
- (iv) the interstate wages paid or payable by that employer during that part.

(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 his trade or business, the taxable wages and interstate

wages,

Pay-roll Tax (Amendment).

No. 87, 1975

wages, if any, paid or payable by him fluctuate with different periods of the financial year, the Commissioner may treat him—

- (a) if he 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 he 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.

(4) In respect of the financial year ending on 30th June, 1976, subsection (2) shall be construed as if the references therein to \$41,600 were references to \$20,800.

Annual
adjust-
ments.

11B. (1) In this section, “annual 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 7 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 commencing on or after 1st January, 1976—

- (a) the Commissioner shall, on an application made by that employer in accordance with subsection (3), where the amount of pay-roll tax paid or payable by that employer

when

Pay-roll Tax (Amendment).

when he made 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 or rebate to that employer an amount equal to the difference, reduced by any amount refunded to him under section 19; or

- (b) that employer shall, where the amount of pay-roll tax paid or payable by that employer when he made 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 he is required to furnish a return under this Act in respect of the return period that is or includes the month of June in that financial year, an amount equal to the difference.

(3) An application under subsection (2) shall, notwithstanding section 19, be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

11c. (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;

Adjustment of pay-roll tax when employer ceases to be an employer, etc., during a financial year.

“total

Pay-roll Tax (Amendments).

No. 87, 1975

“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 7 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 he shall, where the amount of pay-roll tax paid or payable by him when he made 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 he is required to furnish 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 11B applies to and in respect of him as if the reference in section 11B (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).

(7)

Pay-roll Tax (Amendment).

(7) (a) Section 12 (1)—

No. 87, 1975

Omit "four hundred dollars", insert instead "\$800".

(b) Section 12 (1)—

After "taxable wages", insert "or who, being a member of a group, during a month pays or is liable to pay any taxable wages".

(c) Section 12 (2), (2A)—

Omit section 12 (2), insert instead :—

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

(a) that person, not being a member of a group, has ceased to be an employer paying wages as referred to in subsection (1); or

(b) that 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).

(2A) 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, notwithstanding that during any month

he

Pay-roll Tax (Amendment).

No. 87, 1975

he pays or is liable to pay wages at a rate not in excess of \$800 per week, apply to the Commissioner, in the prescribed form and manner, for registration as an employer and thereupon the Commissioner shall register him as an employer under this Act.

(8) (a) Section 14 (1A)—

After section 14 (1), insert :—

(1A) In subsection (1), “financial year” includes the period commencing on 1st July, 1975, and ending on 31st December, 1975, and the period commencing on 1st January, 1976, and ending on 30th June, 1976, but does not include the period commencing on 1st July, 1975, and ending on 30th June, 1976.

(b) Section 14 (2A)—

After section 14 (2), insert :—

(2A) The Commissioner may, at any time, by notice in writing, revoke any certificate issued under subsection (1).

(9) Section 15—

Omit “In addition to any return required to be furnished by this Act, the”, insert instead “The”.

(10)

Pay-roll Tax (Amendment).

(10) Part IVA—

No. 87, 1975

After Part IV, insert :—

PART IVA.

GROUPING PROVISIONS.

16A. In this Part, "business" includes—

Interpreta-
tion.

- (a) a trade or profession;
- (b) any other activity carried on for fee, gain or reward; and
- (c) the activity, carried on by an employer, of employing one or more persons where that person performs or those persons perform duties for or in connection with another business.

16B. For the purposes of this Act, two corporations constitute a group if they are, by reason of section 6 (5) of the Companies Act, 1961, to be deemed, for the purposes of that Act, to be related to each other.

Grouping
of cor-
porations.

16c. For the purposes of this Act, where—

Grouping
where
employees
used in
another
business.

- (a) an employee of an employer, or two or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or

(b)

Pay-roll Tax (Amendment).

No. 87, 1975

- (b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or those other persons, whether alone or together with another person or other persons,

that employer and—

- (c) each such other person; or

- (d) both or all of those other persons,

constitute a group.

Grouping
of com-
monly con-
trolled
busi-
nesses.

16D. (1) A reference in this section to two businesses does not include a reference to two businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.

(2) For the purposes of this Act, where the same person has, or the same persons have together, a controlling interest under subsection (3) in each of two businesses, the persons who carry on those businesses constitute a group.

(3)

(3)

Pay-roll Tax (Amendment).

(3) For the purposes of subsection (2), the same person has, or the same persons have together, a controlling interest in each of two businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business :—

- (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together ;
- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, 50 per centum or more of the voting power attached to voting shares issued by the corporation ;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
- (i) owns, or own together, (whether or not beneficially) 50 per centum or more of the capital of the partnership ; or
 - (ii) is, or are together, entitled (whether or not beneficially) to 50 per centum or more of any profits of the partnership ;

(d)

(d)

*Pay-roll Tax (Amendment).*No. 87, 1975

- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is the beneficiary, or those persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of 50 per centum or more of the value of the interests in the trust firstmentioned in this paragraph;
- (e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business or persons, being two or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

(4) Where a corporation has a controlling interest under subsection (3) in a business, it shall, for the purposes of subsection (3), be deemed to have a controlling interest in **any other business in which another corporation that is, by reason of section 6 (5) of the Companies Act, 1961, to be deemed, for the purposes of that Act, to be related to it has a controlling interest.**

(5) Where—

- (a) a person has, or persons have together, a controlling interest under subsection (3) in a business; and
- (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) shall, for the purposes of subsection (3), be deemed to have a controlling interest in the business referred to in paragraph (b).

(6)

Pay-roll Tax (Amendment).

(6) Where—

No. 87, 1975

- (a) a person is a beneficiary under a trust; or
- (b) two or more persons together are beneficiaries under a trust,

in respect of 50 per centum or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of subsection (3), be deemed to have a controlling interest in that business.

16E. (1) Notwithstanding any other provision of this Part (except subsection (2)), 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.

Smaller groups subsumed into larger groups.

(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).

16F. 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.

Grouping provisions to operate independently.

16G.

Pay-roll Tax (Amendment).

No. 87, 1975 16G. A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust shall be deemed, for the purposes of this Part, to be a beneficiary in respect of 50 per centum or more of the value of the interests in that trust.

Beneficiaries under discretionary trusts.

Exclusion of persons from groups. 16H. (1) Where the Commissioner is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that he considers relevant, that a business carried on by a member of a group is carried on substantially independently of, and is not substantially connected with the carrying on of, a business carried on by any other member of that group, the Commissioner may, by order in writing served on that first-mentioned member, exclude him from that group.

(2) The Commissioner shall not, under subsection (1), make an order so as to exclude a person from a group on and from a date if that person is or was on that date a corporation which, by reason of section 6 (5) of the Companies Act, 1961, is to be deemed, for the purposes of that Act, to be related to another corporation which is a member of that group.

(3) Notwithstanding any other provision of this Part, an order under subsection (1) shall have effect according to its tenor on and from the date specified in the order (being a date that is the date of the order or before the date of the order) as the date on and from which the person referred to in the order is or shall be deemed to have been excluded from the group so referred to.

Pay-roll Tax (Amendment).

16I. (1) The members of a group may, by an instrument ^{No. 87, 1975} in writing in the prescribed form containing the prescribed particulars, executed by or on behalf of each member of the group and served on the Commissioner, designate one of its members 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 9A (1), as the deduction to be made for any return period in relation to which that designated group employer is required to furnish 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 him during which—

- (a) the composition of the group alters; or
- (b) the members of the group, by an instrument in writing in the prescribed form containing the prescribed particulars, 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, there shall, subject to subsection (4), be deducted, for a return period (being the return period commencing last before the day on which the instrument under subsection (1) designating him as the designated group employer in respect of the group is served on the Commissioner or any subsequent 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) the amount nominated in that instrument.

(4)

Pay-roll Tax (Amendment).

No. 87, 1975

(4) The Commissioner may, on an application made to him in writing executed by or on behalf of each person known to the Commissioner to be a member of a group or of his own motion in relation to a group, at any time, make a determination specifying an amount, not exceeding the prescribed amount as defined in section 9A (1), that may be deducted for any return period specified or referred to in the determination (being a return period commencing before, but not before 1st January, 1976, 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, an employer specified in the determination who was, during any such return period, a member of that group and there shall 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) the amount so specified.

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

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

(7)

Pay-roll Tax (Amendment).

(7) The Commissioner shall, as soon as practicable No. 87, 1975 after making a determination under subsection (4) or a revocation under subsection (5), serve notice of the determination or revocation on the designated group employer in respect of the group concerned.

16J. (1) In this section and sections 16K and 16L, "financial year" includes the period commencing on 1st January, 1976, and ending on 30th June, 1976.

(2) Subject to subsection (3), a reference in sections 16K and 16L to the prescribed amount is, in relation to a designated group employer—

- (a) who during the whole of a financial year is the designated group employer in respect of a group at least one of the members of which pays or is liable to pay taxable wages for the whole of that financial year and none of the members of which pays or is liable to pay, as a member of that group, any interstate wages during that financial year—a reference to the amount of \$41,600, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by the employers in that group during that financial year exceeds \$41,600;
- (b) who during part only of a financial year is the designated group employer in respect of a group at least one of the members of which pays or is liable to pay taxable wages for the whole of that part and none of the members of which pays or is liable to pay, as a member of that group, any interstate wages during that financial year—a reference to the amount that bears to \$41,600 the same proportion as that part of that financial year

bears

Pay-roll Tax (Amendment).

No. 87, 1975

bears to that financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the total (in whole dollars) of the taxable wages paid or payable by the employers in that group during that part exceeds the amount firstmentioned in this paragraph;

(c) where—

- (i) during the whole of a financial year that designated group employer is the designated group employer in respect of a group;
- (ii) at least one member of that group pays or is liable to pay taxable wages or interstate wages for the whole of that year; and
- (iii) at some time during that year taxable wages are paid or payable by a member of that group and at some time during that year interstate wages are paid or payable by a member of that group, whether or not those times are wholly or partly concurrent and whether or not those members are the same member,

a reference to the amount that bears to another amount (that other amount being \$41,600, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

- (iv) the taxable wages paid or payable by the employers in that group during that financial year; and

(v)

Pay-roll Tax (Amendment).

- (v) the interstate wages paid or payable by the employers in that group during that financial year, No. 87, 1975

exceeds \$41,600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by the employers in that group during that financial year bears to the sum of the total (in whole dollars) of—

- (vi) the taxable wages paid or payable by the employers in that group during that financial year; and
- (vii) the interstate wages paid or payable by the employers in that group during that financial year; and

(d) where—

- (i) during part only of a financial year that designated group employer is the designated group employer in respect of a group;
- (ii) at least one member of that group pays or is liable to pay taxable wages or interstate wages for the whole of that part; and
- (iii) at some time during that part taxable wages are paid or payable by a member of that group and at some time during that part interstate wages are paid or payable by a member of that group, whether or not those times are wholly or partly concurrent and whether or not those members are the same member,

*Pay-roll Tax (Amendment).***No. 87, 1975**

a reference to the amount that bears to another amount (that other amount being the amount that bears to \$41,600 the same proportion as that part bears to that financial year, reduced by \$2 for each \$3 (disregarding any remainder) by which the sum of the total (in whole dollars) of—

(iv) the taxable wages paid or payable by the employers in that group during that part; and

(v) the interstate wages paid or payable by the employers in that group during that part,

exceeds that proportionate amount of \$41,600) the same proportion as the total (in whole dollars) of the taxable wages paid or payable by the employers in that group during that part bears to the sum of the total (in whole dollars) of—

(vi) the taxable wages paid or payable by the employers in that group during that part; and

(vii) the interstate wages paid or payable during that part by the employers in that group.

(3) In respect of the financial year ending on 30th June, 1976, subsection (2) shall be construed as if the references therein to \$41,600 were references to \$20,800.

Annual adjustments. 16K. (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 the whole of a financial year.

Pay-roll Tax (Amendment).

(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 7 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 had he paid all of the taxable wages referred to in paragraph (a) paid or payable during that year.

(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)

Pay-roll Tax (Amendment).

No. 87, 1975

(4) Where the actual amount of pay-roll tax paid or payable in respect of a financial year commencing on or after 1st January, 1976, 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 shall, on an application made in accordance with subsection (7) by the person who is the designated group employer in respect of that group on 30th June in that financial year, refund or rebate to that employer an amount equal to the difference, reduced by the total of any amounts refunded to any member of that group under section 19 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 commencing on or after 1st January, 1976, 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 30th June in that financial year shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish a return under this Act in respect of the return period that is or includes the month of June 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 that he is required to pay 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) shall, notwithstanding section 19, be made within the financial year next following the financial year in respect of which the refund or rebate is applied for.

Pay-roll Tax (Amendment).

16L. (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.

No. 87, 1975

Adjustment
of pay-roll
tax when
members of
a group
cease to
pay taxable
wages or
interstate
wages
during a
financial
year.

(2) In this section, "prescribed period", in relation to a group, means part only (being a continuous part) of a financial year for which at least one member of the group paid or was liable to pay 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 7 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

Pay-roll Tax (Amendment).

No. 87, 1975

would have been applicable to that designated group employer had he paid all of the wages referred to in paragraph (a) paid or payable during that prescribed period.

(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 shall pay to the Commissioner as pay-roll tax, within the period during which he is required to furnish 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 16K (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;
- (b) the reference in section 16K (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 group 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

Pay-roll Tax (Amendment).

a member who was paying or was liable to pay, No. 87, 1975
as such a member, taxable wages or interstate
wages was the designated group employer in respect
of that group on 30th June in that financial year.

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

(11) (a) Section 18 (1) (a)—

After "taxable wages", insert "or, where relevant, interstate wages".

(b) Section 18 (1) (b)—

Omit "thereon", insert instead "by the employer".

(c) Section 18 (3)—

Omit "section nine of".

(d) Section 18 (4)—

Omit "under subsection six of section nine of this Act in respect of a month or period ending before the determination is made", insert instead "in respect of a return period ending before the determination is made as to the deduction that may be made from the taxable wages included or required to be included in returns made or required to be made under this Act".

(12)

Pay-roll Tax (Amendment).

No. 87, 1975 (12) Section 25 (7) (a)—

After "Act", insert "or his liability, as a trustee,
under Part IVA".

(13) Section 36 (1) (b)—

Omit "section nine of".

(14) (a) Section 41 (1)—

After "public officer" where firstly occurring,
insert "(being a natural person whose
principal place of residence is in New
South Wales)".

(b) Section 41 (1)—

After "filled", insert "by such a person".

(15) Section 42 (2)—

At the end of section 42, insert :—

(2) Nothing in subsection (1) affects the
operation of Part IVA in relation to trustees.

(16) Section 51 (1) (c)—

After "financial year", insert ", whether or not a
person was a member of a group at any time
or during any period".