

Queensland



Subordinate Legislation 1993 No. 456

Pay-roll Tax Act 1971

PAY-ROLL TAX AMENDMENT REGULATION 1993

TABLE OF PROVISIONS

Section	Page
1 Short title	3
2 Commencement	3
3 Amended regulation	3
4 Insertion of new Part 2A	3
PART 2A—FRINGE BENEFITS	
<i>Division 1—General</i>	
15A Definitions	3
15B Benefits that are not fringe benefits	4
15C Value of taxable wages that are paid or payable in kind	4
15D Value of amortised fringe benefits	4
15E Amended assessments under the Fringe Benefits Assessment Act	4
<i>Division 2—Returns on estimated value basis</i>	
15F Employer may elect to use estimated value basis in calculating value of fringe benefits	5
15G Monthly returns on estimated value basis	5
15H Quarterly returns on estimated value basis	5
15I Biannual returns on estimated value basis	6
15J Annual returns on estimated value basis	6
15K Changing basis of calculating value of fringe benefits	6

15L	What happens if employer makes a final return	8
<i>Division 3—Transitional</i>		
15M	Definition	8
15N	Application of Division	9
15O	Returns on estimated value basis for January to June 1994	9
15P	Monthly returns on estimated value basis for January to June 1994	9
15Q	Quarterly returns on estimated value basis for March 1994 and June 1994 quarters	9
15R	Biannual and annual returns on estimated value basis for June 1994	10
15S	Changing basis of calculating value of fringe benefits between 1 January 1994 and 30 June 1994	10
15T	What happens if employer makes a final return between 1 January 1994 and 30 June 1994	11
15U	Returns on estimated value basis for 1994-5 financial year	11
15V	Expiry	11

Short title

1. This regulation may be cited as the *Pay-roll Tax Amendment Regulation 1993*.

Commencement

2. This regulation commences on 1 January 1994.

Amended regulation

3. The *Pay-roll Tax Regulation 1971* is amended as set out in this regulation.

Insertion of new Part 2A

4. After section 15—

insert—

‘PART 2A—FRINGE BENEFITS***‘Division 1—General*****‘Definitions**

‘15A. In this Part—

“amortised fringe benefit” has the meaning given by the Fringe Benefits Assessment Act;

“fringe benefits tax” means the tax imposed under the *Fringe Benefits Tax Act 1986* (Cwlth) on fringe benefits;

“last year of tax”, in relation to a financial year, means the year of tax ending on 31 March in the year;

“previous year of tax”, in relation to a financial year, means the year of tax ending on 31 March before the start of the year;

“Queensland fringe benefits”, other than in Division 3, means fringe benefits—

- (a) that are taxable wages; and
- (b) on which fringe benefits tax is paid or payable;

“tax-exempt body entertainment fringe benefit” has the meaning given by the Fringe Benefits Assessment Act;

“year of tax” has the meaning given by the Fringe Benefits Assessment Act.

‘Benefits that are not fringe benefits

‘15B. For the purposes of paragraph (d) of the definition “fringe benefit” in section 3(1) of the Act, a tax-exempt body entertainment fringe benefit is not a fringe benefit.

‘Value of taxable wages that are paid or payable in kind

‘15C. For the purposes of section 8A(1) of the Act, the value of taxable wages that are paid or payable in kind (other than fringe benefits under the Fringe Benefits Assessment Act) is the highest value—

- (a) agreed or attributed to the taxable wages in; or
- (b) ascertainable for the taxable wages from;

arrangements between the employer and the employee.

‘Value of amortised fringe benefits

‘15D. For the purposes of section 8A(2) of the Act, the value of taxable wages that are amortised fringe benefits is the amortised amount of the benefits calculated under section 65CA of the Fringe Benefits Assessment Act.

‘Amended assessments under the Fringe Benefits Assessment Act

‘15E. An employer must, within 30 days of receiving an amended assessment under the Fringe Benefits Assessment Act, give a copy of the amended assessment to the Commissioner.

Maximum penalty—8 penalty units.

‘Division 2—Returns on estimated value basis**‘Employer may elect to use estimated value basis in calculating value of fringe benefits**

‘15F.(1) An employer that has paid or is liable to pay fringe benefits tax in relation to taxable wages may elect to include in a return made under the Act an amount for fringe benefits based on an estimated value basis.

‘(2) Subsection (1) applies in a financial year if the employer has paid or is liable to pay the tax for at least 15 months immediately before the start of the year.

‘Monthly returns on estimated value basis

‘15G. A monthly return made on an estimated value basis must include as the value of the fringe benefits an amount that is—

- (a) in a return for each of the first 11 months of a financial year—one-twelfth of the Queensland fringe benefits for the previous year of tax; and
- (b) in the return for the last month of the financial year—the difference between—
 - (i) the Queensland fringe benefits for the last year of tax; and
 - (ii) the total of the amounts of Queensland fringe benefits included in the returns for each of the previous months of the financial year.

‘Quarterly returns on estimated value basis

‘15H. A quarterly return made on an estimated value basis must include as the value of the fringe benefits an amount that is—

- (a) in a return for each of the first 3 quarters of a financial year—one-quarter of the Queensland fringe benefits for the previous year of tax; and
- (b) in the return for the last quarter of the financial year—the difference between—

- (i) the Queensland fringe benefits for the last year of tax; and
- (ii) the total of the amounts of Queensland fringe benefits included in the returns for each of the previous quarters of the financial year.

‘Biannual returns on estimated value basis

‘15I. A biannual return made on an estimated value basis must include as the value of the fringe benefits an amount that is—

- (a) in the return for the first 6 months of a financial year—one-half of the Queensland fringe benefits for the previous year of tax; and
- (b) in the return for the last 6 months of the financial year—the difference between—
 - (i) the Queensland fringe benefits for the last year of tax; and
 - (ii) the amount of Queensland fringe benefits included in the return for the first 6 months of the financial year.

‘Annual returns on estimated value basis

‘15J. An annual return made on an estimated value basis must include as the value of the fringe benefits the Queensland fringe benefits for the last year of tax.

‘Changing basis of calculating value of fringe benefits

‘15K.(1) An employer may, at the start of a financial year, change the basis of calculating the value of fringe benefits from—

- (a) the actual value basis to the estimated value basis; or
- (b) the estimated value basis to the actual value basis.

‘(2) All returns for a financial year must be made on the same basis.

‘(3) Despite subsection (2), the Commissioner may allow an employer to change the basis of calculating the value of fringe benefits during a financial year if the Commissioner is satisfied—

- (a) that a substantial motivation of the employer for making the

change is not to reduce or avoid the employer's liability to pay pay-roll tax during the financial year to a level below that which the employer would have to pay on an actual value basis for the year; and

- (b) that—
 - (i) in the special circumstances of the employer, there is a compelling reason for making the change; or
 - (ii) the employer would, if the Commissioner does not allow the change, pay substantially more pay-roll tax during the financial year than the employer would otherwise have to pay on an actual value basis for the year.

‘(4) If an employer changes from the estimated value basis, the amount calculated under subsection (5) must be included in—

- (a) if the change is made during a financial year—the last return for the financial year; and
- (b) if the change is made at the start of a financial year— the last return for the last financial year.

‘(5) The amount to be included in a return under subsection (4) is the difference between—

- (a) the total of—
 - (i) the Queensland fringe benefits for the last year of tax; and
 - (ii) the Queensland fringe benefits paid or payable by the employer in April, May and June of the financial year; and
- (b) the total of—
 - (i) one-quarter of the Queensland fringe benefits for the year of tax ending in the first financial year in which the employer last elected to make returns on an estimated value basis; and
 - (ii) the total of the amounts of Queensland fringe benefits included in the returns for the financial year.

‘(6) If an employer changes to the estimated value basis during a financial year, the last return for the financial year must include the difference between—

- (a) the Queensland fringe benefits for the last year of tax; and
- (b) the total of the amounts of Queensland fringe benefits included in the returns for the last financial year.

‘What happens if employer makes a final return

‘15L.(1) This section applies only to an employer that is making returns on an estimated value basis.

‘(2) If an employer makes a final return, the value of the fringe benefits to be included in the employer’s final return is an amount that is the difference between—

- (a) the total of—
 - (i) the Queensland fringe benefits for the last year of tax; and
 - (ii) Queensland fringe benefits paid or payable by the employer in April, May and June of the financial year (if any); and
- (b) the total of—
 - (i) one-quarter of the Queensland fringe benefits for the year of tax ending in the first financial year in which the employer last elected to make returns on an estimated value basis; and
 - (ii) the total of the amounts of Queensland fringe benefits included in the returns for the financial year.

‘Division 3—Transitional

‘Definition

‘15M. In this Division—

“Queensland fringe benefits” means fringe benefits—

- (a) that would have been taxable wages if Part 4 of the *Revenue Laws Amendment Act 1993* had applied from 1 April 1992; and
- (b) on which fringe benefits tax would have been payable.

‘Application of Division

‘15N. This Division applies to an employer that would have been liable to pay fringe benefits tax on taxable wages for at least 15 months immediately before 30 June 1993 if Part 4 of the *Revenue Laws Amendment Act 1993* had applied from 1 April 1992.

‘Returns on estimated value basis for January to June 1994

‘15O. An employer to whom this Division applies may elect to include in a return made under the Act between 1 January 1994 and 30 June 1994 an amount for fringe benefits based on an estimated value basis.

‘Monthly returns on estimated value basis for January to June 1994

‘15P. A monthly return made on an estimated value basis for a month between 1 January and 30 June 1994 must include as the value of the fringe benefits an amount that is—

- (a) in a return for the months of January, February, March, April and May 1994—one-twelfth of the Queensland fringe benefits for the year of tax ending 31 March 1993; and
- (b) in the return for June 1994—the difference between—
 - (i) one-half of the Queensland fringe benefits for the year of tax ending 31 March 1994; and
 - (ii) the total of the amounts of Queensland fringe benefits included in the returns for each of the previous months.

‘Quarterly returns on estimated value basis for March 1994 and June 1994 quarters

‘15Q. A quarterly return made on an estimated value basis for the quarters ending 31 March 1994 and 30 June 1994 must include as the value of the fringe benefits an amount that is—

- (a) in a return for the quarter ending 31 March 1994—one-quarter of the Queensland fringe benefits for the year of tax ending 31 March 1993; and

- (b) in the return for the quarter ending 30 June 1994—the difference between—
 - (i) one-half of the Queensland fringe benefits for the year of tax ending 31 March 1994; and
 - (ii) the total of the amounts of Queensland fringe benefits included in the return for the quarter ending 31 March 1994.

‘Biannual and annual returns on estimated value basis for June 1994

‘15R. A return made on an estimated value basis for the 6 months or year ending 30 June 1994 must include as the value of the fringe benefits an amount that is one-half of the Queensland fringe benefits for the year of tax ending 31 March 1994.

**‘Changing basis of calculating value of fringe benefits between
1 January 1994 and 30 June 1994**

‘15S.(1) If an employer changes from the estimated value basis during the 6 months ending 30 June 1994, the last return for the financial year ending 30 June 1994 must include an amount that is the difference between—

- (a) the Queensland fringe benefits paid or payable by the employer from 1 January 1994 to 30 June 1994; and
- (b) the total of the amounts of Queensland fringe benefits included in returns for the period.

‘(2) If an employer changes to the estimated value basis during the 6 months ending 30 June 1994, the last return for the financial year ending 30 June 1994 must include an amount that is the difference between—

- (a) one-half of the Queensland fringe benefits for the last year of tax; and
- (b) the total of the amounts of Queensland fringe benefits included in returns for the period.

‘What happens if employer makes a final return between 1 January 1994 and 30 June 1994

‘15T.(1) This section applies to an employer that—

- (a) makes returns on an estimated value basis; and
- (b) makes a final return between 1 January 1994 and 30 June 1994.

‘(2) The final return must include an amount that is the difference between—

- (a) the Queensland fringe benefits paid or payable by the employer from 1 January 1994 to 30 June 1994; and
- (b) the total of the amounts of Queensland fringe benefits included in returns for the period.

‘Returns on estimated value basis for 1994–95 financial year

‘15U.(1) This section applies to an employer that would have been liable to pay fringe benefits tax on taxable wages for at least 15 months immediately before 30 June 1994 if Part 4 of the *Revenue Laws Amendment Act 1993* had applied from 1 April 1992.

‘(2) An employer to whom this section applies may elect to include in a return made under this Act for the financial year starting on 1 July 1994 an amount for fringe benefits based on an estimated value basis.

‘(3) Subject to section 15M, Division 2 (other than section 15F) applies to returns made under this section.

‘Expiry

‘15V. This Division expires on 30 June 1995.’.

ENDNOTES

1. Made by the Governor in Council on 16 December 1993.
2. Notified in the Gazette on 17 December 1993.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Office of State Revenue.

