NORTHERN TERRITORY OF AUSTRALIA

PAYROLL TAX ACT 2009

As in force at 1 July 2026

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2026

PAYROLL TAX ACT 2009

An Act to provide for the imposition of payroll tax, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Payroll Tax Act 2009*.

2 Commencement

This Act commences on 1 July 2009.

3 Definitions

In this Act:

ABN means the ABN (Australian Business Number) for an entity within the meaning of *A New Tax System (Australian Business Number) Act 1999* (Cth).

agent includes:

(a) a person who, in this jurisdiction, for or on behalf of another person outside this jurisdiction, holds or has the management or control of the business of that other person; and

(b) a person who, by an order of the Commissioner, is declared to be an agent or the sole agent for any other person for this Act and on whom notice of that order has been served.

aggregate interest, see section 78.

Australia means the States of the Commonwealth and the Territories.

Australian jurisdiction means a State or Territory.

business, for Part 5, see section 67.

category 1 to 3 purpose, for Part 4, Division 1, see section 48.

coastal waters, of the Territory, means coastal waters of the Territory as defined in section 3(1) of the *Coastal Waters (Northern Territory Powers) Act 1980* (Cth).

company includes all bodies and associations (corporate and unincorporate) and partnerships.

contract, for Part 3, Division 7, see section 31.

corporation means a corporation as defined in section 9 of the Corporations Act 2001.

correct amount of payroll tax, for Part 6, see section 82(1).

corresponding payroll tax law means a law of the Commonwealth, or of a State or another Territory, relating to the imposition on employers of a tax on wages paid or payable by them or the assessment and collection of that tax.

designated group employer means a member designated for a group in accordance with section 80.

direct interest, by an entity in a corporation, see section 76.

director of a company includes a member of the governing body of the company.

educational company, for Part 4, Division 1, see section 48.

educational institution, for Part 4, Division 1, see section 48.

employer means a person who pays or is liable to pay wages, and includes:

(a) the Crown in any of its capacities; and

(b) anyone taken to be an employer by or under this Act; and

(c) a local governing body; and

(d) a public authority constituted under the law of the Commonwealth or of a State or Territory unless, being an authority constituted under the law of the Commonwealth, it is immune from the operation of this Act.

employment agency contract, see section 37.

employment agent, see section 37.

employment termination payment, for Part 3, Division 5, see section 27.

entity, for Part 4, Division 1, see section 48.

exempt wages mean wages that are declared by or under this Act to be exempt wages.

Note

Wages are declared to be exempt wages in various provisions. For example, see sections 50, 51, 53, 55, 56, 58, 59 and 61 to 66 and Schedule 2, Part 4, Division 1.

FBTA Act means the *Fringe Benefits Tax Assessment Act 1986* (Cth).

financial year means each year commencing on 1 July.

fringe benefit means a fringe benefit as defined in the FBTA Act 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 regulation not to be a fringe benefit for this definition.

granted, for a share or option, see section 19(2).

group, see section 67.

group employer, see section 82(4).

GST means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

indirect interest, by an entity in a corporation, see section 77.

individual employer, see section 82(4).

industrial association, for Part 4, Division 1, see section 48.

instrument includes:

(a) a cheque, bill of exchange and promissory note; and

(b) a money order, or a postal order, issued by a post office.

interstate wages means wages that are taxable wages within the meaning of a corresponding payroll tax law.

ITAA means the *Income Tax Assessment Act 1997* (Cth).

liquidator means the person who, whether or not appointed as liquidator, is required by law to carry out the winding-up of a company.

local governing body means:

(a) a council constituted, or local government subsidiary formed, under the *Local Government Act 2019*; or

(b) a body declared under section 19 of the *Local Government Grants Commission Act 1986* to be a local governing body; or

(c) a body prescribed by regulation.

month means the month of January, February, March, April, May, June, July, August, September, October, November or December.

non-profit entity, see section 48A.

option means an option or right, whether actual, prospective or contingent, of a person to acquire a share or to have a share transferred or allotted to the person.

paid, in relation to wages, includes provided, conferred and assigned and ***pay*** and ***payable*** have corresponding meanings.

payroll tax means tax imposed by section 6.

perform, in relation to services, includes render.

political party, for Part 4, Division 1, see section 48.

professional association, for Part 4, Division 1, see section 48.

registered business address means an address for service of notices under *A New Tax System (Australian Business Number) Act 1999* (Cth) on an entity that has an ABN, as shown in the Australian Business Register kept under that Act.

relevant contract, for Part 3, Division 7, see section 32.

relevant day, for Part 3, Division 4, see section 18(3).

re-supply, for Part 3, Division 7, see section 31.

return period, in relation to an employer, means a month, or a financial year, relating to which the employer is required to lodge a return under section 87(1).

service provider, see section 37(1).

services, for Part 3, Division 7, see section 31.

share means a share in a company and includes a stapled security.

superannuation contribution, see section 17(2).

supply, for Part 3, Division 7, see section 31.

taxable in this jurisdiction, see section 11.

taxable wages, see section 10.

termination payment, for Part 3, Division 5, see section 27.

Territories means the Territory and the Australian Capital Territory (including the Jervis Bay Territory).

this jurisdiction means the Territory and coastal waters of the Territory.

trade, industry or commerce entity, for Part 4, Division 1, see section 48B.

unused annual leave payment, for Part 3, Division 5, see section 27.

unused long service leave payment, for Part 3, Division 5, see section 27.

vesting date, see section 19(3) and (4).

voting share, see section 9 of the Corporations Act 2001.

wages means wages as defined in Part 3.

Note

Wages are defined in various provisions in Part 3. For example, see sections 13, 14, 17, 18, 24, 28, 29, 30 and 66A.

4 Relationship with *Taxation Administration Act 2007*

The relationship between this Act and the *Taxation Administration Act 2007* (the ***TAA***) is stated in section 5 of the TAA.

Note

Section 5 of the TAA provides that this Act (which is a taxation law as defined in the TAA) must be read together with the TAA as a single Act. Accordingly, Part 5 of the TAA imposes a liability to pay interest and penalty tax for a failure to pay payroll tax under this Act.

5 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

Part 2 Imposition of payroll tax

Division 1 Imposition of tax

6 Imposition of payroll tax

Payroll tax is imposed on all taxable wages.

7 Who is liable for payroll tax

The employer by whom taxable wages are paid or payable is liable to pay payroll tax on the wages.

7A Rate of payroll tax

(1) Subject to subsection (2), the rate of payroll tax is 5.5%.

(2) The rate of payroll tax imposed on taxable wages paid or payable by an employer in respect of a financial year or a relevant period prior to a change in circumstances under section 84 is 6.5% if either of the following apply:

(a) if the employer is a member of a group – the total taxable wages and interstate wages paid or payable by the members of the group in respect of the year or period are equal to or greater than the threshold amount;

(b) otherwise – the total taxable wages and interstate wages paid or payable by the employer in respect of the year or period are equal to or greater than the threshold amount.

(3) For subsection (2), the threshold amount is $100 000 000

8 Amount of payroll tax

The amount of payroll tax payable by an employer is to be determined in accordance with Schedules 1 and 2.

9 When payroll tax must be paid

(1) A person who is liable to pay payroll tax on taxable wages must pay the tax within 21 days after the end of the month in which those wages were paid or payable.

(2) However, if the Commissioner has reason to believe a person may leave Australia before any payroll tax becomes payable by the person, the tax is payable on the day fixed by the Commissioner by notice served on the person.

Division 2 Taxable wages

10 What are taxable wages

(1) For this Act, ***taxable wages*** are wages that are taxable in this jurisdiction.

(2) However, ***exempt wages*** are not taxable wages.

11 Wages that are taxable in this jurisdiction

(1) For this Act, wages are ***taxable in this jurisdiction*** if:

(a) the wages are paid or payable by an employer for or in relation to services performed by an employee wholly in this jurisdiction; or

(b) the wages are paid or payable by an employer for or in relation to services performed by an employee in 2 or more Australian jurisdictions, or partly in one or more Australian jurisdictions and partly outside all Australian jurisdictions, and:

(i) the employee is based in this jurisdiction; or

(ii) the employer is based in this jurisdiction (in a case where the employee is not based in an Australian jurisdiction); or

(iii) the wages are paid or payable in this jurisdiction (in a case where both the employee and the employer are not based in an Australian jurisdiction); or

(iv) the wages are paid or payable for services performed mainly in this jurisdiction (in a case where both the employee and the employer are not based in an Australian jurisdiction and the wages are not paid or payable in an Australian jurisdiction); or

(c) the wages are paid or payable by an employer for or in relation to services performed by an employee wholly outside all Australian jurisdictions and are paid or payable in this jurisdiction.

Note for subsection (1)(c)

Section 66A provides an exemption for wages paid or payable for services performed wholly in one or more other countries for a continuous period of more than 6 months.

(2) The question of whether wages are taxable in this jurisdiction is to be determined by reference only to the services performed by the employee in respect of the employer during the month in which the wages are paid or payable, subject to this section.

(3) Any wages paid or payable by an employer in respect of an employee in a particular month are taken to be paid or payable for or in relation to the services performed by the employee in respect of the employer during that month.

Example for subsections (2) and (3)

Wages paid to an employee in June 2010 by an employer include wages for services performed by the employee wholly in this jurisdiction in that month and a bonus for services performed by the employee during the financial year ending at the end of June 2010, which were services partly performed in this jurisdiction and partly in other Australian jurisdictions. The question of whether the wages paid in June 2010 are taxable in this jurisdiction is to be determined by reference only to services performed in that month and services performed in the previous months of that financial year must be disregarded. As a result, the wages paid in June 2010 are taxable in this jurisdiction because of subsection (1)(a).

The services performed in the previous months of that financial year will be relevant to the question of whether wages paid in each of those months are taxable in this jurisdiction, which will need to be determined having regard to subsection (1)(a) and (b).

(4) If no services are performed by an employee in respect of an employer during the month in which the wages are paid or payable to or in relation to the employee:

(a) the question of whether the wages are taxable in this jurisdiction is to be determined by reference only to the services performed by the employee in respect of the employer during the most recent prior month in which the employee performed services in respect of the employer; and

(b) the wages are taken to be paid or payable for or in relation to the services performed by the employee in respect of the employer during that most recent prior month.

(5) If no services were performed by an employee in respect of an employer during the month in which wages are paid or payable to or in relation to the employee or in any prior month:

(a) the wages are taken to be paid or payable for or in relation to services performed by the employee in the month in which the wages are paid or payable; and

(b) the services are taken to have been performed at a place or places where it may be reasonably expected that the services of the employee in respect of the employer will be performed.

(6) All amounts of wages paid or payable in the same month by the same employer in respect of the same employee are to be aggregated for the purposes of determining whether they are taxable in this jurisdiction (as if they were paid or payable for all services performed by the employee in the month in which the wages are paid or payable, or the most recent prior month, as the case requires).

Example for subsection (6)

If one amount of wages is paid by an employer in a particular month for services performed in this jurisdiction, and another amount of wages is paid by the same employer in the same month for services performed by the same employee in another Australian jurisdiction, the wages paid are to be aggregated (as if they were paid for all services performed by the employee in that month). Accordingly, subsection (1)(b) would be applied for the purpose of determining whether the wages are taxable in this jurisdiction.

(7) If wages are paid in a different month from the month in which they are payable, the question of whether the wages are taxable in this jurisdiction is to be determined by reference to the earlier of the relevant months.

11A Jurisdiction in which employee is based

(1) For this Act, the jurisdiction in which an employee is based is the jurisdiction in which the employee's principal place of residence is located.

(2) The jurisdiction in which an employee is based is to be determined by reference to the state of affairs existing during the month in which the relevant wages are paid or payable.

(3) If more than one jurisdiction would qualify as the jurisdiction in which an employee is based during a month, the jurisdiction in which the employee is based is to be determined by reference to the state of affairs existing on the last day of that month.

(4) An employee who does not have a principal place of residence is taken, for the purposes of this Act, to be an employee who is not based in an Australian jurisdiction.

(5) In the case of wages paid or payable to a corporate employee, the jurisdiction in which the employee is based is to be determined in accordance with section 11B instead of this section (as if a reference in section 11B to an employer were a reference to an employee).

(6) In this section:

corporate employee means:

(a) a company that is taken to be an employee under section 34 or 39; or

(b) a company to whom a payment is made that is taken to be wages payable to an employee under section 42 or 47.

11B Jurisdiction in which employer is based

(1) For this Act, the jurisdiction in which an employer is based is:

(a) the jurisdiction in which the employer's registered business address is located (if the employer has an ABN); or

(b) the jurisdiction in which the employer's principal place of business is located (in any other case).

(2) If wages are paid or payable in connection with a business carried on by an employer under a trust, the employer's registered business address is the registered business address of the trust or, if the trust does not have an ABN, the registered business address of the trustee of the trust.

(3) If an employer has registered business addresses located in different jurisdictions at the same point in time, the jurisdiction in which the employer is based at that point in time is the jurisdiction in which the employer's principal place of business is located.

(4) The jurisdiction in which an employer is based is to be determined by reference to the state of affairs existing during the month in which the relevant wages are paid or payable.

(5) If more than one jurisdiction would qualify as the jurisdiction in which an employer is based during a month, the jurisdiction in which the employer is based is to be determined by reference to the state of affairs existing on the last day of that month.

(6) An employer who has neither a registered business address nor a principal place of business is taken, for the purposes of this Act, to be an employer who is not based in an Australian jurisdiction.

11C Place and date of payment of wages

(1) For this Act, wages are taken to have been paid at a place if, for the purpose of the payment of those wages:

(a) an instrument is sent or given or an amount is transferred by an employer to a person or a person's agent at that place; or

(b) an instruction is given by an employer for the crediting of an amount to the account of a person or a person's agent at that place.

(2) The wages are taken to have been paid on the date that the instrument was sent or given, the amount was transferred or the account credited in accordance with the instruction (as the case requires).

(3) Wages are taken to be payable at the place at which they are paid, subject to this section.

(4) Wages that are not paid by the end of the month in which they are payable are taken to be payable at:

(a) the place where wages were last paid by the employer to the employee; or

(b) if wages have not previously been paid by the employer to the employee – the place where the employee last performed services in respect of the employer before the wages became payable.

(5) If wages paid or payable in the same month by the same employer in respect of the same employee are paid or payable in more than one Australian jurisdiction, the wages paid or payable in that month are taken to be paid or payable in the Australian jurisdiction in which the highest proportion of the wages are paid or payable.

Note for subsection (5)

Section 11(6) requires all wages paid or payable in the same month by the same employer in respect of the same employee to be aggregated for the purpose of determining whether the wages are taxable in this jurisdiction. This subsection ensures only one Australian jurisdiction can be considered to be the jurisdiction in which the wages are paid or payable.

Division 3 Other matters

12 Payroll tax paid under corresponding applied law

Note

This section is contained in some corresponding payroll tax laws. It does not apply in the Territory because the Commonwealth Places (Mirror Taxes) Act 1998 (Cth) does not apply to the Territory (see Schedule 1 to that Act).

Part 3 Wages

Division 1 General concept of wages

13 What are wages

(1) For this Act, ***wages*** mean wages, remuneration, salary, commission, bonuses or allowances paid or payable to an employee, including:

(a) an amount paid or payable by way of remuneration to a person holding an office under the Crown or in the service of the Crown; and

(b) an amount paid or payable under any class of contract prescribed by regulation to the extent to which that payment is attributable to labour; and

(c) an amount paid or payable by a company by way of remuneration to or in relation to a director of that company; and

(d) an amount paid or payable by way of commission to an insurance or time-payment canvasser or collector; and

(e) an amount that is included as or taken to be wages by any other provision of this Act.

(2) For this Act, wages, remuneration, salary, commission, bonuses or allowances are wages:

(a) whether paid or payable at piece work rates or otherwise; and

(b) whether paid or payable in cash or in kind.

(3) This Act applies in respect of wages mentioned in subsection (1)(a) to (e) that are paid or payable to or in relation to a person who is not an employee in the same way as it applies to wages paid or payable to an employee (as if a reference in this Act to an employee included a reference to any such person).

Division 2 Fringe benefits

14 Wages include fringe benefits

(1) For this Act, ***wages*** include a fringe benefit.

(2) Subsection (1) does not apply to benefits that are exempt benefits for the FBTA Act (other than deposits to the Superannuation Holding Accounts Special Account within the meaning of the *Small Superannuation Accounts Act 1995* (Cth)).

15 Value of wages comprising fringe benefits

(1) For this Act, the value of wages comprising a fringe benefit is to be determined in accordance with the formula:

$$TV \times \frac{1}{1 - \text{FBT rate}}$$

where:

TV is the value that would be the taxable value of the benefit as a fringe benefit for the FBTA Act.

FBT rate is the rate of fringe benefits tax imposed by the FBTA Act that applies when the liability to payroll tax under this Act arises.

(2) In this Act, a reference to taxable wages that were paid or payable by an employer during a month is, in relation to taxable wages comprising fringe benefits:

(a) a reference to the value of the fringe benefits paid or payable by the employer during the month; or

(b) if an election by the employer is in force under section 16, a reference to an amount calculated in accordance with that section.

(3) In this Act, a reference to taxable wages that were paid or payable by an employer during a year is, in relation to taxable wages comprising fringe benefits, a reference to an amount calculated by adding together the amounts under subsection (2)(a) or (b), or subsection (2)(a) and (b), as the case requires, for the months of that year.

16 Employer election regarding taxable value of fringe benefits

(1) An employer who has paid or is liable to pay fringe benefits tax imposed by the FBTA Act in respect of a period of not less than 15 months before 30 June in any year may elect to include as the

value of the fringe benefits paid or payable by the employer during the month concerned:

(a) in a return lodged in relation to each of the first 11 months occurring after 30 June in that year – 1/12th of the amount determined in accordance with subsection (2) or that part of that amount as, in accordance with section 10, comprises taxable wages for the year of tax (within the meaning of the FBTA Act) ending on 31 March preceding the commencement of the current financial year; and

(b) in the return lodged in relation to the 12th month – the amount determined in accordance with subsection (2) or that part of that amount as, in accordance with section 10, comprises taxable wages for the year of tax (within the meaning of the FBTA Act) ending on 31 March preceding that month, less the total of the amounts of fringe benefits included in the returns for each of the preceding 11 months.

(2) The amount determined in accordance with this subsection is to be determined in accordance with the formula:

$$\text{AFBA} \times \frac{1}{1 - \text{FBT rate}}$$

where:

AFBA is the aggregate fringe benefits amount within the meaning of section 136 of the FBTA Act.

FBT rate is the rate of fringe benefits tax imposed by the FBTA Act that applies when the liability to payroll tax under this Act arises.

(3) An election under subsection (1) takes effect when it is notified to the Commissioner in the form approved by the Commissioner.

(4) After an employer has made an election under subsection (1), the employer must lodge returns containing amounts calculated in accordance with the election unless the Commissioner approves, by notice in writing given to the employer, the termination of the election and allows the employer to include the value mentioned in section 15(2)(a).

(5) If an employer ceases to be liable to pay payroll tax, the value of taxable wages comprising fringe benefits to be included in the employer's final return is (irrespective of whether or not the employer has made an election under subsection (1)) the value of the fringe benefits paid or payable by the employer for the period commencing on and including the preceding 1 July until the date on which the employer ceases to be liable to payroll tax, less the value

of the fringe benefits paid or payable by the employer during that period on which payroll tax has been paid.

Division 3 Superannuation contributions

17 Wages include superannuation contributions

(1) For this Act, ***wages*** include a superannuation contribution.

(2) A ***superannuation contribution*** is a contribution paid or payable by an employer in respect of an employee:

(a) to or as a superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cth); or

(b) as a superannuation guarantee charge within the meaning of the *Superannuation Guarantee (Administration) Act 1992* (Cth); or

(c) to or as any other form of superannuation, provident or retirement fund or scheme including:

(i) the Superannuation Holding Accounts Special Account within the meaning of the *Small Superannuation Accounts Act 1995* (Cth); and

(ii) a retirement savings account within the meaning of the *Retirement Savings Accounts Act 1997* (Cth); and

(iii) a wholly or partly unfunded fund or scheme.

(3) Setting aside any money or anything that is worth money as, or as part of, a superannuation fund, superannuation guarantee charge or any other form of superannuation, provident or retirement fund or scheme is taken to be paying a superannuation contribution.

(4) Making a superannuation contribution of anything that is worth money is taken to be paying a superannuation contribution of the amount equal to its value, and its value is to be worked out in accordance with section 43 as if that section referred to the contribution instead of to wages.

(5) A superannuation, provident or retirement fund or scheme is unfunded to the extent that money paid or payable by an employer in respect of an employee covered by the fund or scheme is not paid or payable during the employee's period of service with the employer.

(6) In this section:

employee includes any person to whom, by virtue of a paragraph of the definition ***wages*** in section 13(1), an amount paid or payable in the circumstances mentioned in the paragraph constitutes wages.

Division 4 Shares and options

18 Inclusion of grant of shares and options as wages

(1) For this Act, ***wages*** include the grant of a share or an option to an employee by an employer in respect of services performed by the employee if the share or option:

(a) is an ESS interest (within the meaning of section 83A-10 of the ITAA); and

(b) is granted to the employee under an employee share scheme (within the meaning of that section).

Note for subsection (1)

A grant of a share or an option to an employee by an employer that is not an ESS interest will be taxable as a fringe benefit under Division 2 of this Part.

(2) Any such wages are taken, for the imposition of payroll tax, to be paid or payable on the relevant day.

(3) For this Division, the ***relevant day*** is the day the employer elects in accordance with this Division to treat as the day on which the wages are paid or payable.

(4) To avoid doubt, the grant of a share or option is valuable consideration for section 46.

19 Choice of relevant day

(1) The employer can elect to treat as the relevant day either the date on which the share or option is granted to the employee or the vesting date.

(2) A share or option is ***granted*** to a person if:

(a) another person transfers the share or option to that person (other than, in the case of a share, by issuing the share to that person); or

(b) for a share – another person allots the share to that person; or

(c) for an option – another person confers the option on, or otherwise creates the option in, that person; or

(d) the person otherwise acquires a legal interest in the share or option from another person; or

(e) the person acquires a beneficial interest in the share or option from another person.

(2A) To avoid doubt, if an employee acquires a right to be granted a share or an option, or some other material benefit, at the election of the employer, the share or option is not granted until the employer elects to grant the share or option.

(3) The ***vesting date*** in respect of a share is one of the following dates (whichever happens first):

(a) the date on which the share vests in the employee (that is, when any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded);

(b) the date at the end of the period of 7 years from the date on which the share is granted to the employee.

(4) The ***vesting date*** in respect of an option is one of the following dates (whichever happens first):

(a) the date on which the share to which the option relates is granted to the employee;

(b) the date on which the employee exercises a right under the option to have the share the subject of the option transferred to, allotted to or vested in the employee;

(c) the date at the end of the period of 7 years from the date on which the option is granted to the employee.

20 Deemed choice of relevant day in special cases

(1) If an employer grants a share or option to an employee and the value of the grant of the share or option is not included in the taxable wages of the employer for the financial year in which the share or option was granted, the employer is taken to have elected to treat the wages constituted by the grant of that share or option as being paid or payable on the vesting date.

(2) If an employer grants a share or option to an employee and the value of the grant of the share or option is nil or, if the employer were to elect to treat the date of grant as the relevant day, the

wages constituted by the grant would not be liable to payroll tax, the employer is taken to have elected to treat the wages constituted by the grant of that share or option as being paid or payable on the date on which the share or option was granted.

21 Effect of rescission or cancellation of share or option

(1) If the grant of a share or option is withdrawn, cancelled or exchanged before the vesting date for any valuable consideration (other than the grant of other shares or options), the following provisions apply:

(a) the date of withdrawal, cancellation or exchange is taken to be the vesting date of the share or option;

(b) the market value of the share or option, on the vesting date, is taken to be the amount of the valuable consideration (and, accordingly, that amount is the amount paid or payable as wages on that date).

(2) If an employer includes the value of a grant of a share or option in the taxable wages of the employer for a financial year and the grant is rescinded because the conditions attaching to the grant were not met, the taxable wages of the employer, in the financial year in which the grant is rescinded, are to be reduced by the value of the grant as previously included in the taxable wages of the employer.

(3) Subsection (2) does not apply just because an employee fails to exercise an option or to otherwise exercise his or her rights in respect of a share or option.

22 Grant of share pursuant to exercise of option

The grant of the share by an employer does not constitute wages for this Act if the employer is required to grant the share as a consequence of the exercise of an option by a person and:

(a) the grant of the option to the person constitutes wages for this Act; or

(b) the option was granted to the person before 1 July 1999.

23 Value of shares and options

(1) If the grant of a share or option constitutes wages under this Division, the amount paid or payable as wages is taken, for this Act, to be the value of the share or option (expressed in Australian currency) on the relevant day, less the consideration (if any) paid or given by the employee in respect of the share or option (other than consideration in the form of services performed).

(2) The value of a share or an option is:

(a) the market value; or

(b) the amount determined as provided for by the Commonwealth income tax provisions.

(3) The employer may elect the method by which the value of a share or an option is determined in any return lodged under this Act.

(4) However, the Commissioner may determine the method by which the value of a share or an option is determined if the grant of the share or option is not included as wages in a return lodged by an employer as required by this Act.

(5) In determining the market value of a share or option, anything that would prevent or restrict conversion of the share or option to money is to be disregarded.

(6) The Commonwealth income tax provisions apply with the following modifications, and any other necessary modifications:

(a) the value of an option is to be determined as if it were a right to acquire a beneficial interest in a share;

(b) a reference to the acquisition of a beneficial interest in a share or right is to be read as a reference to the grant of a share or an option.

(7) In this section:

Commonwealth income tax provisions means section 83A-315 of the *ITAA* and the regulations made for that section.

Note for definition ***Commonwealth income tax provisions***

See Division 83A of the Income Tax Assessment Regulations 1997 (Cth) for the relevant regulations.

24 Inclusion of shares and options granted to directors as wages

(1) For this Act, ***wages*** include the grant of a share or an option by a company to a director of the company who is not an employee of the company by way of remuneration for the appointment or services of the director.

(2) For that purpose, the other provisions of this Division apply in respect of any such grant as if a reference to the employer were a reference to the company and a reference to the employee were a reference to the director of the company.

(3) In this section, a reference to a director of the company includes a reference to the following:

(a) a person who, under a contract or other arrangement, is to be appointed as a director of the company;

(b) a former director of the company.

(4) However, if wages referred to in this section are fringe benefits, the value of the wages is to be determined in accordance with Division 2 of this Part (and not this Division).

Note for section 24

Section 13 provides that a reference to an employee in this Act includes a reference to any person to whom any amount that is treated as wages under this Act is paid or payable. See also section 11, under which the wages are taken to be paid or payable for services performed.

26 Place where wages are payable

(1) The wages constituted by the grant of the share or option are taken to be paid or payable in this jurisdiction if the share is a share in a local company or, in the case of an option, an option to acquire shares in a local company.

(2) In any other case, the wages constituted by the grant of the share or option are taken to be paid or payable outside this jurisdiction.

Note for subsection (2)

The place where wages are paid or payable is sometimes relevant to determining whether the wages are taxable in this jurisdiction. See section 11.

(3) In this section:

local company means:

(a) a company incorporated or taken to be incorporated under the Corporations Act 2001 that is taken to be registered in this jurisdiction for that Act; or

(b) any other body corporate that is incorporated under an Act of this jurisdiction.

Division 5 Termination payments

27 Definitions

In this Division:

employment termination payment means:

(a) an employment termination payment within the meaning of section 82-130 of the ITAA; or

(b) a payment that would be an employment termination payment within the meaning of section 82-130 of the ITAA but for the fact that it was received later than 12 months after the termination of a person's employment; or

(c) a transitional termination payment within the meaning of section 82-10 of the *Income Tax (Transitional Provisions) Act 1997* (Cth).

termination payment means:

(a) a payment made in consequence of the retirement from, or termination of, any office or employment of an employee, being:

(i) an unused annual leave payment; or

(ii) an unused long service leave payment; or

(iii) so much of an employment termination payment paid or payable by an employer, whether or not paid to the employee or to any other person or body, that would be included in the assessable income of an employee under Part 2-40 of the ITAA if the whole of the employment termination payment had been paid to the employee; or

(b) an amount paid or payable by a company as a consequence of the termination of the services or office of a director of the company, whether or not paid to the director or to any other person or body, that would be an employment termination payment if that amount had been paid or payable as a consequence of termination of employment; or

(c) an amount paid or payable by a person who is an employer under a relevant contract (within the meaning of section 32) as a consequence of the termination of the supply of the services of an employee under the contract, whether or not paid to the employee or to any other person, if the amount would be an employment termination payment if that amount had been

paid or payable as a consequence of termination of employment.

unused annual leave payment has the same meaning as in section 83-10 of the ITAA.

unused long service leave payment has the same meaning as in section 83-75 of the ITAA.

28 Termination payments

For this Act, ***wages*** include a termination payment.

Division 6 Allowances

29 Motor vehicle allowances

(1) For this Act, ***wages***, in respect of a financial year, do not include the exempt component of a motor vehicle allowance paid or payable in respect of that year.

(2) Accordingly, if the total motor vehicle allowance paid or payable to an employee in respect of a financial year does not exceed the exempt component, the motor vehicle allowance is not wages for this Act.

(3) If the total motor vehicle allowance paid or payable to an employee in respect of a financial year exceeds the exempt component (if any), only the amount that exceeds the exempt component of the motor vehicle allowance is included as wages for this Act.

(4) The ***exempt component*** of a motor vehicle allowance paid or payable in respect of a financial year is calculated in accordance with the formula:

$E = K \times R$

where:

E is the exempt component.

K is the number of business kilometres travelled during the financial year.

R is the exempt rate.

(5) The number of business kilometres travelled during the financial year (***K***) is to be determined in accordance with the continuous recording method, or the averaging method, whichever method is selected and used by the employer in accordance with Schedule 1, Part 5.

(6) The Commissioner, by order in writing, may approve the use, by an employer or class of employer, of another method of determining the number of business kilometres travelled during the financial year (including the use of an estimate). If so, the number of business kilometres travelled during the financial year is to be determined in accordance with the method approved by the Commissioner.

(7) For this section, the ***exempt rate*** for the financial year concerned is:

(a) the rate of cents per kilometre determined under section 28-25(4) of the ITAA for subsection (1) of that section in the financial year immediately preceding the financial year in which the allowance is paid or payable; or

(b) if no rate of cents per kilometre mentioned in paragraph (a) is determined, the rate prescribed by regulation under this Act.

30 Accommodation allowances

(1) For this Act, ***wages*** do not include an accommodation allowance paid or payable to an employee in respect of a night's absence from the person's usual place of residence that does not exceed the exempt rate.

(2) If the accommodation allowance paid or payable to an employee in respect of a night's absence from the person's usual place of residence exceeds the exempt rate, wages include that allowance only to the extent it exceeds the exempt rate.

(3) For this section, the ***exempt rate*** for the financial year concerned is:

(a) the total reasonable amount for daily travel allowance expenses using the lowest capital city for the lowest salary band for the financial year determined by the Commissioner of Taxation of the Commonwealth; or

(b) if no determination mentioned in paragraph (a) is in force, the rate prescribed by regulation.

Division 7 Contractor provisions

31 Definitions

In this Division:

contract includes an agreement, arrangement and undertaking, whether formal or informal and whether express or implied.

relevant contract, see section 32.

re-supply of goods acquired from a person includes:

(a) a supply to the person of goods in an altered form or condition; and

(b) a supply to the person of goods in which the first-mentioned goods have been incorporated.

services includes results (whether goods or services) of work performed.

supply includes supply by way of sale, exchange, lease, hire and hire-purchase, and in relation to services includes the providing, granting and conferring of services.

32 What is a relevant contract

(1) In this Division, a ***relevant contract*** in relation to a financial year is a contract under which a person (the ***designated person***) during that financial year, in the course of a business carried on by the designated person:

(a) supplies to another person services for or in relation to the performance of work; or

(b) has supplied to the designated person the services of persons for or in relation to the performance of work; or

(c) gives out goods to individuals for work to be performed by those persons in respect of those goods and for re-supply of the goods to the designated person or, where the designated person is a member of a group, to another member of that group.

(2) However, a relevant contract does not include a contract of service or a contract under which a person (the ***designated person***) during a financial year in the course of a business carried on by the designated person:

(a) is supplied with services for or in relation to the performance of work that are ancillary to the supply of goods under the contract by the person by whom the services are supplied or to the use of goods which are the property of that person; or

(b) is supplied with services for or in relation to the performance of work where:

(i) those services are of a kind not ordinarily required by the designated person and are performed by a person who ordinarily performs services of that kind to the public generally; or

(ii) those services are of a kind ordinarily required by the designated person for less than 180 days in a financial year; or

(iii) those services are provided for a period that does not exceed 90 days or for periods that, in the aggregate, do not exceed 90 days in that financial year and are not services:

(A) provided by a person by whom similar services are provided to the designated person; or

(B) for or in relation to the performance of work where any of the persons who perform the work also perform similar work for the designated person;

for periods that, in the aggregate, exceed 90 days in that financial year; or

(iv) those services are supplied under a contract to which subparagraphs (i) to (iii) do not apply and the Commissioner is satisfied those services are performed by a person who ordinarily performs services of that kind to the public generally in that financial year; or

(c) is supplied by a person (the ***contractor***) with services for or in relation to the performance of work under a contract to which paragraphs (a) and (b) do not apply where the work to which the services relate is performed:

(i) by 2 or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor; or

(ii) where the contractor is a partnership of 2 or more individuals, by 1 or more of the members of the partnership and 1 or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor; or

(iii) where the contractor is an individual, by the contractor and 1 or more persons employed by, or who provide services for, the contractor in the course of a business carried on by the contractor; or

(d) is supplied with services solely for or ancillary to the conveyance of goods by means of a vehicle provided by the person conveying them.

(2A) Subsection (2)(a), (b) or (d) does not apply to a contract if the services supplied under the contract include services that are not mentioned in that paragraph.

(2B) Subsection (2) does not apply if the Commissioner determines the contract under which the services are supplied was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person.

(3) For this section, an employment agency contract under which services are supplied by an employment agent, or a service provider is procured by an employment agent, is not a relevant contract.

33 Persons taken to be employers

(1) For this Act, a person:

(a) who during a financial year, under a relevant contract, supplies services to another person; or

(b) to whom during a financial year, under a relevant contract, the services of persons are supplied for or in relation to the performance of work; or

(c) who during a financial year, under a relevant contract, gives out goods to other persons;

is taken to be an employer in respect of that financial year.

(2) If a contract is a relevant contract under both section 32(1)(a) and (b):

(a) the person to whom, under the contract, the services of persons are supplied for or in relation to the performance of work is taken to be an employer, and

(b) despite subsection (1)(a), the person who under the contract supplies the services is taken not to be an employer.

34 Persons taken to be employees

For this Act, a person who during a financial year:

(a) performs work for or in relation to which services are supplied to another person under a relevant contract; or

(b) being an individual, under a relevant contract, re-supplies goods to an employer;

is taken to be an employee in respect of that financial year.

35 Amounts under relevant contracts taken to be wages

(1) For this Act, amounts paid or payable by an employer during a financial year for or in relation to the performance of work relating to a relevant contract or the re-supply of goods by an employee under a relevant contract are taken to be wages paid or payable during that financial year.

(2) If an amount mentioned in subsection (1) is included in a larger amount paid or payable by an employer under a relevant contract during a financial year, that part of the larger amount which is not attributable to the performance of work relating to the relevant contract or the re-supply of goods by an employee under the relevant contract is as determined by the Commissioner.

(3) An amount paid or payable for or in relation to the performance of work under a relevant contract is taken to include:

(a) any payment made by a person who is taken to be an employer under a relevant contract in relation to a person who is taken to be an employee under the relevant contract that would be a superannuation contribution if made in relation to a person in the capacity of an employee; and

(b) the value of any share or option (not otherwise included as wages under this Act) provided or liable to be provided by a person who is taken to be an employer under a relevant contract in relation to a person who is taken to be an employee under the relevant contract that would be included as wages under Division 4 if provided to a person in the capacity of an employee.

36 Liability provisions

If, in respect of a payment for or in relation to the performance of work that is taken to be wages under this Division, payroll tax is paid by a person taken under this Division to be an employer:

(a) no other person is liable to payroll tax in respect of that payment; and

(b) if another person is liable to make a payment for or in relation to that work, that person is not liable to payroll tax in respect of that payment unless it or the payment by the first-mentioned person is made with an intention either directly or indirectly of avoiding or evading the payment of tax whether by the first-mentioned person or another person.

Division 8 Employment agents

37 Definitions

(1) For this Act, an ***employment agency contract*** is a contract, whether formal or informal and whether express or implied, under which a person (an ***employment agent***) procures the services of another person (a ***service provider***) for a client of the employment agent.

(2) However, a contract is not an employment agency contract for this Act if it is, or results in the creation of, a contract of employment between the service provider and the client.

(3) In this section:

contract includes agreement, arrangement and undertaking.

38 Persons taken to be employers

For this Act, the employment agent under an employment agency contract is taken to be an employer.

39 Persons taken to be employees

For this Act, the person who performs work for or in relation to which services are supplied to the client under an employment agency contract is taken to be an employee of the employment agent.

40 Amounts taken to be wages

(1) For this Act, the following are taken to be wages paid or payable by the employment agent under an employment agency contract:

(a) any amount paid or payable to or in relation to the service provider in respect of the provision of services in connection with the employment agency contract;

(b) the value of any benefit provided for or in relation to the provision of services in connection with the employment agency contract that would be a fringe benefit if provided to a person in the capacity of an employee;

(c) any payment made in relation to the service provider that would be a superannuation contribution if made in relation to a person in the capacity of an employee.

(2) Subsection (1) does not apply to an employment agency contract to the extent an amount, benefit or payment mentioned in that subsection would be exempt from payroll tax under Part 4 (other than under Division 4 or 5 of that Part or section 50) had the service provider been paid by the client as an employee, if the client has given a declaration to that effect, in the form approved by the Commissioner, to the employment agent.

41 Liability provisions

Subject to section 42, if an employment agent under an employment agency contract:

(a) by arrangement, procures the services of a service provider for a client of the employment agent; and

(b) pays payroll tax in respect of an amount, benefit or payment that is, under section 40, taken to be wages paid or payable by the employment agent in respect of the provision of those services in connection with that contract;

no other person (including any other person engaged to procure the services of the service provider for the employment agent's client as part of the arrangement) is liable to pay payroll tax in respect of wages paid or payable for the procurement or performance of those

services by the service provider for the client.

42 Agreement to reduce or avoid liability to payroll tax

(1) If the effect of an employment agency contract is to reduce or avoid the liability of any party to the contract to the assessment, imposition or payment of payroll tax, the Commissioner may:

(a) disregard the contract; and

(b) determine that any party to the contract is taken to be an employer for this Act; and

(c) determine that any payment made in respect of the contract is taken to be wages for this Act.

(2) If the Commissioner makes a determination under subsection (1), the Commissioner must serve a notice of the determination on the person taken to be an employer for this Act.

(3) The notice must set out the facts on which the Commissioner relies and the reasons for the determination.

(4) This section has effect in relation to agreements, transactions and arrangements made before, on or after the commencement of this section.

Division 9 Other matters

43 Value of wages paid in kind

The value of wages (except fringe benefits and shares and options) that are paid or payable in kind is the greater of:

(a) the value agreed or attributed to the wages in, or ascertainable for the wages from, arrangements between the employer and the employee, whichever is the greater; and

(b) if the regulations prescribe how the value of wages of that type is to be determined – the value determined in accordance with the regulations.

44 GST excluded from wages

(1) If a person is liable to pay GST on the supply to which wages paid or payable to the person relate, the amount or value of those wages on which payroll tax is payable is the amount or value of the wages paid or payable to the person minus the relevant proportion of the amount of GST payable by the person on the supply to which the wages relate.

(2) Subsection (1) does not apply in respect of the value of wages comprising a fringe benefit.

(3) In this section:

consideration has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

relevant proportion, in relation to GST payable on a supply to which wages relate, means the proportion that the amount or value of the wages bears to the consideration for the supply to which the wages relate.

45 Wages paid by group employers

A reference in this Act to wages paid or payable by a member of a group includes wages that would be taken to be paid or payable by a member of a group if the member were the employer of the employee to whom the wages were paid.

46 Wages paid by or to third parties

(1) If any of the following amounts of money or other valuable consideration would, if paid or given or to be paid or given directly by an employer to an employee, be or be included as wages paid or payable by the employer to the employee for this Act, they are taken to be wages paid or payable by the employer to the employee:

(a) any money or other valuable consideration paid or given, or to be paid or given, to an employee, for the employee's services as an employee of an employer, by a person other than the employer;

(b) any money or other valuable consideration paid or given, or to be paid or given, by an employer, for an employee's services as the employee of the employer, to a person other than the employee;

(c) any money or other valuable consideration paid or given, or to be paid or given, by a person other than an employer, for an employee's services as an employee of the employer, to a person other than the employee.

(2) If any of the following amounts of money or other valuable consideration would, if paid or given or to be paid or given directly by a company to a director of the company, be or be included as wages paid or payable by the company to the director for this Act, they are taken to be wages paid or payable by the company to the director:

(a) any money or other valuable consideration paid or given, or to be paid or given, to a director of a company, by way of remuneration for the appointment or services of the director to the company, by a person other than the company;

(b) any money or other valuable consideration paid or given, or to be paid or given, by a company, by way of remuneration for the appointment or services of the director to the company, to a person other than the director;

(c) any money or other valuable consideration paid or given, or to be paid or given, by any person, by way of remuneration for the appointment or services of a director to the company, to a person other than the director.

(3) In this section:

director of a company includes:

(a) a person who, under a contract or other arrangement, is to be appointed as a director of the company; and

(b) a former director of the company.

47 Agreement etc. to reduce or avoid liability to payroll tax

(1) If any person enters into any agreement, transaction or arrangement, whether in writing or otherwise, under which an individual performs, for or on behalf of another person, services in respect of which any payment is made to some other person related or connected to the individual performing the services and the effect of the agreement, transaction or arrangement is to reduce or avoid the liability of any person to the assessment, imposition or payment of payroll tax, the Commissioner may:

(a) disregard the agreement, transaction or arrangement; and

(b) determine that any party to the agreement, transaction or arrangement is taken to be an employer for this Act; and

(c) determine that any payment made in respect of the agreement, transaction or arrangement is taken to be wages for this Act.

(2) If the Commissioner makes a determination under subsection (1), the Commissioner must serve a notice to that effect on the person taken to be an employer for this Act.

(3) The notice must set out the facts on which the Commissioner relies and the reasons for the determination.

(4) This section has effect in relation to agreements, transactions and arrangements made before, on or after the commencement of this section.

Part 4 Exemptions

Division 1 Non-profit entities

48 Definitions

(1) In this Division:

category 1 to 3 purpose means a charitable purpose that falls within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time.

educational company means a company:

(a) in which an educational institution has a controlling interest; and

(b) that provides, promotes or supports the educational services of that institution.

educational institution means an entity that provides education above secondary level.

entity includes a person, and a body, association or organisation (whether corporate or unincorporated).

industrial association means any of the following:

(a) an association of employees, or an association of employers, registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009* (Cth);

(b) an association of employees registered or recognised as a trade union (however described) under the law of a State or Territory;

(c) an association of employers registered or recognised as such (however described) under the law of a State or Territory;

(d) an association of employees the predominant purpose of which is the protection and promotion of the employees' interests in matters concerning their employment.

non-profit entity, see section 48A.

political party means an entity that has as one of its purposes the promotion of the election to the Legislative Assembly or the Parliament of the Commonwealth or of a State or another Territory, of a candidate or candidates endorsed by it or by an entity of which it forms part.

professional association means an entity that has as one of its purposes the promotion of the interests of its members in any profession.

trade, industry or commerce entity, see section 48B.

(2) For the definition ***educational company***, an educational institution has a ***controlling interest*** in a company if:

(a) members of the board of management of the company who are entitled to exercise more than 50% of the voting power at meetings of the board of management are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the educational institution; or

(b) the educational institution may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, more than 50% of the voting power attached to voting shares, or any class of voting shares, issued by the company; or

(c) the educational institution has power to appoint more than 50% of the members of the board of management of the company.

48A Meaning of *non-profit entity*

(1) Each of the following is a ***non-profit entity***:

(a) a religious institution;

(b) a public benevolent institution;

(c) a non-profit organisation:

(i) the sole or predominant purpose of which is a religious, charitable, benevolent, philanthropic or patriotic purpose; and

(ii) that is not an excluded entity.

(2) However, an instrumentality of the Territory is not a non-profit entity.

(3) An entity is an ***excluded entity*** if it is one of the following:

(a) a school;

(b) an educational institution;

(c) an educational company;

(d) a political party;

(e) an industrial association;

(f) a professional association;

(g) a trade, industry or commerce entity.

Note for subsection (3)

Wages paid by a school or college may be exempt wages under section 49 and Schedule 2, clause 16.

(4) However, an entity is not an excluded entity if a determination under section 48E is in force in relation to the entity.

48B Meaning of *trade, industry or commerce entity*

(1) An entity is a ***trade, industry or commerce entity*** if:

(a) a purpose of the entity is to promote trade, industry or commerce (whether generally or in respect of any particular kind of trade, industry or commerce); and

(b) the entity is not an entity mentioned in section 48A(3)(a) to (f).

(2) However, an entity is not a trade, industry or commerce entity if:

(a) the entity's sole or predominant purpose is a category 1 to 3 purpose; or

(b) the entity has 2 or more purposes that:

(i) are each category 1 to 3 purposes; and

(ii) together constitute the entity's predominant purpose.

48C Non-profit entities – exempt wages

(1) Wages are ***exempt wages*** if the Commissioner is satisfied that the wages:

(a) are paid or payable by a non-profit entity that carries on charitable activities; and

(b) are paid or payable to a person who is engaged exclusively in work of a kind ordinarily performed in connection with the carrying on of charitable activities by the entity.

(2) A non-profit entity ***carries on charitable activities*** if the entity directly carries out work that is predominantly of a religious, charitable, benevolent, philanthropic or patriotic nature.

(3) For subsection (2), giving money to another entity that carries out work of the kind mentioned in subsection (2) does not, by itself, constitute carrying on a charitable activity.

48D Determining purpose of entity

For this Division, the purpose or purposes of an entity are to be determined having regard to all the relevant circumstances including the entity's stated objects (if any) and its activities.

48E Commissioner may override exclusion

(1) The Commissioner may, by order in writing, determine that an entity that would, but for the determination, be an excluded entity under section 48A(3)(f) or (g) is not an excluded entity.

(2) The Commissioner may do so only if satisfied there are special reasons that justify the entity being treated as a non-profit entity for the purposes of this Division.

(3) In deciding whether to make a determination, the Commissioner may have regard to the following:

(a) the significance of the excluding feature of the entity in relation to the purposes of the entity considered as a whole;

(b) the extent to which the entity's purposes are category 1 to 3 purposes or are otherwise beneficial to the community;

(c) the extent to which the entity's purposes are, or are intended to be, beneficial to a particular class of persons (whether or not members of the entity) rather than the community generally;

(d) any other factors the Commissioner considers relevant.

(4) A determination may be expressed to take effect on a date that is:

(a) earlier than the date of the determination; but

(b) not earlier than 1 July 2015.

(5) The Commissioner may, by order in writing, revoke a determination if the Commissioner ceases to be satisfied as mentioned in subsection (2).

(6) A revocation of a determination may be expressed to take effect on a date that is earlier than the date of the revocation.

(7) In this section:

excluding feature of an entity, means a purpose, object or activity of the entity that would, but for a determination under this section, cause it to be an excluded entity.

Division 2 Education and training

49 Schools and educational services and training

Wages are ***exempt wages*** as provided for in Schedule 2, Part 4, Division 1.

50 Community Development Employment Project

(1) Wages are ***exempt wages*** if they are paid or payable to an Aboriginal person who is employed under an employment project.

(2) An ***employment project*** is an employment project under the Community Development Employment Project funded by the Department of Employment and Workplace Relations of the Commonwealth or the Torres Strait Regional Authority.

Division 3 Health care service providers

51 Health care service providers

(1) Subject to subsection (2), wages paid or payable by a health care service provider are ***exempt wages***.

(2) The wages must be paid or payable:

(a) for work of a kind ordinarily performed in connection with the conduct of a health care service provider; and

(b) to a person engaged exclusively in that kind of work.

(3) For this section, ***health care service provider*** has the meaning given in Schedule 2, Part 4, Division 2.

52 Division not to limit other exemptions

(1) Nothing in this Division limits the application of any other Division of this Part.

(2) For example, if a health care service provider is also a non-profit entity, Part 4 Division 1 may still apply.

Division 4 Maternity and adoption leave

53 Maternity and adoption leave

(1) Wages are ***exempt wages*** if they are paid or payable to an employee in respect of:

(a) maternity leave, being leave given to a female employee in connection with her pregnancy or the birth of her child (other than sick leave, recreation leave, annual leave or any similar leave); or

(b) adoption leave, being leave given to an employee in connection with the adoption of a child by the employee (other than sick leave, recreation leave, annual leave or any similar leave).

Note for subsection (1)

Clause 20 of Schedule 2 provides for a similar exemption for paternity leave given to a male employee. That exemption is not included in some corresponding payroll tax laws.

(2) It is immaterial whether the leave is taken during or after the pregnancy or before or after the adoption.

(3) The exemption is limited to wages paid or payable in respect of a maximum of 14 weeks maternity leave in respect of any one pregnancy and 14 weeks adoption leave in respect of any one adoption.

(4) In subsection (3):

(a) a reference to 14 weeks maternity leave or 14 weeks adoption leave includes a reference to an equivalent period of leave at a reduced rate of pay; and

(b) a reference to wages paid or payable in respect of a period of leave is a reference to the total wages that would normally have been paid or payable for that period of leave.

Example for subsection (4)

For a part-time employee, the exemption may apply to wages paid or payable for maternity leave or adoption leave that extends to 28 weeks at half of the part-time rate of pay that would normally apply to the employee.

(5) The exemption does not apply to any part of wages paid or payable in respect of maternity or adoption leave that comprises fringe benefits.

54 Administrative requirements for exemption

(1) An employer wishing to claim an exemption under section 53 in respect of maternity leave must obtain and keep a medical certificate in respect of, or statutory declaration by, the employee:

(a) stating that the employee is or was pregnant; or

(b) stating that the employee has given birth and the date of birth.

(2) An employer wishing to claim an exemption under section 53 in respect of adoption leave must obtain and keep a statutory declaration by the employee stating:

(a) that a child has been placed in the custody of the employee pending the making of an adoption order; or

(b) that an adoption order has been made or recognised in favour of the employee.

Note

Section 79 of the Taxation Administration Act 2007 requires these records to be kept for at least 5 years unless the Commissioner authorises earlier destruction.

Division 5 Volunteer firefighters and emergency service volunteers

55 Volunteer firefighters

Subject to section 57, wages are ***exempt wages*** if they are paid or payable to an employee in respect of any period when the employee was taking part in bushfire fighting activities:

(a) as a volunteer member as defined in section 3(1) of the *Fire and Emergency Act 1996*; or

(b) as a member of a volunteer bushfire brigade established under section 54 of the *Bushfires Management Act 2016*; or

(c) as authorised by a fire control officer or fire warden under the *Bushfires Management Act 2016*.

56 Emergency service volunteers

Subject to section 57, wages are ***exempt wages*** if they are paid or payable to an employee in respect of any period when the employee:

(a) was engaging in activities as a volunteer member as defined in section 8 of the *Emergency Management Act 1996*; or

(b) attends an incident as defined in section 3(1) of the *Fire and Emergency Act 1996* as a volunteer member under that Act.

57 Limitation of exemption

An exemption under this Division does not apply to wages paid or payable as recreation leave, annual leave, long service leave or sick leave.

Division 6 Local government

58 Local governing bodies

Subject to section 60, wages are ***exempt wages*** if they are paid or payable by:

(a) a local governing body; or

(b) a union or partnership of which all the members are local governing bodies.

59 Local government business entities

(1) Subject to section 60, wages are ***exempt wages*** if they are paid or payable:

(a) by a wholly-owned subsidiary (within the meaning of the Corporations Act 2001) of a local governing body; and

(b) to a person for or in connection with an activity that is conducted for the local governing body under a written arrangement between the subsidiary and the local governing body.

(2) The written arrangement mentioned in subsection (1)(b) must include a provision for the payment by the subsidiary to the local governing body of an amount approximately equivalent to the amount of tax that would be payable by the subsidiary under this Act but for the exemption.

60 Limitation on local government exemptions

An exemption under this Division does not apply to wages paid or payable for or in connection with:

(a) activities prescribed by regulation; or

(b) the construction of any buildings or works, or the installation of plant, machinery or equipment for use in any of the activities.

Division 7 Other government and defence

61 State Governors

Wages paid or payable by the Governor of a State are ***exempt wages***.

62 Defence personnel

Wages are ***exempt wages*** if they are paid or payable to an employee in respect of any period when the employee was on leave from employment because of being a member of:

(a) the Australian Defence Force; or

(b) the armed forces of any part of the Commonwealth of Nations.

63 War Graves Commission

Wages paid or payable by the Commonwealth War Graves Commission are ***exempt wages***.

Division 8 Foreign government representatives and international agencies

64 Consular and non-diplomatic representatives

Wages paid or payable to members of his or her official staff by a consular or other representative of any country in Australia (other than a diplomatic representative) are ***exempt wages***.

65 Trade Commissioners

Wages paid or payable to members of his or her official staff by a Trade Commissioner representing any other part of the Commonwealth of Nations in Australia are ***exempt wages***.

66 Australian-American Fulbright Commission

Wages paid or payable by the Australian-American Fulbright Commission are ***exempt wages***.

Division 9 Services outside Australia

66A Wages paid or payable for or in relation to services performed in other countries

Wages are ***exempt wages*** if they are paid or payable for or in relation to services performed by an employee wholly in one or more other countries for a continuous period of more than 6 months beginning on the day on which wages were first paid or payable to that employee for the services so performed.

Part 5 Grouping of employers

Division 1 Interpretation

67 Definitions

In this Part:

business includes:

(a) a profession or trade; and

(b) any other activity carried on for fee, gain or reward; and

(c) the activity of employing 1 or more persons who perform duties for or in connection with another business; and

(d) the carrying on of a trust (including a dormant trust); and

(e) the activity of holding any money or property used for or in connection with another business;

whether carried on by 1 person or 2 or more persons together.

group means a group constituted under this Part, but does not include any member of the group in respect of whom a determination under Division 4 is in force.

68 Grouping provisions to operate independently

The fact that a person is not a member of a group constituted under a provision of this Part does not prevent the person from being a member of a group constituted under another provision of this Part.

Division 2 Business groups

69 Constitution of groups

A group is constituted by all the persons or bodies forming a group that is not a part of any larger group.

70 Groups of corporations

Corporations constitute a group if they are related bodies corporate within the meaning of the Corporations Act 2001.

71 Groups arising from the use of common employees

(1) If 1 or more employees of an employer perform duties for or in connection with 1 or more businesses carried on by the employer and 1 or more other persons, the employer and each of those other persons constitute a group.

(2) If 1 or more employees of an employer are employed solely or mainly to perform duties for or in connection with 1 or more businesses carried on by 1 or more other persons, the employer and each of those other persons constitute a group.

(3) If 1 or more employees of an employer perform duties for or in connection with 1 or more businesses carried on by 1 or more other persons, being duties performed in connection with, or in fulfilment of the employer's obligation under, an agreement, arrangement or undertaking for the provision of services to any 1 or more of those other persons in connection with that business or those businesses, the employer and each of those other persons constitute a group.

(4) Subsection (3) applies to an agreement, arrangement or undertaking:

(a) whether the agreement, arrangement or undertaking is formal or informal, express or implied; and

(b) whether or not the agreement, arrangement or undertaking provides for duties to be performed by the employees or specifies the duties to be performed by them.

Note

Section 79 allows the Commissioner, for payroll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

72 Groups of commonly controlled businesses

(1) If a person or set of persons has a controlling interest in each of 2 businesses, the persons who carry on those businesses constitute a group.

Note for subsection (1)

Section 79 allows the Commissioner, for payroll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

(2) For this section, a person or set of persons has a controlling interest in a business if:

(a) in the case of 1 person – the person is the sole owner (whether or not as trustee) of the business; or

(b) in the case of a set of persons – the persons are together as trustees the sole owners of the business; or

(c) in the case of a business carried on by a corporation:

(i) the person or each of the set of persons is a director of the corporation and the person or set of persons is entitled to exercise more than 50% of the voting power at meetings of the directors of the corporation; or

(ii) a director or set of directors of the corporation that is entitled to exercise more than 50% of the voting power at meetings of the directors of the corporation is under an obligation, whether formal or informal, to act in accordance with the direction, instructions or wishes of that person or set of persons; or

(d) in the case of a business carried on by a body corporate or unincorporated – that person or set of persons constitute more than 50% of the board of management (by whatever name called) of the body or control the composition of that board; or

(e) in the case of a business carried on by a corporation that has a share capital – that person or set of persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, more than 50% of the voting power

attached to the voting shares, or any class of voting shares, issued by the corporation; or

(f) in the case of a business carried on by a partnership – that person or set of persons:

(i) own (whether beneficially or not) more than 50% of the capital of the partnership; or

(ii) is entitled (whether beneficially or not) to more than 50% of the profits of the partnership; or

(g) in the case of a business carried on under a trust – the person or set of persons (whether or not as a trustee of, or beneficiary under, another trust) is the beneficiary in respect of more than 50% of the value of the interests in the first-mentioned trust.

(3) If:

(a) 2 corporations are related bodies corporate within the meaning of the Corporations Act 2001; and

(b) 1 of the corporations has a controlling interest in a business;

the other corporation has a controlling interest in the business.

(4) If:

(a) a person or set of persons has a controlling interest in a business; and

(b) a person or set of persons who carry on the business has a controlling interest in another business;

the person or set of persons mentioned in paragraph (a) has a controlling interest in the other business.

(5) If:

(a) a person or set of persons is the beneficiary of a trust in respect of more than 50% of the value of the interests in the trust; and

(b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of another trust;

the person or set of persons has a controlling interest in the business.

(6) A person who may benefit from a discretionary trust as a result of the trustee or another person, or the trustee and another person, exercising or failing to exercise a power or discretion, is taken, for this Part, to be a beneficiary in respect of more than 50% of the value of the interests in the trust.

(7) If:

(a) a person or set of persons has a controlling interest in the business of a trust; and

(b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of a corporation;

the person or set of persons is taken to have a controlling interest in the business of the corporation.

(8) If:

(a) a person or set of persons has a controlling interest in the business of a trust; and

(b) the trustee of the trust (whether alone or together with another trustee or trustees) has a controlling interest in the business of a partnership;

the person or set of persons is taken to have a controlling interest in the business of the partnership.

73 Groups arising from tracing of interests in corporations

(1) An entity and a corporation form part of a group if the entity has a controlling interest in the corporation.

Note for subsection (1)

Section 79 allows the Commissioner, for payroll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

(2) For this section, an entity has a ***controlling interest*** in a corporation if the corporation has share capital and:

(a) the entity has a direct interest in the corporation and the value of that direct interest exceeds 50%; or

(b) the entity has an indirect interest in the corporation and the value of that indirect interest exceeds 50%; or

(c) the entity has an aggregate interest in the corporation and the value of the aggregate interest exceeds 50%.

(3) Division 3 applies for the interpretation of this section.

Note for subsection (3)

Division 3 sets out the manner for determining whether an entity has a direct interest, indirect interest or aggregate interest in a corporation, and the value of such an interest.

(4) In this section:

associated person means a person who is associated with another person in accordance with any of the following provisions:

(a) persons are associated persons if they are related persons;

(b) individuals are associated persons if they are partners in a partnership;

(c) private companies are associated persons if common shareholders have a majority interest in each private company;

(d) trustees are associated persons if any person is a beneficiary common to the trusts (other than a public unit trust scheme) of which they are trustees;

(e) a private company and a trustee are associated persons if a related body corporate of the company (within the meaning of the Corporations Act 2001) is a beneficiary of the trust (other than a public unit trust scheme) of which the trustee is a trustee.

entity means:

(a) a person; or

(b) 2 or more persons who are associated persons (as defined in this section).

private company means a company that is not limited by shares, or whose shares are not quoted on the Australian Securities Exchange or any exchange of the World Federation of Exchanges.

related person means a person who is related to another person in accordance with any of the following provisions:

(a) individuals are related persons if:

(i) one is the spouse or de facto partner of the other; or

(ii) the relationship between them is that of parent and child, brothers, sisters, or brother and sister;

(b) private companies are related persons if they are related bodies corporate within the meaning of the Corporations Act 2001;

(c) an individual and a private company are related persons if the individual is a majority shareholder or director of the company or of another private company that is a related body corporate of the company within the meaning of the Corporations Act 2001;

(d) an individual and a trustee are related persons if the individual is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee;

(e) a private company and a trustee are related persons if the company, or a majority shareholder or director of the company, is a beneficiary of the trust (not being a public unit trust scheme) of which the trustee is a trustee.

74 Smaller groups subsumed by larger groups

(1) If a person is a member of 2 or more groups, the members of all the groups together constitute a group.

(2) If 2 or more members of a group have together a controlling interest in a business (within the meaning of section 72), all the members of the group and the person or persons who carry on the business together constitute a group.

Note

Section 79 allows the Commissioner, for payroll tax purposes, to exclude persons from a group constituted under this section in certain circumstances.

Division 3 Business groups tracing of interests in corporations

75 Application

This Division applies for section 73.

76 Direct interest

(1) An entity has a ***direct interest*** in a corporation if:

(a) in the case of an entity that is a person – the person can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation; or

(b) in the case of an entity that is 2 or more persons who are associated persons – each of the associated persons can, directly or indirectly, exercise, control the exercise of, or substantially influence the exercise of, the voting power attached to any voting shares issued by the corporation.

(2) The value of the direct interest of the entity in the corporation is the proportion (expressed as a percentage) of the voting power of all voting shares issued by the corporation that:

(a) in the case of an entity that is a person – the person can directly or indirectly exercise, control the exercise of, or substantially influence the exercise of, as mentioned in subsection (1); or

(b) in the case of an entity that is 2 or more persons who are associated persons – the associated persons can, if acting together, directly or indirectly exercise, control the exercise of, or substantially influence the exercise of, as mentioned in subsection (1).

77 Indirect interest

(1) An entity has an ***indirect interest*** in a corporation if the corporation is linked to another corporation (the ***directly controlled corporation***) in which the entity has a direct interest.

(2) A corporation is linked to a directly controlled corporation if the corporation is part of a chain of corporations:

(a) that starts with the directly controlled corporation; and

(b) in which a link in the chain is formed if a corporation has a direct interest in the next corporation in the chain.

(3) The following are examples of how subsections (1) and (2) work (the examples are cumulative):

(a) corporation A (a directly controlled corporation) has a direct interest in corporation B. Corporations A and B form part of a chain of corporations, and corporation B is linked to corporation A. Accordingly, an entity that has a direct interest in corporation A also has an indirect interest in corporation B;

(b) corporation B also has a direct interest in corporation C. In this case, corporations A, B and C form part of a chain of corporations. Both corporations B and C are linked to corporation A. The entity that has a direct interest in corporation A has an indirect interest in both corporations B and C;

(c) corporation B also has a direct interest in corporation D. There are now 2 chains of corporations, one consisting of A, B and C, and one consisting of A, B and D. Corporations B, C and D are all linked to corporation A and an entity that has a direct interest in corporation A would have an indirect interest in corporations B, C and D. An entity that has a direct interest in corporation B would have an indirect interest in corporations C and D. However, an entity that has a direct interest in corporation C only would not have an indirect interest in corporation D, as corporation D is not linked to corporation C.

(4) The value of the indirect interest of an entity in a corporation (an ***indirectly controlled corporation***) that is linked to a directly controlled corporation is calculated by multiplying together the following:

(a) the value of the direct interest of the entity in the directly controlled corporation;

(b) the value of each direct interest that forms a link in the chain of corporations by which the indirectly controlled corporation is linked to the directly controlled corporation.

(5) The following are examples of how subsection (4) works (the examples are cumulative):

(a) an entity has a direct interest (with a value of 80%) in corporation A. Corporation A has a direct interest (with a value of 70%) in corporation B. The value of the indirect interest of the entity in corporation B is 80% × 70% (that is, 56%). Accordingly, in this example the entity has a controlling interest (within the meaning of section 73) in corporation B;

(b) corporation B also has a direct interest (with a value of 40%) in corporation C. The value of the indirect interest of the entity in corporation C is 80% × 70% × 40% (that is, 22·4%). Accordingly, in this example the entity does not have a controlling interest in corporation C.

(6) It is possible for an entity to have more than 1 indirect interest in a corporation. This may occur if the corporation is linked to more than 1 corporation in which the entity has a direct interest, or if the corporation is linked to only 1 corporation in which the entity has a direct interest but is linked through more than 1 chain of corporations. In that case, the entity has an aggregate interest in the corporation (see section 78).

78 Aggregation of interests

(1) An entity has an ***aggregate interest*** in a corporation if:

(a) the entity has a direct interest and 1 or more indirect interests in the corporation; or

(b) the entity has more than 1 indirect interest in the corporation.

(2) The value of the aggregate interest of an entity in a corporation is the sum of the following:

(a) the value of the direct interest (if any) of the entity in the corporation;

(b) the value of each indirect interest of the entity in the corporation.

(3) For example:

(a) an entity has a direct interest (with a value of 40%) in corporation B; and

(b) the entity also has a direct interest (with a value of 25%) in corporation A, which in turn has a direct interest (with a value of 60%) in corporation B. Accordingly, the entity also has an indirect interest in corporation B with a value of 15% (that is, 25% $\times$ 60%); and

(c) the value of the entity's aggregate interest in corporation B is the sum of the direct interest (40%) and the indirect interest (15%), which is 55%; and

(d) accordingly, in this example, the entity has a controlling interest in corporation B (within the meaning of section 73).

Division 4 Miscellaneous

79 Exclusion of persons from groups

(1) The Commissioner may, by order in writing, determine that a person who would, but for the determination, be a member of a group is not a member of the group.

(2) The Commissioner may only make such a determination if satisfied, having regard to the nature and degree of ownership and control of the businesses, the nature of the businesses and any other matters the Commissioner considers relevant, that a business carried on by the person, is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member

of that group.

(3) The Commissioner cannot exclude a person from a group if the person is a body corporate that, by reason of section 50 of the Corporations Act 2001, is related to another body corporate that is a member of that group.

(4) This section extends to a group constituted by reason of section 74.

(5) A determination can be expressed to take effect on a date that is:

(a) earlier than the date of the determination; but

(b) not earlier than 1 July 2008.

(6) The Commissioner may, by order in writing, revoke a determination that applies in respect of a person if satisfied the circumstances in which a determination may be made do not apply to the person.

(7) The revocation of a determination can be expressed to take effect on a date that is earlier than the date of the determination.

80 Designated group employers

(1) The members of a group may, with the approval of the Commissioner, designate a qualified member of the group to be the designated group employer for the group for this Act.

(2) A member of a group is a qualified member if the member:

(a) has paid during the preceding financial year wages that exceeded $2 500 000; or

(b) is likely to pay during the current financial year wages that are likely to exceed that amount.

(3) If none of the members of a group is a qualified member but the members together:

(a) have paid during the preceding financial year wages that exceeded $2 500 000; or

(b) are, in the opinion of the Commissioner, likely to pay during the current financial year wages that will exceed that amount;

the members may, with the approval of the Commissioner, designate any member of the group to be the designated group employer for the group for this Act.

(4) If the members of a group do not designate a member as the designated group employer within 7 days after the end of the month in which the group is established, the Commissioner may (but is not obliged to) designate any member of the group as the designated group employer.

(5) The designated group employer of a group stops being the designated group employer from and including the earlier of the following days:

(a) the first day of a return period during which there is a change in the membership of the group;

(b) the first day of a return period during which the members of the group revoke the designation.

(6) The designation of a designated group employer under subsection (1) or (3) must be by notice in writing.

(7) The notice must:

(a) be executed by or on behalf of each member of the group; and

(b) be served on the Commissioner.

81 Joint and several liability

(1) If a member of a group fails to pay an amount that the member is required to pay under this Act in respect of any period, every member of the group is liable jointly and severally to pay that amount to the Commissioner.

(2) If 2 or more persons are jointly or severally liable to pay an amount under this section, the Commissioner may recover the whole of the amount from them, or any of them, or any one of them.

(3) If, under this section, 2 or more persons are jointly and severally liable to pay an amount that is payable by any one of them, each person is also jointly and severally liable to pay:

(a) any amount payable to the Commissioner under this or any other Act in relation to that amount, including any interest and penalty tax; and

(b) any costs and expenses incurred in relation to the recovery of that amount that the Commissioner is entitled to recover from any such person.

(4) A person who pays an amount in accordance with the liability imposed by this section has such rights of contribution or indemnity from the other person or persons as are just.

(5) This section applies whether or not the person was an employer during the relevant period.

Part 6 Adjustments of tax

82 Determination of correct amount of payroll tax

(1) For this Part, the ***correct amount of payroll tax*** payable by an employer in respect of a financial year is the amount determined in accordance with Schedule 1, or clause 14 of Schedule 2, as the case requires, in respect of that financial year.

(2) This Part applies in respect of payroll tax paid or payable whether as a group employer or as an individual employer.

(3) If an employer is liable for payroll tax both as an individual employer and as a group employer (for different periods in the same financial year) separate adjustments are to be made under this Part, or clause 15 of Schedule 2, as the case requires, in respect of any period as a group employer and any period as an individual employer (and for that purpose separate determinations of the correct amount of payroll tax payable by the employer are to be made).

(4) In this Part:

group employer means an employer who is a member of a group.

individual employer means an employer who is not a member of a group.

83 Annual adjustment of payroll tax

(1) If the amount of payroll tax paid or payable by an employer (other than a group employer) when the employer made the returns relating to a financial year is greater than the correct amount of payroll tax payable by the employer in respect of the financial year, the Commissioner (on application by the employer) is to refund to that employer an amount equal to the difference.

(2) If the amount of payroll tax paid or payable by an employer (other than a group employer) when the employer made the returns relating to a financial year is less than the correct amount of payroll tax payable by the employer in respect of the financial year, the employer must pay to the Commissioner as payroll tax an amount

equal to the difference.

(3) Any amount payable by an employer under this section or clause 15 of Schedule 2 in respect of a financial year must be paid within the period during which the employer is required to lodge a return under this Act in respect of the return period that is or includes the month of June in that financial year.

(4) The amount of any refund payable to an employer in respect of a financial year under this section or clause 15 of Schedule 2 is to be reduced by the amount of any other refund of payroll tax made in respect of that financial year to that employer (whether under this section or otherwise) before the time of the refund under this section.

Note

Clause 15 of Schedule 2 applies to group employers.

84 Adjustment of payroll tax when employer changes circumstances

(1) If an employer changes the employer's circumstances during a financial year, the employer must, if the amount of payroll tax paid or payable by the employer when the employer made returns relating to the relevant period prior to the change of circumstances is less than the correct amount of payroll tax payable by the employer in respect of the financial year, pay to the Commissioner as payroll tax an amount equal to the difference.

(2) A change of circumstances occurs when the employer:

(a) ceases to pay or be liable to pay taxable wages and interstate wages; or

(b) becomes a group employer (following a period as an individual employer); or

(c) ceases to be a group employer (and becomes an individual employer).

(3) The relevant period prior to a change of circumstances is the period prior to the change (during the financial year concerned and since any prior change of circumstances) for which the employer paid or was liable to pay taxable wages or interstate wages.

(4) In calculating for this section the correct amount of payroll tax payable by the employer, it is to be assumed that the wages paid or payable by the employer during the relevant period are the only wages paid or payable by the employer during the financial year concerned.

(5) Any amount payable by an employer under this section in respect of a relevant period must be paid within the period during which the employer is required to lodge a return under this Act relating to that relevant period or the last return under this Act relating to the relevant period.

(6) Any payroll tax paid or payable by an employer under this section is to be included as payroll tax paid or payable by the employer for the annual adjustment of payroll tax under this Part.

Note

If an employer ceases to be a group employer during a financial year an adjustment will be made under this section. If later in that financial year the employer ceases to pay wages there will be a further adjustment under this section. The first adjustment will adjust payroll tax paid for the period as a group employer against the correct amount of tax that should have been paid (based on the assumption that the period as a group employer is the only period for which the employer paid wages throughout the year). The second adjustment will adjust payroll tax paid for the period as an individual employer against the correct amount of tax that should have been paid (based on the assumption that the period as an individual employer is the only period for which the employer paid wages throughout the year). Any amount of payroll tax paid under this section is taken into account for the annual adjustment of payroll tax.

85 Special provision where wages fluctuate

If 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 the person's trade or business, the taxable wages and interstate wages, if any, paid or payable by the person fluctuate with different periods of the financial year, the Commissioner may determine that the person is to be treated for this Part:

(a) if the person has conducted that trade or business in Australia during the whole of the financial year – as an employer who pays or is liable to pay taxable wages throughout the financial year; or

(b) if the person has conducted that trade or business in Australia during part only of the financial year – as an employer who pays or is liable to pay taxable wages throughout that part of the financial year.

Note

The effect of such a determination is that when the correct amount of payroll tax is calculated (for a tax adjustment provided for by this Part) the employer may receive the benefit of the payroll tax threshold for the period for which the employer is to be treated as paying wages, and not just for the period for which the employer actually pays wages. Without such a determination, an employer may only receive the benefit of a proportion of the threshold amount that is equivalent to the proportion of the whole financial year for which the employer

actually pays wages.

Part 7 Registration and returns

86 Registration

(1) An employer who is not already registered must apply for registration as an employer under this Act if:

(a) during a month the employer pays or is liable to pay, anywhere, wages of more than the weekly threshold amount per week that are wholly or partly taxable wages; or

(b) the employer is a member of a group the members of which together during a month pay or are liable to pay, anywhere, wages of more than the weekly threshold amount per week that are wholly or partly taxable wages.

(1A) For subsection (1), the ***weekly threshold amount*** is to be worked out using the following formula (disregarding any amount in cents):

$$\frac{TA}{N} \times 7$$

where:

N is the number of days in the financial year.

TA is the threshold amount for the financial year as defined in Schedule 1, clause 1.

(2) The application for registration is to be made to the Commissioner in a form and manner approved by the Commissioner within 21 days after the end of the month concerned.

(3) The Commissioner is to register the applicant as an employer under this Act.

(4) The Commissioner may cancel the registration of a person as an employer if satisfied that the person has ceased to pay or to have a liability to pay wages as described in subsection (1).

(5) If the Commissioner cancels the registration of a person as an employer in any financial year and the person subsequently pays or is liable to pay taxable wages during the financial year, the person may, despite the fact the person is not required to apply for registration, apply to the Commissioner (in a form and manner approved by the Commissioner) for registration as an employer, and the Commissioner is then to register the person as an employer under this Act.

87 Returns

(1) Every employer who is registered or required to apply for registration as an employer under this Act must:

(a) within 21 days after the end of each month (except June) – lodge with the Commissioner a return relating to that month; and

(b) within 21 days after the end of June in each year – lodge with the Commissioner a return relating to that month and to the adjustment of payroll tax paid or payable by the employer during the financial year ending on the close of that month.

(2) The designated group employer for a group may, with the approval of the Commissioner, lodge a joint return for this section covering specified members of the group (including the designated group employer).

(3) If a joint return is lodged and the return would, if lodged by a single employer, comply with this section, each of the employers covered by the return is taken to have complied with this section.

Part 8 Collection and recovery of tax

Division 1 Agents and trustees generally

88 Application

(1) This Division applies to an agent of, or trustee for, an employer.

(2) Nothing in this Division limits or otherwise affects the application of Part 5 to an agent or trustee, or 2 or more persons 1 or more of whom is an agent or trustee.

89 Agents and trustees are answerable

An agent or trustee is answerable as the employer for the doing of all things that are required to be done by or under this Act in respect of the payment of any wages which are subject to payroll tax under this Act.

90 Returns by agent or trustee

(1) An agent or trustee must, in respect of the wages mentioned in section 89, make the returns required under Part 7, but in a representative capacity only, and each return must, except as otherwise provided by this Act, be separate and distinct from any other.

(2) In the case of an executor or administrator, the returns must be the same as far as practicable as the deceased person, if living, would have been liable to make.

91 Liability to pay tax

(1) An agent or trustee is personally liable for tax on the wages mentioned in section 89 if:

(a) after the Commissioner has required the agent or trustee to make a return; or

(b) while the tax remains unpaid;

the agent or trustee, except with the written permission of the Commissioner, disposes of or parts with any fund or money which comes to the agent or trustee from or out of which tax could legally be paid.

(2) Otherwise than as provided in subsection (1), the agent or trustee is not personally liable to pay the tax in a representative capacity.

(3) The agent or trustee must retain from time to time out of any money which comes to the agent or trustee in a representative capacity enough to pay the tax.

(4) For ensuring the payment of tax, the Commissioner has the same remedies against attachable property of any kind vested in or under the control or management or in the possession of the agent or trustee, as the Commissioner has against the property of any other person in respect of tax, and in as full and ample a manner.

92 Indemnity for agent or trustee

(1) An agent or trustee is indemnified for all payments that the agent or trustee makes under this Act or in accordance with the requirements of the Commissioner.

(2) An agent or trustee who pays tax as agent or trustee may recover the amount paid from the person on whose behalf it was paid, or deduct it from any money in the agent's or trustee's hands belonging to that person.

Division 2 Special cases

Note
In some corresponding payroll tax laws, this Division provides for special cases in sections 93 to 99 which do not apply in the Territory.

93 Tax not paid during lifetime

94 Payment of tax by executors or administrators

95 Assessment if no probate within 6 months of death

96 Person in receipt or control of money for absentee

97 Agent for absentee principal winding-up business

98 Recovery of tax paid on behalf of another person

99 Liquidator to give notice

Part 9 General

100 Provisions specific to this jurisdiction

Schedule 2, which contains provisions that are applicable only to this jurisdiction, has effect.

101 Regulations

(1) The Administrator may make regulations under this Act.

(2) The regulations may provide for the following:

(a) the manner of making any application to the Commissioner under this Act;

(b) the evidence the Commissioner may require for determining whether or not:

(i) an employer was an employer for part only of a financial year; or

(ii) a person was a member of a group at any time or during any period;

(c) the signing of returns, applications, notices, statements or forms by or on behalf of employers and deeming any return, application, notice, statement or form signed on behalf of an employer to have been signed by the employer;

(d) the authentication of any certificate, notice or other document issued for this Act or any regulation.

Part 10 Repeals and transitional provisions for Payroll Tax Act 2009

102 Repeals

The Acts specified in Schedule 3 are repealed.

103 Definitions

In this Part:

commencement means the commencement of this Act.

old Act means the *Pay-roll Tax Act 1978*.

old regulations means the *Pay-roll Tax Regulations 1978*.

pre-existing, for a thing done under the old Act, means the thing as in force under the old Act immediately before the commencement.

104 Application of this Act and old Act

(1) This Act applies to payroll tax on taxable wages that are paid or payable on or after 1 July 2009.

(2) Despite its repeal, the old Act continues to apply to payroll tax on taxable wages (within the meaning of the old Act) paid or payable before 1 July 2009.

105 General saving

Any act, matter or thing that had effect under or for a provision of the old Act, or a provision of another Act repealed by this Act, immediately before the repeal of the provision continues to have effect under or for the corresponding provision of this Act, subject to any other provision of this Part or the regulations under this Part.

106 Employer election

An election made by an employer under regulation 27K of the old regulations that was in force immediately before 1 July 2009 is taken, on and after that day, to be an election under section 16(1) of this Act.

107 Pre-1 July 2009 taxable wages that included superannuation contributions

(1) This section applies if:

(a) because of clause 3 of Schedule 1 of the old Act, an employer's taxable wages for a financial year that started before 1 July 2009 (a ***pre-1 July 2009 financial year***) included an amount of superannuation contribution; and

(b) the employer did not actually make that superannuation contribution until on or after 1 July 2009.

(2) The employer may deduct that amount from the employer's taxable wages for a subsequent return period in which that superannuation contribution is actually made.

(3) A superannuation contribution that is alleged by an employer to be included in the employer's taxable wages for a pre-1 July 2009 financial year must be evidenced to the satisfaction of the Commissioner in the employer's records for payroll tax purposes.

108 Superannuation contributions relating to pre-1 July 1999 service

(1) Despite anything in section 11 or 17, wages do not include a superannuation contribution paid or payable in respect of services performed by an employee before 1 July 1999.

(2) A superannuation contribution that is alleged by an employer to be paid in respect of services performed by an employee before 1 July 1999 must be evidenced to the satisfaction of the Commissioner in the employer's records for payroll tax purposes.

(3) In particular, the employer's records must show the manner of calculation of the contribution and any actuarial basis for it.

(4) For subsection (3), and any assessment of payroll tax to which that subsection is material, the certificate of a fellow or accredited member of the Institute of Actuaries of Australia to the effect that the actuarial basis on which an amount is calculated is justified is evidence and, in the absence of evidence to the contrary, proof of that fact.

(5) If records are not kept as required by this section, the Commissioner is entitled to assume that a payment of money by an employer as a superannuation contribution on or after 1 July 1999 is an amount payable in respect of services performed by an employee on or after that day.

109 Designated group employer

The designation of an employer as a designated group employer that had effect immediately before 1 July 2009 has effect as the designation of a designated group employer under this Act.

110 Approval relating to motor vehicle allowance

An approval given by the Commissioner under section 3E(6) of the old Act that was in force immediately before 1 July 2009 is taken, on and after that day, to be an approval given under section 29(6) of this Act.

111 Registration of employers

An employer who was registered under section 12 of the old Act immediately before 1 July 2009 is taken, on and after that day, to be registered under section 86 of this Act.

112 Delegation, authorisation and appointment

(1) This section applies to a delegation, authorisation or appointment (each of which is a ***relevant instrument***) made under the *Taxation Administration Act 2007* and was in force immediately before 1 July 2009 in relation to the old Act or old regulations.

(2) A relevant instrument has effect after that date if it relates to a provision of the old Act or old regulations that continues to have effect after that date because of this Part.

(3) If a relevant instrument relates to a provision of the old Act or old regulations for which there is a corresponding provision of this Act, the relevant instrument has effect after that date as it were made in relation to the corresponding provision of this Act.

Part 11 Transitional matters for amendment Acts

Division 1 Payroll Tax Amendment Act 2010

113 Application

(1) Subject to subsections (2) and (3), the amendments made to this Act by the *Payroll Tax Amendment Act 2010* apply in respect of taxable wages that are paid or payable on or after 1 July 2009.

(2) The amendments made to this Act by the *Payroll Tax Amendment Act 2010* are to be applied for the purpose of determining the correct amount of payroll tax (within the meaning of section 82) payable by an employer in respect of the financial year

commencing on 1 July 2009 (including in respect of expired months).

(3) Section 9 continues to apply in respect of an expired month as if the amendments made to this Act by the *Payroll Tax Amendment Act 2010* had not been made.

(4) In this section:

expired month means a month occurring after June 2009 that ended before or on the day on which the Administrator's assent to the *Payroll Tax Amendment Act 2010* is declared.

Division 2 Revenue Legislation Amendment Act 2011

114 Assessment and payment of payroll tax in relation to employee shares and options

Anything done or omitted to be done by an employer in connection with the assessment and payment of payroll tax, in respect of a month occurring after June 2009 and before July 2011, that would have been validly done or omitted to be done had the amendments made to this Act by the *Revenue Legislation Amendment Act 2011* been in force, is taken to have been validly done or omitted.

Note for section 114

This provision validates a decision by an employer to treat the grant of a share or an option to an employee that is not an ESS interest as a fringe benefit under Part 3, Division 2 and to determine the value of those fringe benefits in accordance with those provisions, rather than by reference to Part 3, Division 4.

115 Determination of vesting date and value of employee shares and options

(1) Part 3, Division 4 continues to apply in relation to a share or an option granted before 1 July 2011 that constituted wages under old section 18, whether or not the grant of the share or option would constitute wages under new section 18, if the relevant day in relation to the grant of the share or option is not a day occurring before 1 July 2011.

Example for subsection (1)

A share granted before 1 July 2011 that is not an ESS interest continues to be treated as wages under Part 3, Division 4 if the vesting date for the share did not occur before 1 July 2011 and the employer did not elect to treat the date of the grant as the relevant day.

(2) The assessment amendments apply in respect of any such share or option.

(3) Accordingly, the vesting date and the value of the share or option are to be determined in accordance with the assessment amendments.

(4) This section does not apply in respect of a share or an option granted before 1 July 2011 if the liability for payroll tax in respect of the grant is determined in accordance with Part 3, Division 2 (as permitted by section 114).

(5) In this section:

assessment amendments means the amendments made by Part 3 of the *Revenue Legislation Amendment Act 2011*.

new section 18 means section 18 as amended by the *Revenue Legislation Amendment Act 2011*.

old section 18 means section 18 as in force immediately before 1 July 2011.

relevant day, see section 18(3).

Division 3 Revenue and Other Legislation Amendment Act 2015

116 Definition

In this Division:

2015 Act means the *Revenue and Other Legislation Amendment Act 2015*.

117 Contractor provisions – wages paid or payable before 1 July 2015

(1) Section 32, as amended by section 15 of the 2015 Act, does not apply in relation to wages paid or payable before 1 July 2015.

(2) Section 32, as in force before 1 July 2015, continues to apply in relation to wages paid or payable before 1 July 2015 as if section 15 of the 2015 Act had not commenced.

118 Non-profit entities – wages paid or payable before 1 July 2015

(1) Part 4, Division 1, as amended by section 17 of the 2015 Act, does not apply in relation to wages paid or payable before 1 July 2015.

(2) Part 4, Division 1, as in force before 1 July 2015, continues to apply in relation to wages paid or payable before 1 July 2015 as if section 17 of the 2015 Act had not commenced.

Division 4 Transitional matters for Revenue Legislation Amendment Act 2018

119 Transitional matters for *Revenue Legislation Amendment Act 2018*

(1) The amendments made to this Act by the *Revenue Legislation Amendment Act 2018* apply to:

(a) wages paid on or after 1 May 2018, except wages payable before that date; and

(b) wages payable on or after 1 May 2018.

(2) This Act, as in force immediately before 1 May 2018, continues to apply to wages paid or payable before 1 May 2018.

Division 5 Transitional matters for Payroll Tax Amendment Act 2025

120 Application of amendments

(1) This Act as amended by the *Payroll Tax Amendment Act 2025* applies in relation to:

(a) wages paid on or after 1 July 2025, except wages payable before that date; and

(b) wages payable on or after 1 July 2025.

(2) This Act as in force immediately before 1 July 2025 continues to apply in relation to wages paid or payable before 1 July 2025.

Division 6 Transitional matters for Revenue Legislation Amendment Act 2025

121 Application of amendments

(1) Section 48C, as amended by Part 3 of the *Revenue Legislation Amendment Act 2025* (the ***amending Act***), applies in relation to:

(a) wages paid by non-profit entities on or after 1 July 2025, except wages payable before that date; and

(b) wages payable by non-profit entities on or after 1 July 2025.

(2) Section 48C, as in force immediately before the commencement of the amending Act, continues to apply in relation to wages paid or payable by non-profit entities before 1 July 2025.

Schedule 1 Calculation of payroll tax liability

sections 8, 29(5) and 82

Part 1 Interpretation

1 Definitions

In this Schedule:

ETA or ***employer's threshold amount***, see clause 4.

financial year means the financial year commencing on 1 July 2009 or on 1 July in any subsequent financial year.

FY means the number of days in the financial year.

GTA or ***group threshold amount***, see clause 8.

R is the rate of payroll tax applicable under section 7A.

relevant financial year means the financial year to which the calculation of the relevant payroll tax relates.

TA or ***threshold amount*** means $2 500 000.

Part 2 Employers who are not members of group

2 Application of Part

This Part applies only to an employer who is not a member of a group.

3 Definitions

In this Part:

AD or ***annual deduction*** means the following:

(a) if the amount worked out in accordance with the formula set out in paragraph (b) is zero or a negative amount – zero;

(b) otherwise – the amount worked out in accordance with the following formula:

$$AD = ETA - \left[\frac{TW + IW - ETA}{2} \right]$$

C means the number of days in the relevant financial year in respect of which the employer paid or was liable to pay taxable wages or interstate wages (otherwise than as a member of a group).

IW means the total interstate wages paid or payable by the employer concerned (otherwise than as a member of a group) during the relevant financial year.

TW means the total taxable wages paid or payable by the employer concerned (otherwise than as a member of a group) during the relevant financial year.

4 Payroll of employer not more than threshold

An employer is not liable to pay payroll tax for a financial year if the total taxable wages and interstate wages paid or payable by the employer (otherwise than as a member of a group) during that year is not more than the ***employer's threshold amount***, being the amount calculated in accordance with the following formula:

$$TA \times \frac{C}{FY}$$

5 Payroll of employer over threshold

If the total taxable wages and interstate wages paid or payable by an employer (otherwise than as a member of a group) during a financial year is more than the employer's threshold amount, the employer is liable to pay as payroll tax for that year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left[\frac{TW}{TW + IW} \times AD \right] \right] \times R$$

Part 3 Groups with designated group employer

6 Application of Part

This Part applies only to an employer who is a member of a group for which there is a designated group employer.

7 Definitions

In this Part:

AD or ***annual deduction*** means the following:

(a) if the amount worked out in accordance with the formula set out in paragraph (b) is zero or a negative amount – zero;

(b) otherwise – the amount worked out in accordance with the following formula:

$$AD = GTA - \left[\frac{GTW + GIW - GTA}{2}\right]$$

C means the number of days in the relevant financial year in respect of which at least 1 member of the group paid or was liable to pay (as a member of the group) taxable wages or interstate wages.

GIW means the total interstate wages paid or payable by the group concerned during the relevant financial year.

GTW means the total taxable wages paid or payable by the group concerned during the relevant financial year.

TW means the total taxable wages paid or payable by the employer concerned (as a member of the group) during the relevant financial year.

8 Payroll of group not more than threshold

None of the members of a group is liable to pay payroll tax for the financial year if the total taxable wages and interstate wages paid or payable by the group during that year is not more than the ***group threshold amount***, being the amount calculated in accordance with the following formula:

$$TA \times \frac{C}{FY}$$

9 Payroll of group over threshold

(1) This clause applies to a group if:

(a) there is a designated group employer of the group; and

(b) the total taxable wages and interstate wages paid or payable by the group during the financial year is more than the group threshold amount; and

(c) the Commissioner, by writing, allows the group to calculate payroll tax under this clause.

Note for subclause (1)

Clause 14 of Schedule 2 applies to the group if subclause (1)(a) and (b) of this clause apply, but subclause (1)(c) of this clause does not apply, to the group.

(2) The designated group employer for the group is liable to pay as payroll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[TW - \left[\frac{GTW}{GTW + GIW} \times AD\right]\right] \times R$$

(3) Each member of the group (other than that designated group employer) is liable to pay as payroll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times R$$

Part 4 Groups with no designated group employer

10 Application of Part

This Part applies only to an employer who is a member of a group for which there is no designated group employer.

11 Definition

In this Part:

TW means the total taxable wages paid or payable by the employer concerned (as a member of the group) during the relevant financial year.

12 Calculation of payroll tax

Each member of the group is liable to pay as payroll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$TW \times R$$

Part 5 Motor vehicle allowances

13 Continuous recording method

If an employer selects the continuous recording method for determining the number of business kilometres travelled during a financial year, the following details are required to be recorded by the employer:

(a) the odometer readings at the beginning and end of each business journey undertaken by the person during the financial year by means of a motor vehicle provided or maintained by the person;

(b) the specific purpose for which each such business journey was taken;

(c) the distance travelled by the person during the financial year in the course of all such business journeys (which is taken to be the number of business kilometres travelled during the financial year), calculated on the basis of the odometer readings mentioned in paragraph (a).

14 Averaging method

(1) If an employer selects the averaging method for determining the number of business kilometres travelled during a financial year, the following details are required to be recorded by the employer:

(a) the odometer readings at the beginning and end of each business journey undertaken by the person during the relevant 12-week period by means of a motor vehicle provided or maintained by the person;

Note for paragraph (a)

Clause 15 defines the relevant 12-week period.

(b) the specific purpose for which each such business journey was taken;

(c) the distance travelled by the person during the relevant 12-week period in the course of all such business journeys, calculated on the basis of the odometer readings mentioned in paragraph (a);

(d) the odometer readings at the beginning and end of the relevant 12-week period for each motor vehicle provided or maintained by the person for undertaking business journeys;

(e) the distance travelled by each such vehicle during the relevant 12-week period, calculated on the basis of the odometer readings mentioned in paragraph (d);

(f) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the relevant 12-week period, calculated as a percentage of the distance travelled by that vehicle during that period (the ***relevant percentage***);

(g) the odometer readings at the beginning and end of the financial year for each vehicle provided or maintained by the person for undertaking business journeys;

(h) the distance travelled by each such vehicle during the financial year, calculated on the basis of the odometer readings mentioned in paragraph (g);

(i) the distance travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year (which is taken to be the ***number of business kilometres travelled during the financial year***), calculated on the basis that the percentage of that distance that was travelled by the person in the course of business journeys undertaken by means of each such vehicle during the financial year is the same as the relevant percentage.

(2) For the next succeeding 4 financial years after the first financial year in which odometer details are recorded in accordance with subclause (1), an employer is not required to calculate the relevant percentage, or record the details mentioned in subclause (1)(a) to (f), for the person but is required to record the other details mentioned in that subclause.

(3) Accordingly, for the next succeeding 4 financial years after the first financial year in which odometer details are recorded in accordance with subclause (1), the number of business kilometres travelled during the financial year is to be calculated (as mentioned in subclause (1)(i)) on the basis of the relevant percentage calculated for the first financial year.

(4) Despite subclauses (2) and (3), an employer is required to calculate the relevant percentage for a financial year, and record the details mentioned in subclause (1)(a) to (f), if:

(a) the Commissioner serves a notice on the employer before the commencement of a financial year during that period directing the employer to keep the details mentioned in subclause (1)(a) to (f) for that financial year; or

(b) the employer wishes to use the recording method mentioned in this clause for 1 or more additional motor vehicles used by the person in any financial year or for any other reason.

(5) In a situation mentioned in subclause (4), the new record for the financial year replaces the relevant percentage details previously recorded and subclauses (2) and (3) apply in relation to the new record for the financial year as if it were the first financial year in which odometer details were recorded.

(6) An employer who has adopted and employed the method of recording mentioned in subclauses (2) and (3) for a person for 4 successive financial years must, in the next succeeding financial year, make a fresh recording of all the details specified in subclause (1) if the employer intends to continue to use the same method of recording for the person. Subclauses (2) and (3) then apply in relation to the new record for the financial year as if it were the first financial year in which odometer details were recorded.

(7) If the odometer of a motor vehicle is replaced or recalibrated during any period for which its readings are relevant for this clause, the odometer readings immediately before and after the replacement or recalibration are to be recorded.

15 Meaning of *relevant 12-week period*

(1) In clause 14, ***relevant 12-week period*** means a continuous period of at least 12 weeks, selected by the employer, throughout which a motor vehicle is provided or maintained by a person. If the motor vehicle is provided or maintained for less than 12 weeks, the period must be the entire period for which the motor vehicle is provided or maintained.

(2) The period may overlap the start or end of the financial year, so long as it includes part of the year.

(3) If the averaging method is used for 2 or more motor vehicles for the same financial year, the odometer readings for those motor vehicles must cover periods that are concurrent.

16 Replacing 1 motor vehicle with another motor vehicle

(1) For using the averaging method, an employer may nominate a motor vehicle as having replaced another motor vehicle with effect from a day specified in the nomination.

(2) After the nomination takes effect, the replacement motor vehicle is treated as the original motor vehicle, and the original motor vehicle is treated as a different motor vehicle. An employer need not repeat for the replacement vehicle the steps already taken for the original motor vehicle.

(3) An employer must record the nomination in writing in the financial year in which the nomination takes effect.

(4) However, the Commissioner may allow an employer to record the nomination at a later time.

17 Changing method of recording

(1) An employer may change from using the averaging method to using the continuous recording method with effect from the beginning of a financial year if the employer complies with clause 13 in respect of the financial year.

(2) An employer may change from using the continuous recording method to using the averaging method with effect from the beginning of a financial year if the employer complies with clause 14 in respect of the financial year.

18 Definition

In this Part:

business journey means:

(a) a journey undertaken in a motor vehicle by a person otherwise than in the application of the vehicle to a private use, being an application that, if the person is paid a motor vehicle allowance for that use, results in the provision of a fringe benefit (within the meaning of the FBTA Act) by the employer; or

(b) a journey undertaken in a motor vehicle by a person in the course of producing assessable income of the person (within the meaning of the *Income Tax Assessment Act 1936* (Cth)).

Schedule 2 Territory specific provisions

sections 8 and 100

Part 1 Introduction to Schedule

1 Application of Schedule

This Schedule sets out provisions that apply only in this jurisdiction.

2 Definitions

In this Schedule:

baseline count, see clause 20A.

financial year means the financial year commencing on 1 July 2009 or on 1 July in any subsequent financial year.

group threshold amount, see clause 8 of Schedule 1.

resident employee, see clause 20A.

Part 2 Calculation of monthly payroll tax

Division 2 Employers who are not members of a group

4 Application of Division

This Division applies only to an employer who is not a member of a group.

5 Amount of payroll tax to be paid each month

(1) The amount of payroll tax payable by an employer on taxable wages paid or payable by the employer in a month is the amount of dollars calculated in accordance with the following formula:

$$(TW - D) \times R$$

where:

TW is the total taxable wages paid or payable by the employer (otherwise than as a member of a group) during the month.

D is the deductible amount mentioned in clause 6 or 7 (as the case requires).

R is the rate of payroll tax applicable under section 7A.

(2) If D is equal to or more than TW in respect of a month, the employer is not required to pay payroll tax in respect of that month.

6 Deductible amount for employer who does not pay interstate wages

(1) For an employer who pays or is liable to pay taxable wages in a month but does not pay and is not liable to pay interstate wages in that month, the deductible amount in respect of that month is an amount not exceeding the amount in dollars calculated in accordance with the following formula, as determined in a manner approved by the Commissioner:

$$\frac{TA}{12}$$

where:

TA is the threshold amount for the financial year as defined in Schedule 1, clause 1.

(2) Subclause (1) applies whether the employer pays or is liable to pay wages for the whole of the month or only part of the month.

7 Deductible amount for employer who pays interstate wages

(1) The deductible amount for an employer who pays or is liable to pay taxable wages and interstate wages in a month is an amount determined in a manner approved by the Commissioner.

(2) The deductible amount claimed cannot be more than the amount mentioned in clause 6(1).

Division 3 Groups with designated group employer

8 Application of Division

This Division applies only to an employer who is a member of a group of which there is a designated group employer.

9 Amount of payroll tax to be paid each month

(1) If an approval is in force under section 87(2) for the designated group employer to lodge a joint return:

(a) the amount of payroll tax payable by the designated group employer on taxable wages paid or payable in a month by the employers covered by the return is the amount of dollars calculated in accordance with the following formula:

$$(JTW - D) \times R$$

where:

JTW is the total taxable wages paid or payable during the month by the employers covered by the return (as members of a group).

D is the deductible amount mentioned in clause 10 or 11 (as the case requires).

R is the rate of payroll tax applicable under section 7A; and

(b) the amount of payroll tax payable by each employer who is a member of the group but is not covered by the return on taxable wages paid or payable by the employer in a month is the amount of dollars calculated in accordance with the following formula:

$$TW \times R$$

where:

TW is the total taxable wages paid or payable by the employer concerned (as a member of the group) during the relevant month.

R is the rate of payroll tax applicable under section 7A.

(2) If an approval under section 87(2) is not in force for the designated group employer:

(a) the amount of payroll tax payable by the designated group employer on taxable wages paid or payable by the designated group employer in a month is the amount of dollars calculated in accordance with the following formula:

$$(TW - D) \times R$$

where:

TW is the total taxable wages paid or payable by the designated group employer (as a member of a group) during the month.

D is the deductible amount mentioned in clause 10 or 11 (as the case requires).

R is the rate of payroll tax applicable under section 7A; and

(b) the amount of payroll tax payable by each employer who is a member of the group on taxable wages paid or payable by the employer in a month is the amount of dollars calculated in accordance with the following formula:

$$TW \times R$$

where:

TW is the total taxable wages paid or payable by the employer concerned (as a member of the group) during the relevant month.

R is the rate of payroll tax applicable under section 7A.

(3) For subclauses (1)(a) and (2)(a), if D is equal to or more than JTW or TW in respect of a month (as the case requires), the designated group employer is not required to pay payroll tax in respect of that month.

10 Deductible amount for groups that do not pay interstate wages

(1) For a group in which 1 or more members pay or are liable to pay taxable wages in a month but no members pay or are liable to pay interstate wages in that month, the deductible amount in respect of that month is an amount not exceeding the amount in dollars calculated in accordance with the following formula, as determined in a manner approved by the Commissioner:

$$\frac{TA}{12}$$

where:

TA is the threshold amount for the financial year as defined in Schedule 1, clause 1.

(2) Subclause (1) applies whether group members pay or are liable to pay wages for the whole of the month or only part of the month.

11 Deductible amount for groups that pay interstate wages

(1) The deductible amount for a group in which 1 or more members pay or are liable to pay taxable wages or interstate wages in a month is an amount determined in a manner approved by the Commissioner.

(2) The deductible amount claimed cannot be more than the amount mentioned in clause 10(1).

Division 4 Groups with no designated group employer

12 Application of Division

This Division applies only to an employer who is a member of a group of which there is no designated group employer.

13 Amount of payroll tax to be paid each month

The amount of payroll tax payable by each member of the group on taxable wages paid or payable by the member in a month is the amount of dollars calculated in accordance with the following formula:

$TW \times R$

where:

TW is the total taxable wages paid or payable by the employer concerned (as a member of the group) during the relevant month.

R is the rate of tax payroll tax applicable under section 7A .

Part 3 Payroll tax for financial year

14 Payroll tax for financial year for group that has designated group employer

(1) This clause applies to a group if:

(a) there is a designated group employer of the group; and

(b) the total taxable wages and interstate wages paid or payable by the group during the financial year is more than the group threshold amount; and

(c) clause 9 of Schedule 1 does not apply to the group.

(2) The designated group employer of the group is liable to pay as payroll tax for the financial year the amount of dollars calculated in accordance with the following formula:

$$\left[GTW - \left[\frac{GTW}{GTW + GIW} \times AD\right]\right] \times R$$

(3) In this clause:

AD or ***annual deduction*** means the following:

(a) if the amount worked out in accordance with the formula set out in paragraph (b) is zero or a negative amount – zero;

(b) otherwise – the amount worked out in accordance with the following formula:

$$AD = GTA - \left[\frac{GTW + GIW - GTA}{2}\right]$$

GIW is the total interstate wages paid or payable by the members of the group during the relevant financial year.

GTA, see Schedule 1, clause 8.

GTW is the total taxable wages paid or payable by the members of the group during the relevant financial year.

R is the rate of payroll tax applicable under section 7A.

Note for clause 14

For the calculation of the payroll tax payable for a financial year by an employer who is a member of a group of which there is no designated group employer, see clause 12 of Schedule 1.

15 Adjustment of payroll tax for group

(1) If an amount of payroll tax paid for a financial year in respect of a group is greater than the correct amount of payroll tax payable in respect of the financial year for the group, the Commissioner (on application by a member of the group) is to refund the amount equal to the difference to the designated group employer of the group or, if the Commissioner considers it appropriate, another member of the group.

(2) If an amount of payroll tax paid for a financial year in respect of a group is less than the correct amount of payroll tax payable in respect of the financial year for the group, the designated group employer of the group or, if the Commissioner considers it appropriate, another member of the group, must pay the

Commissioner as payroll tax an amount equal to the difference.

Part 4 Exemptions

Division 1 Education and training

16 Schools and colleges

Wages are ***exempt wages*** if they are paid or payable by a school or college (other than a technical school or a technical college) that:

(a) provides education at or below, but not above, the secondary level of education; and

(b) is carried on by a body corporate, society or association otherwise than for the purpose of profit or gain to the individual members of the body corporate, society or association and is not carried on by or on behalf of the Territory.

17 Apprentices and trainees

(1) Wages are ***exempt wages*** if they are paid or payable to an employee who is an apprentice or trainee.

(2) Despite subsection (1), wages paid or payable to a trainee by an employer are not exempt wages if, immediately before the commencement of the trainee's traineeship with the employer, the trainee had been employed by the employer for a continuous period of:

(a) for a full-time employee – 3 months or more; or

(b) for a part-time or casual employee – 12 months or more.

(3) In this clause:

apprentice, see section 5 of the *Training and Skills Development Act 2016.*

trainee, see section 6 of the *Training and Skills Development Act 2016.*

Division 2 Health care service providers

19 What is a health care service provider

For Part 4, Division 3 of this Act, a ***health care service provider*** is:

(a) a public hospital; or

(b) a hospital that is carried on by a society or association otherwise than for the profit or gain to the individual members of the society or association.

Division 3 Paternity leave

20 Paternity leave

(1) Wages are ***exempt wages*** if they are paid or payable to an employee in respect of leave (***paternity leave***):

(a) given to a male employee in connection with:

(i) the pregnancy of a female carrying his unborn child; or

(ii) the birth of his child; and

(b) that is not sick leave, recreation leave, annual leave or any similar leave.

(2) For subclause (1), it is immaterial whether the leave is taken during or after the pregnancy.

(3) The exemption is limited to wages paid or payable in respect of a maximum of 14 weeks paternity leave given to an employee in respect of any one pregnancy.

(4) In subclause (3):

(a) a reference to 14 weeks paternity leave includes a reference to an equivalent period of leave at a reduced rate of pay; and

(b) a reference to wages paid or payable in respect of a period of leave is a reference to the total wages that would normally have been paid or payable for that period of leave.

Example for subclause (4)

For a part-time employee, the exemption may apply to wages paid or payable for paternity leave that extends to 28 weeks at half of the part-time rate of pay that would normally apply to the employee.

(5) The exemption does not apply to any part of wages paid or payable in respect of paternity leave that comprises fringe benefits.

(6) An employer wishing to claim an exemption in respect of paternity leave given to an employee must obtain and keep a statutory declaration by the employee stating that:

(a) a female is or was pregnant with the employee's unborn child; or

(b) the employee's child has been born and the date of the birth.

Note for subclause (6)

Section 79 of the Taxation Administration Act 2007 requires these records to be kept for at least 5 years unless the Commissioner authorises earlier destruction.

Division 4 Hiring resident employees

20A Definitions

In this Division:

baseline count, in respect of an employer, means the total number of resident employees employed by the employer on 30 April 2018.

resident employee means an employee whose principal place of residence is in the Territory.

20B Relocating or replacing employees with resident employees on or after 1 May 2018

(1) Wages are exempt wages if:

(a) the wages are paid or payable to a resident employee; and

(b) the resident employee was an employee of the employer on 30 April 2018; and

(c) the resident employee formerly resided outside the Territory but relocated to a principal place of residence in the Territory on or after 1 May 2018 and before 1 July 2021.

Example for subclause (1)

A fly-in fly-out employee relocates to the Territory on 1 September 2018. The employer can claim the exemption, regardless of the baseline count.

(2) Wages are exempt wages if:

(a) the wages are paid or payable to a resident employee; and

(b) the resident employee was hired on or after 1 May 2018 and before 1 July 2021; and

(c) the resident employee was hired to replace a former employee whose principal place of residence was outside the Territory; and

(d) the former employee was an employee of the employer on 30 April 2018; and

(e) the replacement occurred within 6 months of when the former employee ceased to be an employee.

Example for subclause (2)

A fly-in fly-out employee, hired before 1 May 2018, ceases to be employed. The position is filled within 6 months by a new employee who lives in the Territory. The employer can claim an exemption, regardless of the baseline count.

20C Hiring new resident employees on or after 1 May 2018

(1) Wages are exempt wages if:

(a) the wages are paid or payable to a resident employee; and

(b) the resident employee was hired on or after 1 May 2018 and before 1 July 2021.

(2) The number of resident employees for which the exemption under subclause (1) is available in a month is limited to the number of resident employees, calculated on the last day of the month, that exceeds the baseline count, less the number of any resident employees mentioned in clause 20B.

Example for clause 20C

An employer had 50 resident employees on 30 April 2018 (baseline count). None of the resident employees were of the kind mentioned in clause 20B. In May 2018, 3 resident employees resigned and were replaced by 4 more resident employees. Under this clause the exemption is only available for 1 of those 4 resident employees.

20D Other conditions

(1) The exemptions under this Division are available only in respect of wages paid or payable during the 2-year period beginning on the date the resident employee's wages first became eligible for the exemption.

Example for subclause (1)

If a resident employee is hired on 1 September 2018 and the wages are eligible for the exemption, the exemption is available only until 31 August 2020.

(2) The exemptions under this Division apply in relation to:

(a) a full-time employee; and

(b) a part-time employee; and

(c) a person taken to be an employee under Part 3, Division 7 of this Act.

(3) The exemptions under this Division do not apply in relation to:

(a) a casual employee; or

(b) a person taken to be an employee under Part 3, Division 8 of this Act.

20E Record keeping

An employer wishing to claim an exemption under this Division must obtain and keep sufficient records to satisfy the requirements for the claim.

Note for clause 20E

Section 79 of the Taxation Administration Act 2007 requires these records to be kept for at least 5 years unless the Commissioner authorises earlier destruction.

20F Power to vary or refuse

(1) The Commissioner may make an order under subclause (2) if satisfied that:

(a) despite the appearance of an increase in the number of resident employees after 30 April 2018, in substance, no material change in that number occurred; or

(b) the claim, the baseline count or other information on which a claim is made is not based on an accurate reflection of the employer's situation or the circumstance of the employer's employees; or

(c) the claim is not justified by any material benefit to the employment of resident employees; or

(d) the structure of the employer's business has significantly changed since 30 April 2018.

(2) The Commissioner may, by order:

(a) vary or refuse, in whole or in part, a claim for the exemption; or

(b) vary the baseline count for an employer, or allocate baseline counts among employers.

20G Guidelines

(1) The Commissioner may issue written guidelines about exemptions and other matters under this Division.

(2) A guideline may be of general or specific application.

(3) A claim for an exemption is taken to be a valid claim to the extent that it complies with the guidelines in force under this clause.

(4) A guideline does not affect:

(a) the exercise by the Commissioner of a power under this Act; or

(b) the right of a person to have the Commissioner exercise a power under this Act.

Part 5 Government bodies – special provisions

21 Application of Act to Government Business Divisions and statutory corporations

(1) A Government Business Division is taken to be an employer for this Act.

(2) A Government Business Division or statutory corporation (rather than the Commissioner for Public Employment) will be regarded for this Act as the employer of all employees assigned to work in it.

(3) If a Government Business Division is not a corporation, this Act applies to it as if it were a corporation.

(4) In this clause:

Government Business Division means an Agency or a part of an Agency that:

(a) is a Government Business Division as defined in section 3(1) of the *Financial Management Act 1995*; and

(b) is not excluded by regulation from the operation of this clause.

Schedule 3 Repealed Acts

section 102

Pay-roll Tax Ordinance 1978	Act No. 47 of 1978
Pay-roll Tax Act 1979	Act No. 71 of 1979
Pay-roll Tax Act (No. 2) 1979	Act No. 125 of 1979
Pay-roll Tax Act 1980	Act No. 46 of 1980
Pay-roll Tax Amendment Act 1980	Act No. 14 of 1981
Pay-roll Tax Amendment Act 1981	Act No. 80 of 1981
Pay-roll Tax Amendment Act 1982	Act No. 88 of 1982
Pay-roll Tax Amendment Act 1985	Act No. 14 of 1985
Pay-roll Tax Amendment Act (No. 2) 1985	Act No. 29 of 1985
Pay-roll Tax Amendment Act 1986	Act No. 62 of 1986
Pay-roll Tax Amendment Act 1987	Act No. 3 of 1987
Pay-roll Tax Amendment Act 1988	Act No. 41 of 1988
Pay-roll Tax Amendment Act 1991	Act No. 22 of 1991
Pay-roll Tax Amendment Act 1992	Act No. 50 of 1992
Pay-roll Tax Amendment Act 1993	Act No. 58 of 1993
Pay-roll Tax Amendment Act 1994	Act No. 40 of 1994
Pay-roll Tax Amendment Act 1999	Act No. 29 of 1999
Pay-roll Tax Amendment Act 2000	Act No. 34 of 2000
Pay-roll Tax Amendment Act 2001	Act No. 49 of 2001
Pay-roll Tax Amendment Act 2002	Act No. 43 of 2002
Pay-roll Tax Amendment Act (No. 2) 2002	Act No. 52 of 2002
Pay-roll Tax Amendment Act (No. 3) 2002	Act No. 74 of 2002
Pay-roll Tax Amendment Act 2003	Act No. 36 of 2003

Pay-roll Tax Amendment Act 2004	Act No. 39 of 2004
Pay-roll Tax Amendment Act 2005	Act No. 27 of 2005
Pay-roll Tax Amendment Act 2007	Act No. 26 of 2007
Pay-roll Tax Amendment (Harmonisation) Act 2008	Act No. 22 of 2008

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Payroll Tax Act 2009* (Act No. 18, 2009)**
Assent date 25 June 2009
Commenced 1 July 2009 (s 2)

***Payroll Tax Amendment Act 2010* (Act No. 1, 2010)**
Assent date 17 March 2010
Commenced 1 July 2009 (s 2)

***Revenue Legislation Amendment Act 2011* (Act No. 21, 2011)**
Assent date 24 June 2011
Commenced pt 2: 3 May 2011; rem: 1 July 2011 (s 2)

***Revenue Legislation Amendment Act 2012* (Act No. 20, 2012)**
Assent date 30 June 2012
Commenced 1 July 2012 (s 2)

***Revenue Legislation Amendment Act 2013* (Act No. 20, 2013)**
Assent date 18 June 2013
Commenced 1 July 2013 (s 2)

***Emergency Management Act 2013* (Act No. 27, 2013)**
Assent date 8 November 2013
Commenced 27 November 2013 (*Gaz* S63, 27 November 2013)

***Revenue and Other Legislation Amendment Act 2015* (Act No. 18, 2015)**
Assent date 23 June 2015
Commenced pt 2 and pt 5, divs 1 to 4: 28 April 2015; pts 3 and 4, pt 5, divs 5 to 8 and pt 6: 1 July 2015; rem: 23 June 2015 (s 2)

***Bushfires Management Act 2016* (Act No. 14, 2016)**
Assent date 7 June 2016
Commenced 1 November 2016 (*Gaz* S111, 27 October 2016)

Revenue and Other Legislation Amendment Act 2017 **(Act No. 13, 2017)**

Assent date	27 June 2017
Commenced	1 July 2017 (s 2)

Revenue Legislation Amendment Act 2018 **(Act No. 14, 2018)**

Assent date	28 June 2018
Commenced	pts 3, 4 and 6 (except ss 34 and 36(3)): 1 May 2018; pt 2, divs 1 and 2, pt 5, ss 34 and 36(3) and pt 7: 1 July 2018; pt 2, div 3 and pt 8: 1 July 2019 (s 2)

Treasury and Finance Legislation Amendment Act 2020 **(Act No. 28, 2020)**

Assent date	15 December 2020
Commenced	pts 2 and 3: 1 July 2020 (s 2(2)); pt 4: 1 December 2020 (s 2(3)); rem: 16 December 2020 (s 2(1))

Local Government Act 2019 **(Act No. 39, 2019)**

Assent date	13 December 2019
Commenced	pt 8.6: 1 July 2022; rem: 1 July 2021 (*Gaz* S27, 30 June 2021)

Amending Legislation

Statute Law Revision Act 2020 **(Act No. 26, 2020)**

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

Local Government Amendment Act 2021 **(Act No. 15, 2021)**

Assent date	25 May 2021
Commenced	26 May 2021 (s 2)

Pay-roll Amendment Act 2025 **(Act No. 1, 2025)**

Assent date	18 February 2025
Commenced	1 July 2025 (s 2)

Revenue Legislation Amendment Act 2025 **(Act No. 17, 2025)**

Assent date	26 June 2025
Commenced	1 July 2025 (s 2 and s 2 *Payroll Tax Amendment Act 2025* (Act No. 1, 2025))

Treasury Legislation Amendment Act 2026 **(Act No. 18, 2026)**

Assent date	30 June 2026
Commenced	1 July 2026 (s 2)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 3, 4, 54, 55, 56, 103 and 112 and sch 2.

4 LIST OF AMENDMENTS

s 3	amd No. 1, 2010, s 4; No. 21, 2011, s 14; No. 18, 2015, s 14; No. 39, 2019, s 370
s 7A	ins No. 18, 2026, s 7

ss 10 – 11	sub No. 1, 2010, s 5
ss 11A – 11C	ins No. 1, 2010, s 5
s 13	amd No. 1, 2010, s 6
s 18	amd No. 21, 2011, s 15
s 19	amd No. 21, 2011, s 16
s 23	amd No. 21, 2011, s 17
s 24	amd No. 1, 2010, s 7; No. 21, 2011, s 18
s 25	rep No. 1, 2010, s 8
s 26	amd No. 1, 2010, s 9
s 29	amd No. 13, 2017, s 8
s 32	amd No. 18, 2015, s 15
s 40	amd No. 18, 2015, s 16
pt 4	
div 1 hdg	sub No. 18, 2015, s 17
s 48	sub No. 18, 2015, s 17
ss 48A – 48B	ins No. 18, 2015, s 17
s 48C	ins No. 18, 2015, s 17
	amd No. 17, 2025, s 11
ss 48D – 48E	ins No. 18, 2015, s 17
s 52	amd No. 18, 2015, s 18
s 53	amd No. 20, 2012, s 4
s 55	amd No. 14, 2016, s 120
s 56	amd No. 27, 2013, s 128
pt 4	
div 9 hdg	ins No. 1, 2010, s 10
s 66A	ins No. 1, 2010, s 10
s 80	amd No. 21, 2011, s 19; No. 1, 2025, s 4
s 86	amd No. 21, 2011, s 20
pt 10 hdg	amd No. 21, 2011, s 21
pt 11 hdg	exp No. 18, 2009, s 116
	ins No. 1, 2010, s 11
	sub No. 18, 2015, s 19
pt 11	
div 1 hdg	ins No. 18, 2015, s 19
s 113	exp No. 18, 2009, s 116
	ins No. 1, 2010, s 11
pt 12 hdg	ins No. 21, 2011, s 22
	rep No. 18, 2015, s 20
pt 11	
div 2 hdg	ins No. 18, 2015, s 20
ss 114 – 115	exp No. 18, 2009, s 116
	ins No. 21, 2011, s 22
pt 11	
div 3 hdg	ins No. 18, 2015, s 21
s 116	exp No. 18, 2009, s 116
	ins No. 18, 2015, s 21
ss 117 – 118	ins No. 18, 2015, s 21
pt 11	
div 4 hdg	ins No. 14, 2018, s 23
s 119	ins No. 14, 2018, s 23
pt 11	
div 5 hdg	ins No. 1, 2025, s 5
s 120	ins No. 1, 2025, s 5
pt 11	
div 6 hdg	ins No. 17, 2025, s 12
s 121	ins No. 17, 2025, s 12
sch 1	amd No. 21, 2011, s 23; No. 20, 2013, s 14; No. 1, 2025, s 6; No. 18, 2026, s 8

sch 2	amd No. 21, 2011, s 24; No. 20, 2012, s 5; No. 20, 2013, s 15; No. 18, 2015, s 22; No. 14, 2018, s 24; No. 28, 2020, s 4; No. 1, 2025, s 7; No. 18, 2026, s 9