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ELIZABETHAE II REGINAE

A.D. 1990

No. 45 of 1990

An Act to amend the Pay-roll Tax Act, 1971.

[Assented to 25 October 1990]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Pay-roll Tax Act Amendment Act, 1990*.
- (2) The *Pay-roll Tax Act, 1971*, is referred to in this Act as “the principal Act”.

Commencement

2. This Act will be taken to have come into operation on 1 October, 1990.

Interpretation

3. Section 3 of the principal Act is amended—

- (a) by inserting in subsection (1) after the definition of “foreign wages” the following definition:

“fringe benefit” has the same meaning as in the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth, but does not include—

- (a) a tax-exempt body entertainment fringe benefit within the meaning of that Act;

or

- (b) anything that is prescribed by the regulations not to be a fringe benefit for the purposes of this definition;

- (b) by inserting in subsection (1) after the definition of “liquidator” the following definition:

“pay”, in relation to any form of wages, includes provide, confer or assign;

- (c) by striking out paragraph (e) of the definition of “wages” in subsection (1) and substituting the following paragraph:

- (e) any fringe benefit.;

and

(d) by striking out subsections (1a), (1b) and (2) and substituting the following subsections:

(1a) An allowance of the kind prescribed by the regulations which is paid or payable to an employee is to be regarded as an allowance for the purposes of the definition of wages only to the extent to which it exceeds—

(a) the prescribed amount;

(b) an amount calculated at the prescribed rate;

or

(c) an amount calculated in the prescribed manner, that is applicable to the particular case.

(1b) Wages do not include anything that is prescribed by the regulations not to be wages for the purposes of this Act.

(1c) For the purposes of this Act, the value of taxable wages, comprising a fringe benefit, is the value that would be the taxable value of the benefit as a fringe benefit for the purposes of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth.

Imposition of pay-roll tax on taxable wages

4. Section 9 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Subject to, and in accordance with, the provisions of this Act, pay-roll tax is imposed and chargeable on all taxable wages at the rate of—

(a) in relation to wages paid or payable before 1 October, 1990—5 per cent of those wages;

(b) in relation to wages paid or payable on or after 1 October, 1990—6.25 per cent of those wages.

Deduction from taxable wages

5. Section 11a of the principal Act is amended—

(a) by striking out paragraph (a) of the definition of “prescribed amount” and substituting the following paragraph:

(a) where the return period is a period of one month—

(i) ending before 1 January, 1991, means \$33 333;

(ii) commencing on or after 1 January, 1991, and ending before 1 July, 1991, means \$34 500;

(iii) commencing on or after 1 July, 1991, means \$36 000;;

and

(b) by striking out subsection (3) and substituting the following subsection:

(3) For the purpose of ascertaining the pay-roll tax payable in respect of a return period commencing on or after 1 October, 1990, by an employer who does not pay and is not liable to pay interstate wages during that return period, a deduction is made from the amount of the taxable wages included in a return made by, or an assessment relating to, that employer as follows:

(a) where the employer pays or is liable to pay taxable wages for the whole of the return period—the deduction is the prescribed amount;

- (b) where the employer pays or is liable to pay taxable wages for part only of the return period—the deduction is an amount that bears to the prescribed amount the same proportion as the number of days in that part of the return period bears to the number of days in the whole of the return period.

Meaning of prescribed amount

6. Section 13a of the principal Act is amended—

- (a) by inserting in subsection (1) the following definition:

“financial year” means—

- (a) the period commencing on 1 July, 1990, and ending on 30 September, 1990;
- (b) the period commencing on 1 October, 1990, and ending on 30 June, 1991;
- and
- (c) any financial year commencing on or after 1 July, 1991;;

and

- (b) by striking out subsection (2) and substituting the following subsection:

(2) A reference in section 13b or 13c to the prescribed amount—

- (a) in relation to the financial year commencing on 1 July, 1990, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[\frac{CS}{92} - \frac{1}{4} \left((TW + IW) - \frac{CS}{92} \right) \right]$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

C is \$100 000

S is the number of days in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages);

- (b) in relation to the financial year commencing on 1 October, 1990, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left(\frac{CU}{92} + \frac{DV}{181} \right)$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

C is \$100 000

U is the number of days in the period commencing on 1 October, 1990, and ending on 31 December, 1990, in respect of which the employer paid or was liable to pay wages (disregarding foreign wages)

D is \$207 000

V is the number of days in the period commencing on 1 January, 1991, and ending on 30 June, 1991, in respect of which the employer paid or was liable to pay wages (disregarding foreign wages);

and

(c) in relation to a financial year commencing on or after 1 July, 1991, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left(\frac{AX}{184} + \frac{AY}{Z} \right)$$

where—

TW is the amount of taxable wages paid or payable by the employer during the financial year

IW is the amount of interstate wages paid or payable by the employer during the financial year

A is \$216 000

X is the number of days in the period commencing on the first day of July in the financial year and ending on the thirty-first day of December in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages)

Y is the number of days in the period commencing on the first day of January in the financial year and ending on the thirtieth day of June in the financial year in respect of which the employer paid or was liable to pay wages (disregarding foreign wages)

Z is the number of days in the period commencing on the first day of January in the financial year and ending on the thirtieth day of June in the financial year.

Annual adjustments

7. Section 13b of the principal Act is amended by striking out from paragraph (b) of subsection (2) “that is or includes the month of June” and substituting “that is the last return period to be included”.

Registration

8. Section 14 of the principal Act is amended by striking out from subsection (4) “\$6 900” and substituting “\$7 500”.

Returns

9. Section 15 of the principal Act is amended by inserting after subsection (3) the following subsections:

(4) Where an employer considers that it is not reasonably practicable to calculate the value of any fringe benefits for the purposes of a return under this section, the employer may request the Commissioner to agree to accept a return in which that value is an estimate of the value of those fringe benefits.

(5) A request under subsection (4) may be granted by the Commissioner on such conditions as the Commissioner thinks fit.

(6) The Commissioner may, at any time, by notice in writing—

(a) revoke an agreement under subsection (4);

(b) vary or revoke a condition under subsection (5).

Substitution of s. 18k

10. Section 18k of the principal Act is repealed and the following section is substituted:

Interpretation

18k. (1) In this section and sections 18l and 18m—

“financial year” means—

(a) the period commencing on 1 July, 1990, and ending on 30 September, 1990;

(b) the period commencing on 1 October, 1990, and ending on 30 June, 1991;

and

(c) any financial year commencing on or after 1 July, 1991.

(2) A reference in section 18l or 18m to the prescribed amount—

(a) in relation to the financial year commencing on 1 July, 1990, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left[\frac{CS}{92} - \frac{1}{4} \left((TW + IW) - \frac{CS}{92} \right) \right]$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by the members of the group during the period referred to above

C is \$100 000

S is the number of days in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages);

(b) in relation to the financial year commencing on 1 October, 1990, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left(\frac{CU}{92} + \frac{DV}{181} \right)$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by members of the group during the period referred to above

C is \$100 000

U is the number of days in the period commencing on 1 October, 1990, and ending on 31 December, 1990, in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages)

D is \$207 000

V is the number of days in the period commencing on 1 January, 1991, and ending on 30 June, 1991, in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages);

and

(c) in relation to a financial year commencing on or after 1 July, 1991, is a reference to an amount calculated in accordance with the following formula:

$$\frac{TW}{TW + IW} \left(\frac{AX}{184} + \frac{AY}{Z} \right)$$

where—

TW is the amount of taxable wages paid or payable by the members of the group during such period of the financial year as the designated group employer was the designated group employer in respect of the group

IW is the amount of interstate wages paid or payable by the members of the group during the period referred to above

A is \$216 000

X is the number of days in the period commencing on the first day of July in the financial year and ending on the thirty-first day of December in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages)

Y is the number of days in the period commencing on the first day of January in the financial year and ending on the thirtieth day of June in the financial year in respect of which any member of the group paid or was liable to pay wages (disregarding foreign wages)

Z is the number of days in the period commencing on the first day of January in the financial year and ending on the thirtieth day of June in the financial year.

Annual adjustments

11. Section 18l of the principal Act is amended—

(a) by striking out from subsection (4) “on the thirtieth day of June in” and substituting “on the last day of”

(b) by striking out from subsection (5) “on the thirtieth day of June in” and substituting “on the last day of”;

and

(c) by striking out from subsection (5) “that is or includes the month of June” and substituting “that is the last return period to be included”.

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

12. Section 18m of the principal Act is amended by striking out from paragraph (c) of subsection (5) “on the thirtieth day of June in” and substituting “on the last day of”.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

C. L. LAUCKE, Governor's Deputy