

# PAY-ROLL TAX ACT AMENDMENT ACT

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Queensland



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No. 22 of 1990

An Act to amend the Pay-roll Tax Act 1971-1988 in certain  
particulars and for a related purpose

[ASSENTED TO 13TH JUNE, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as the *Pay-roll Tax Act Amendment Act 1990*.

**2. Principal Act and amended citation.** (1) In this Act the *Pay-roll Tax Act 1971-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Pay-roll Tax Act 1971-1990*.

**3. Commencement.** (1) This Act, other than sections 5, 6, 7, 8 and 9, shall commence on the day on which it is assented to for and on behalf of Her Majesty.

(2) Section 6 shall be deemed to have commenced on 1 November 1989 and shall be given retrospective effect accordingly.

(3) Sections 5, 7, 8 and 9 shall be deemed to have commenced on 1 January 1990 and shall be given retrospective effect accordingly.

**4. Amendment of s. 3. Interpretation.** Section 3 of the Principal Act is amended in subsection (1) by inserting after the definition "Local Authority" the following definition:—

" "Minister" includes a Minister of the Crown for the time being acting for or on behalf of the Minister;"

**5. Amendment of s. 9. Deduction from taxable wages.** Section 9 of the Principal Act is amended—

(a) in subsection (1), by omitting from the definition "prescribed amount" all words from and including the words "E represents —" to and including the words "and thereafter, 41667;" and substituting the following words:—

"E represents, in the period commencing 1 January 1990 and ending on 30 June 1990 and thereafter, 41 667;"

(b) in subsection (4), by omitting the expression "1989" and substituting the expression "1990".

**6. Amendment of s. 10. Exemption from pay-roll tax.** Section 10 of the Principal Act is amended—

(a) by numbering the provisions thereof as subsection (2);

(b) by inserting before subsection (2), as so numbered, the following subsection:—

"(1) In this section, unless the contrary intention appears—  
"associated religious body" means a body—

(a) which appertains to or is controlled by a religious institution;

and

- (b) the principal object and pursuit of which is the conduct of activities of a religious nature;

“exempt charitable institution” means—

- (a) a public benevolent institution or the trustees of such an institution;

- (b) an institution or the trustees of an institution the principal object and pursuit of which is—

(i) the relief of poverty;

(ii) the care of sick, aged, infirm, afflicted or incorrigible persons or of children;

or

(iii) any two or more of those objects and pursuits;

- (c) an institution, or the trustees thereof, declared by the Minister in the Minister’s discretion to be an institution to which this paragraph applies, the principal object and pursuit of which is the fulfilling of a charitable object or an object promoting the public good (not being an object or pursuit that is a sporting, recreational, leisure or social pursuit or object or an object or pursuit declared by Order in Council for the purposes of this paragraph);

- (d) a non-tertiary educational institution or the trustees of such an institution;

or

- (e) a religious institution or an associated religious body or the trustees of such an institution or body;

For the purposes of this definition—

- (f) an institution is not an institution of the kind described in paragraphs (a), (b), (c) or (d) unless the constitution, by whatever name called, of that institution provides—

(i) that the income and property of the institution is to be used and applied solely for the promotion of the objects of the institution and that no portion of the income or property will be distributed, paid or transferred by way of dividend, bonus or otherwise amongst its members;

and

(ii) that on dissolution the assets of the institution remaining after satisfaction of all liabilities must be transferred to some institution having similar objects;

- (g) the care of sick, aged, infirm, afflicted or incorrigible persons means care which relates directly to and

is necessary because of the persons so cared for being sick, aged, infirm, afflicted or incorrigible;

(h) the care of children means being responsible for children on a full-time basis and providing them with all necessary food, clothing and shelter and providing for their general well-being and protection;

(i) in exercising discretion under paragraph (c) the Minister may have regard to the commercial activities of the institution;

“non-tertiary educational institution” means an institution, not carried on by or on behalf of the State of Queensland, the principal object and pursuit of which is—

(a) the education of students in primary or secondary schools, or both;

(b) the conduct of a rural training school;

(c) the conduct of a kindergarten or pre-school;

or

(d) any two or more of those objects and pursuits;

“qualifying exempt purpose” means—

(a) a public benevolent purpose;

(b) the purpose of the relief of poverty;

(c) the purpose of care of sick, aged, infirm, afflicted or incorrigible persons or of children;

(d) the purpose of activities of a religious nature;

(e) any two or more of those purposes;

or

(f) in the case of an institution to which paragraph (c) of the definition “exempt charitable institution” applies—

(i) the purpose which in the opinion of the Minister is that institution’s principal object and pursuit;

or

(ii) the purpose referred to in subparagraph (i) and any one or more of the purposes specified in paragraphs (a) to (d) (both inclusive);

“religious institution” means an institution which the Commissioner is satisfied is a religious institution;

For the purposes of this definition—

(a) the Commissioner is entitled not to be satisfied that an institution is a religious institution where the members or followers of the institution do not

subscribe to common articles of faith or beliefs which are formally documented;

- (b) the Commissioner may, having regard to—
- (i) whether the institution is formally constituted;
  - (ii) the number of members or followers of that institution in Queensland;
  - (iii) the period of time during which the institution has been established;
  - (iv) whether the institution has a ministry, by whatever name called, which is devoted to the propagation or practice of the faith or beliefs of the institution and regularly conducts religious services for members or followers of the institution for religious worship or meditation;
  - (v) whether it is usual for members of the institution to meet at a place clearly identifiable as a place at which such persons meet to engage in religious worship or meditation;
- and
- (vi) whether members of the institution's ministry have undergone a formal training program to qualify for that ministry,

determine an institution to be or not to be a religious institution.”;

(c) omitting from subsection (2), as numbered by this section, paragraphs (b), (c) and (d) and substituting the following paragraphs:—

“(b) by a public hospital to a person during a period in respect of which the person is engaged exclusively in work of the hospital of a kind ordinarily performed in connexion with the conduct of public hospitals;

(c) by an exempt charitable institution in respect of an exempt charitable institution to a person during a period in respect of which the person is engaged exclusively—

(i) in the work of the second-mentioned exempt charitable institution for a qualifying exempt purpose;

or

(ii) where that second-mentioned exempt charitable institution is—

(A) a hospital, in the work of that hospital of a kind ordinarily performed in connexion with the conduct of a hospital;

or

(B) a non-tertiary educational institution, in the work of that institution of a kind ordinarily performed in connexion with the conduct of a non-tertiary educational institution of the relevant kind;”.

**7. Amendment of s. 11A. Interpretation.** Section 11A of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

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

(a) in relation to the financial year commencing on 1 July 1989, in accordance with the formula

$$P = \frac{TW}{TW + IW} \left[ \frac{JA + KB}{365} - \frac{1}{3} \left( TW + IW - \frac{JA + KB}{365} \right) \right];$$

(b) in relation to the financial year commencing on 1 July 1990 and thereafter, in accordance with the formula

$$P = \frac{TW}{TW + IW} \left[ \frac{500\,000C}{365} - \frac{1}{3} \left( TW + IW - \frac{500\,000C}{365} \right) \right].$$

(c) In this subsection—

P represents the prescribed amount in dollars;

TW represents the amount of taxable wages paid or payable in the financial year;

IW represents the amount of interstate wages paid or payable in the financial year;

A represents the number of days in the period of the financial year commencing on 1 July and ending on 31 December for which an employer pays or is liable to pay wages (disregarding foreign wages) and, where an employer pays or is liable to pay wages (disregarding foreign wages) for the whole of that period, shall be deemed to be 182.5;

B represents the number of days in the period of the financial year commencing on 1 January and ending on 30 June for which an employer pays or is liable to pay wages (disregarding foreign wages) and, where an employer pays or is liable to pay wages (disregarding foreign wages) for the whole of that period, shall be deemed to be 182.5;

C represents A + B;

J represents 450 000 for the financial year commencing on 1 July 1989;

K represents 500 000 for the financial year commencing on 1 July 1989.”.

**8. Amendment of s. 12. Registration.** Section 12 of the Principal Act is amended—

(a) by omitting from subsection (1), all words from and including the words “in excess of —” to and including the words “and thereafter,” and substituting the following words:—

“in excess of \$9 615 per week in any month of the period commencing on 1 January 1990 and ending on 30 June 1990 and thereafter,”;

(b) by omitting from subsection (2A) all words from and including the words “in excess of —” to and including the words “and thereafter,” and substituting the following words:—

“in excess of \$9 615 per week in any month of the period commencing on 1 January 1990 and ending on 30 June 1990 and thereafter.”.

**9. Amendment of s. 16J. Interpretation.** Section 16J of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

“(1) Subject to this Act, a reference in sections 16K and 16L to the prescribed amount is, in relation to a designated group employer, a reference to the greater of zero and the amount calculated—

(a) in relation to the financial year commencing on 1 July 1989, in accordance with the formula

$$P = \frac{TW}{TW + IW} \left[ \frac{JA + KB}{365} - \frac{1}{3} \left( TW + IW - \frac{JA + KB}{365} \right) \right];$$

(b) in relation to the financial year commencing on 1 July 1990 and thereafter, in accordance with the formula

$$P = \frac{TW}{TW + IW} \left[ \frac{500\,000C}{365} - \frac{1}{3} \left( TW + IW - \frac{500\,000C}{365} \right) \right].$$

(c) In this subsection—

P represents the prescribed amount in dollars;

TW represents the amount of taxable wages paid or payable by members of the group in the financial year;

IW represents the amount of interstate wages paid or payable by members of the group in the financial year;

A represents the number of days in the period of the financial year commencing on 1 July and ending on 31 December, whether or not wholly or partly

concurrent, in respect of each of which one or more members of the group pays or pay or is or are liable to pay taxable wages or interstate wages or taxable wages and interstate wages and, where one or more members of the group pays or pay or is or are liable to pay taxable wages or interstate wages or taxable wages and interstate wages for the whole of that period, shall be deemed to be 182.5;

B represents the number of days in the period of the financial year commencing on 1 January and ending on 30 June, whether or not wholly or partly concurrent, in respect of each of which one or more members of the group pays or pay or is or are liable to pay taxable wages or interstate wages or taxable wages and interstate wages and, where one or more members of the group pays or pay or is or are liable to pay taxable wages or interstate wages or taxable wages and interstate wages for the whole of that period, shall be deemed to be 182.5;

C represents  $A + B$ ;

J represents 450 000 for the financial year commencing on 1 July 1989;

K represents 500 000 for the financial year commencing on 1 July 1989.”.

**10. Continued operation of amended provisions.** The amendment by this Act of section 9, 11A, 12 or 16J of the Principal Act shall not affect the application of that section according to its terms as in force immediately before 1 January 1990 in relation to any right, obligation or matter that has arisen or is hereafter discovered to have arisen before 1 January 1990, except where that application is inconsistent with that section of the Principal Act as amended by this Act; and to that extent, that section of the Principal Act shall be deemed to continue in force.