

Queensland



Subordinate Legislation 1999 No. 84

Pay-roll Tax Act 1971

PAY-ROLL TAX REGULATION 1999

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DICTIONARY

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Pay-roll Tax Regulation 1999*.

Commencement

2. This regulation commences on 1 July 1999.

Definitions—the dictionary

3. The dictionary in the schedule defines particular words used in this regulation.

PART 2—NOMINATED DEDUCTIONS

Meaning of “deduction formula”

4. In this part, a reference to the deduction formula is a reference to the formula—

$$\frac{QW}{AW} \left[E - \frac{1}{3} \left(\frac{AW}{12} - E \right) \right]$$

where—

“AW” means—

- (a) for an employer other than a designated group employer—the total amount of taxable wages and interstate wages estimated by the employer to be payable by the employer for the relevant financial year; and
- (b) for a designated group employer—the total amount of taxable wages and interstate wages estimated by the members of the group to be payable by the members of the group for the relevant financial year.

“E” means \$70 833.

“QW” means—

- (a) for an employer other than a designated group employer—the total amount of taxable wages estimated by the employer to be payable by the employer for the relevant financial year; and
- (b) for a designated group employer—the total amount of taxable wages estimated by the members of the group to be payable by the members of the group for the relevant financial year.

Calculation of nominated deduction for employers—Act, s 9

5.(1) This section prescribes how to calculate the amount (the “**employer nominated amount**”) an employer may nominate for section 9(5)¹ of the Act.

(2) If the employer’s return period is 1 month, the employer nominated amount is the lesser of the following—

- (a) the amount calculated as the prescribed amount under section 9(1) of the Act;
- (b) the amount calculated using the deduction formula.²

(3) If the employer’s return period is more than 1 month, the employer nominated amount is the amount calculated by multiplying the amount that would be the employer nominated amount for the employer if the employer’s return period was 1 month by the number of months in the return period.

(4) However, if the amount under subsection (2) or (3) is less than zero, the employer nominated amount is zero.

Calculation of nominated deduction for groups—Act, s 16I

6.(1) This section prescribes how to calculate the amount (the “**group nominated amount**”) the members of a group may nominate for section 16I(1) of the Act.

¹ Section 9 (Deduction from taxable wages) of the Act

² For the meaning of “deduction formula”, see section 4.

(2) If the return period for the designated group employer is 1 month, the group nominated amount is the lesser of the following—

- (a) the amount that would be calculated as the prescribed amount under section 9(1) of the Act;
- (b) the amount calculated using the deduction formula.³

(3) If the return period for the designated group employer is more than 1 month, the group nominated amount is the amount calculated by multiplying the amount that would be the group nominated amount if the return period was 1 month by the number of months in the return period.

(4) However, if the amount under subsection (2) or (3) is less than zero, the group nominated amount is zero.

PART 3—LIABILITY TO TAXATION

Value of taxable wages—Act, s 8A

7. For section 8A(1)⁴ of the Act, the value of taxable wages paid or payable in kind (other than fringe benefits under the Fringe Benefits Assessment Act) is the higher of the following—

- (a) the amount agreed under arrangements between the employer and employee as the value of the taxable wages;
- (b) the amount attributed by the employer as the value of the taxable wages having regard to arrangements between the employer and employee;
- (c) the amount the commissioner works out is the value of the taxable wages having regard to arrangements between the employer and employee.

³ For the meaning of “deduction formula”, see section 4.

⁴ Section 8A (Value of taxable wages) of the Act

PART 4—REGISTRATION AND RETURNS

Application for registration as employer—Act, s 12

8. For section 12(1)⁵ of the Act, an application for registration as an employer must be in the approved form.

Form of returns

9. A return given under section 13(1) or 14(1)⁶ of the Act must be in the approved form.

PART 5—FRINGE BENEFITS

Division 1—Preliminary

Things that are not fringe benefits—Act, s 3

10. For paragraph (d) of the definition “fringe benefit” in section 3(1)⁷ of the Act, a tax-exempt body entertainment fringe benefit is not a fringe benefit.

Value of taxable wages that are amortised fringe benefits—Act, s 8A

11. For section 8A(2)⁸ of the Act, the value of taxable wages that are

⁵ Section 12 (Registration) of the Act

⁶ Section 13 (Returns) or 14 (Exemption from furnishing returns) of the Act

⁷ Section 3 (Interpretation) of the Act

⁸ Section 8A (Value of taxable wages) of the Act

amortised fringe benefits is the amortised amount of the benefits calculated under section 65CA⁹ of the Fringe Benefits Assessment Act.

Amended assessments under the Fringe Benefits Assessment Act

12. 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—20 penalty units.

Calculation of fringe benefits on same basis

13.(1) An employer must calculate fringe benefits on the same basis in each return for a financial year.

(2) This section is subject to sections 16 and 18.

Division 2—Bases for calculation of fringe benefits

Subdivision 1—Electing to calculate fringe benefits on estimated value basis

Employers to which subdiv 1 applies

14. This subdivision applies to an employer who has paid, or is liable to pay, fringe benefits tax for at least 15 consecutive months immediately before the start of a financial year.

Election in first return for current financial year—estimated value basis

15.(1) An employer may elect to include estimated value amounts in returns by including an estimated value amount in the first return for the financial year (the “**current financial year**”) to which the return relates.

⁹ Section 65CA (Amortisation of taxable value of fringe benefits relating to remote area home ownership schemes) of the Fringe Benefits Assessment Act

(2) An election under subsection (1) continues to apply until the employer elects, or again elects, to include actual value amounts in returns.

(3) An election under subsection (1) applies to—

- (a) the first return for the current financial year; and
- (b) all returns given to the commissioner while the election continues to apply.

Election during financial year—estimated value basis

16.(1) If an employer wants to elect to include estimated value amounts in the second or subsequent return for the current financial year, the employer must apply to the commissioner for consent to make the election.

(2) An application under subsection (1) must be in writing.

(3) The commissioner must consider the employer's representations and decide whether or not to give the consent.

(4) The commissioner may only give the consent if the commissioner is reasonably satisfied that—

- (a) the main purpose for the employer's election is not to avoid or reduce the amount of pay-roll tax payable for the current financial year that would otherwise be payable if calculated on an actual value basis; and
- (b) the employer, because of the employer's circumstances, has compelling reasons for making the election.

(5) The commissioner must give the employer written notice of the commissioner's decision.

(6) If the commissioner consents to the election, the employer must elect to include estimated value amounts in returns.

(7) An election under subsection (6)—

- (a) is made by an employer by including an estimated value amount in the first return given to the commissioner after receiving the consent; and
- (b) continues to apply until the employer elects, or again elects, to include actual value amounts in returns; and

(c) applies to—

- (i) the return by which the election is made; and
- (ii) all returns given to the commissioner while the election continues to apply.

(8) If the employer makes an election under subsection (6), the employer's last return for the current financial year must include the difference between—

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

(9) An employer must not make an election under subsection (6) unless the employer has received a consent under this section.

Maximum penalty for subsection (9)—20 penalty units.

Subdivision 2—Electing to calculate fringe benefits on actual value basis

Election in reconciliation return—actual value basis

17.(1) An employer, having made an election under subdivision 1 that still applies, may elect to include actual value amounts in returns.

(2) An employer makes an election under subsection (1) by including a reconciliation amount in the last return for a financial year.

(3) An election under subsection (1)—

- (a) applies to the first return given to the commissioner for the financial year immediately following the financial year for which the return mentioned in subsection (2) is given to the commissioner; and
- (b) continues to apply until the employer elects, or again elects, to include estimated value amounts in returns.

(4) An election under this section applies to all returns given to the commissioner while the election continues to apply.

Election during financial year—actual value basis

18.(1) This section applies to an employer—

- (a) who made an election under subdivision 1 that still applies; and
- (b) who has not, since making the election mentioned in paragraph (a), made an election under section 17; and
- (c) wants to elect to include actual value amounts in returns.

(2) The employer must apply to the commissioner for consent to make the election.

(3) An application under subsection (2) must be in writing.

(4) The commissioner must consider the employer's representations and decide whether or not to give the consent.

(5) The commissioner may only give the consent if the commissioner is reasonably satisfied that—

- (a) the main purpose for the employer's election is not to avoid or reduce the amount of pay-roll tax payable for the current financial year that would otherwise be payable if calculated on an estimated value basis; and
- (b) the employer, because of the employer's circumstances, has compelling reasons for making the election.

(6) The commissioner must give the employer written notice of the commissioner's decision.

(7) If the commissioner consents to the election, the employer must elect to include actual value amounts in returns.

(8) An election under subsection (7)—

- (a) is made by an employer including an actual value amount in the first return given to the commissioner after receiving the consent; and
- (b) continues to apply until the employer elects, or again elects, to include estimated value amounts in returns; and
- (c) applies to—
 - (i) the return by which the election is made; and

- (ii) all returns given to the commissioner while the election continues to apply.

(9) If an employer makes an election under subsection (7), the employer must include a reconciliation amount in the last return for the financial year in which the election is made.

(10) An employer must not make an election under subsection (7) unless the employer has received a consent under this section.

Maximum penalty for subsection (10)—20 penalty units.

Division 3—Value of fringe benefits calculated on estimated value basis

Monthly returns on estimated value basis

19. The estimated value amount to be included in a monthly return is—

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

Quarterly returns on estimated value basis

20. The estimated value amount to be included in a quarterly return is—

- (a) for the first 3 quarterly returns for a financial year—one-quarter of the Queensland fringe benefits for the previous year of tax; and
- (b) for the last quarterly return for the financial year—the difference between the following—
 - (i) the Queensland fringe benefits for the last year of tax;
 - (ii) the total of Queensland fringe benefits included in the first 3 quarterly returns for the financial year.

Biannual returns on estimated value basis

21. The estimated value amount to be included in a biannual return is—

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

Annual returns on estimated value basis

22. The estimated value amount to be included in an annual return is the Queensland fringe benefits for the last year of tax.

Final return on estimated value basis

23.(1) This section applies if, at the time of making a final return, an employer has made an election under subdivision 1 that still applies.

(2) The value of fringe benefits to be included in the employer's final return is the difference between the following—

- (a) the total of—
 - (i) the Queensland fringe benefits for the last year of tax; and
 - (ii) any Queensland fringe benefits paid or payable by the employer in April, May and June of the financial year to which the return relates; and
- (b) the total of—
 - (i) one-quarter of the Queensland fringe benefits for the year of tax ending in the financial year in which the employer last made an election under subdivision 1; and
 - (ii) the total of Queensland fringe benefits included in the returns for the financial year in which the final return is made.

PART 6—MISCELLANEOUS

Rates for allowances—Act, s 3

24. For section 3(2A)¹⁰ of the Act, the rate is—

- (a) for an allowance for travelling paid or payable by an employer to an employee for the use by the employee of a motor vehicle in the course of the employee's employment—50 cents for each kilometre travelled; and
- (b) for an allowance for accommodation paid or payable by an employer to an employee who is necessarily absent overnight from the employee's usual place of residence in the course of the employee's employment—\$90 for each night the employee is absent from the employee's usual place of residence.

Method of paying tax

25. Tax must be paid to the commissioner by—

- (a) bank draft; or
- (b) cash; or
- (c) cheque; or
- (d) electronic funds transfer.

Employer to give notice of change of address for service

26. An employer must give the commissioner written notice of a change of the employer's address for service within 1 month after each change.

Maximum penalty—20 penalty units.

Documents taken to have been given to commissioner

27. A document to be given to the commissioner under the Act is given to the commissioner when the document is received by the commissioner.

¹⁰ Section 3 (Interpretation) of the Act

Repeal

28. The *Pay-roll Tax Regulation 1971* is repealed.

SCHEDULE**DICTIONARY**

section 3

“actual value amount” means an amount for Queensland fringe benefits calculated on an actual value basis.

“address for service”, for an employer, means—

- (a) the employer’s address for service shown in the last return made by the employer under the Act; or
- (b) if the employer has given the commissioner 1 or more notices under section 26, the address stated in the last notice given.

“amortised fringe benefit” see section 65CA¹¹ of the Fringe Benefits Assessment Act.

“current financial year” see section 15(1).

“estimated value amount” means an amount for Queensland fringe benefits calculated on an estimated value basis.

“final return” means the last return made by an employer under the Act.

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

“last year of tax”, for a financial year, means the year of tax ending on 31 March of the financial year.

“previous year of tax”, for a financial year, means the year of tax ending on 31 March before the start of the financial year.

“Queensland fringe benefits” means fringe benefits, whether calculated on an actual value or estimated value basis—

- (a) that are taxable wages; and

¹¹ Section 65CA (Amortisation of taxable value of fringe benefits relating to remote area home ownership schemes) of the Fringe Benefits Assessment Act

SCHEDULE (continued)

(b) for which fringe benefits tax is paid or payable.

“reconciliation amount” is the difference between the following—

- (a) the total of—
 - (i) the Queensland fringe benefits for the last year of tax; and
 - (ii) any Queensland fringe benefits paid or payable by the employer in April, May and June of the financial year in which a reconciliation return is given;
- (b) the total of—
 - (i) one-quarter of the Queensland fringe benefits for the year of tax ending in the financial year in which the employer last made an election under part 5, subdivision 1; and
 - (ii) the total of Queensland fringe benefits included in the returns for the financial year in which a reconciliation return is given.

“reconciliation return” means a return in which a reconciliation amount is included.

“relevant financial year” means—

- (a) for an employer—the financial year for which a return period covered by a notice given under section 9(5)¹² of the Act is a part; and
- (b) for a group—the financial year for which a return period covered by a notice given under section 16I(1)¹³ of the Act is a part.

¹² Section 9 (Deduction from taxable wages) of the Act

¹³ Section 16I (Designated group employer) of the Act

SCHEDULE (continued)

“tax-exempt body entertainment fringe benefit” see section 136¹⁴ of the Fringe Benefits Assessment Act.

“year of tax” see section 136¹⁵ of the Fringe Benefits Assessment Act.

ENDNOTES

1. Made by the Governor in Council on 13 May 1999.
2. Notified in the gazette on 14 May 1999.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Treasury Department.

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¹⁴ Fringe Benefits Assessment Act, section 136—

‘ **“tax-exempt body entertainment fringe benefit”** means a fringe benefit that is a tax exempt body entertainment benefit.’.

¹⁵ Fringe Benefits Assessment Act, section 136—

‘ **“year of tax”** means—

- (a) the period commencing 1 July 1986 and ending on 31 March 1987;
- (b) the year commencing 1 April 1987; and
- (c) each subsequent year commencing 1 April.’.