

**EXPLANATORY MEMORANDUM**  
**PAY-ROLL TAX ASSESSMENT AMENDMENT**  
**(DEBT AND DEFICIT REMEDIATION) BILL 2017**

This Bill seeks to amend the *Pay-roll Tax Assessment Act 2002* to complement the amendments in the *Pay-roll Tax Act 2002* to introduce the temporary progressive payroll tax scale announced in the 2017-18 Budget.

The substantive amendments to introduce the progressive payroll tax scale are contained in the Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017, which amends the Pay-roll Tax Act.

In summary, the amendments contained in the Bills introduce two additional marginal payroll tax rates that apply to the Western Australian (WA) taxable wages based on an employer's, or group of employers', Australian taxable wages from 1 July 2018 to 30 June 2023. The measure is expected to raise \$435 million over the period from 2018-19 to 2020-21.

**Clause 1: Short title**

This clause provides the short title of this Act is the *Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Act 2017*.

**Clause 2: Commencement**

Sections 1 and 2 of the Act come into operation on the day on which the Act receives the Royal Assent.

The rest of the Act comes into operation when section 7 of the *Pay-roll Tax Amendment (Debt and Deficit Remediation) Act 2017* comes into operation, which is the day after the date that Act receives the Royal Assent.

**Clause 3: Act amended**

This clause provides the amendments in this Act are to the *Pay-roll Tax Assessment Act 2002*.

**Clause 4: Section 13 amended**

This clause deletes section 13(1) which defines 'Australian taxable wages'. The definition of 'Australian taxable wages' will be included in the Glossary. This is to simplify the text of the legislation and has no substantive effect.

**Clause 5: Section 15 amended**

This clause amends sections 15(2) and (3) to replace the references to "interstate taxable wages" with "Australian taxable wages".

This is to ensure the terms used in sections 15(2) and (3) are consistent with the terms in the formulas in section 13 to determine an employer's deductible amount.

**Clause 6: Section 17 amended**

This clause deletes section 17(1A) which defines "Australian taxable wages", which will be included in the Glossary.

**Clause 7: Section 19 amended**

This clause amends sections 19(3) and (4) to replace the references to "interstate taxable wages" with "Australian taxable wages".

This is to ensure the terms used in sections 19(3) and (4) are consistent with the terms used in the formulas in section 17 to determine a group's deductible amount, and has no substantive effect.

**Clause 8: Part 2 Division 5 inserted**

This clause inserts Division 5 into the Pay-roll Tax Assessment Act which contains provisions for nominating estimates for determining the payroll tax rate for interstate non-group employers and group employers who lodge progressive returns.

**Section 23A. Nomination of estimates for determining rates for progressive return period**

Section 23A applies to interstate non-group employers and group employers who lodge progressive returns during an assessment year for the sliding scale period, which will be defined in the Glossary to have the meaning given in section 5(3) of the *Pay-roll Tax Act 2002* (as amended by clause 10).

Under newly inserted sections 9 and 11 of the *Pay-roll Tax Act 2002*, the rate that applies for interstate non-group employers and group employers for a progressive return period during an assessment year is the rate that would be determined under newly inserted sections 8 and 11 of that Act respectively if the Commissioner has made a nomination under section 23A.

As interstate employers may experience logistical problems with calculating the actual Australian taxable wages paid or payable, section 23A allows a nomination to be made based on an estimate of the wages expected to be paid in WA and throughout Australia and the number days during which the wages will be payable. For example, the nomination may be based on WA and Australian taxable wages paid by the interstate employer for previous assessment years.

At the end of the financial year, when actual Australian taxable wages are known, any required adjustments are made.

Subsection 1(a) enables the Commissioner to nominate an estimated amount of Australian taxable wages that will be payable by an interstate non-group employer during an assessment year and also the estimated number of days in the assessment year that wages will be payable by the employer.

Under section 9(a) of the Pay-roll Tax Act, the payroll tax rate determined under sections 8(1) to (5) of that Act apply as if the nominated amounts and the nominated number of days were the actual amounts and number of days in the assessment year.

Subsection 1(b) applies to a member of a group for a progressive return period in an assessment year during the sliding scale period. For the purposes of section 11(a) of the Pay-roll Tax Act, subsection 1(b) enables the Commissioner to make a nomination of an estimated amount of Australian taxable wages payable by members of the group and the estimated number of days in the assessment year that wages will be payable by at least one member of the group.

The rate determined under sections 10(1) to (6) of the Pay-roll Tax Act apply as if the nominated amounts and the nominated number of days were the actual wages paid or payable and the actual number of days in which wages were paid or payable.

Subsection (2) provides that the Commissioner can make or vary a nomination on the Commissioner's own initiative, having regard to the amounts of Australian taxable wages previously paid or payable by the employer or group member, and any other relevant matters.

The Commissioner can also make or vary a nomination on application by the interstate non-group employer or the group member having regard to the information included in the application and any other relevant matters.

Subsection (3) provides the Commissioner can cancel a nomination at any time.

Subsection (4) provides the Commissioner must notify the employer or each member of the group of the making, variation or cancellation of the nomination as soon as practicable.

Where the Commissioner makes or varies a nomination, the Commissioner must also notify the employer or each member of the group of the first progressive return period to which the nomination or variation applies. The progressive return period to which the nomination or variation applies can be a period that has already ended.

Subsection (5) provides a nomination made under section 23A applies to the first progressive return period to which the nomination applies and each subsequent progressive return period in the assessment year (including a period that has already ended), unless the nomination is varied or cancelled.

Subsection (6) provides the Commissioner must make any reassessment necessary to give effect to the making or variation of a nomination subject to the time limit on reassessments under section 17 of the *Taxation Administration Act 2003*.

### **Section 23B. Application for nomination under section 23A**

Section 23B sets out how an employer can apply for the making or variation of a nomination under section 23A.

Subsection (1) provides an application to make or vary a nomination must be in the approved form and include any relevant information required by the Commissioner.

Subsection (2) provides an application can only be made to vary a nomination made under section 23A if the applicant expects that the Australian taxable wages that will be payable by the employer, or by all members of the group, will vary significantly from the nominated amount, or the number of days during which Australian taxable wages will be payable will vary significantly from the nominated number of days.

### **Section 23C. Determination of reduced rate where *Pay-roll Tax Act 2002* s. 8(6) or 10(7) applied**

Under sections 8(6) and 10(7) of the Pay-roll Tax Act, the rate of 6.5 per cent applies for the assessment year or part-year if the employer or designated group employer fails to lodge the annual reconciliation return within 21 days of the end of the assessment year.

Section 23C as inserted sets out how a lesser rate than 6.5 per cent can be determined where an interstate non-group employer or the designated group employer has failed to lodge an annual reconciliation return.

Subsection (1) provides section 23C applies where an interstate non-group employer or the designated group employer fails to lodge an annual reconciliation return as required under section 27 of the Pay-roll Tax Assessment Act and as a result, the default rate of 6.5 per cent applies to the employer or group and the assessment year or part-year under sections 8(6) or 10(7) of the Pay-roll Tax Act.

Subsection (2) enables the Commissioner to determine the default rate of 6.5 per cent does not apply to the employer or group and the assessment year or part-year if the Commissioner has sufficient information to determine a lesser rate that would have applied but for sections 8(6) or 10(7) of the Pay-roll Tax Act.

Subsection (3) provides the determination of the lesser rate may be made on the Commissioner's own initiative or on application by the interstate non-group member or a member of the group.

Subsection (4) states the application for a determination of a lesser rate must be in the approved form and include any relevant information required by the Commissioner.

Subsection (5) requires the Commissioner to notify the employer, or each member of the group, as soon as practicable after making a

determination of the lesser rate.

Subsection (6) provides the Commissioner must make a reassessment to give effect to the determination of a lesser rate, subject to the time limit on reassessments under section 17 of the Taxation Administration Act.

**Clause 9: Section 29 amended**

This clause replaces the reference to "WA taxable wages and interstate taxable wages" in section 29(1b) with "Australian taxable wages". This is to simplify the text of the legislation and has no substantive effect.

**Clause 10: Glossary amended**

Subclause (1) deletes the definition of "pay-roll tax rate". A new definition of "pay-roll tax rate" is inserted in subclause (2).

Subclause (2) inserts in alphabetical order the definitions of "Australian taxable wages", "pay-roll tax rate" which is amended to accommodate the changes to the rate in the Pay-roll Tax Act, and "sliding scale period" which has the same meaning given in section 5(3) of the Pay-roll Tax Act.