

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

# Payroll Tax Bill 2011

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2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

## **Payroll Tax Bill 2011**

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### **A Bill for**

An Act to impose payroll tax, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Payroll Tax Act 2011*.

4 *Note* This Act is a **tax law** under the *Taxation Administration Act 1999*. As a  
5 tax law, this Act is subject to provisions of the Taxation Administration  
6 Act about the administration and enforcement of tax laws generally.

7 **2 Commencement**

8 This Act commences on 1 July 2011.

9 *Note* The naming and commencement provisions automatically commence on  
10 the notification day (see Legislation Act, s 75 (1)).

11 **3 Dictionary**

12 The dictionary at the end of this Act is part of this Act.

13 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
14 Act, and includes references (*signpost definitions*) to other terms  
15 defined elsewhere.

16 For example, the signpost definition '*corporation*—see the  
17 Corporations Act, section 9.' means that the term 'corporation' is  
18 defined in that section and the definition applies to this Act.

19 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
20 the entire Act unless the definition, or another provision of the Act,  
21 provides otherwise or the contrary intention otherwise appears (see  
22 Legislation Act, s 155 and s 156 (1)).

1    **3A        Numbering**

2            This Act (other than the schedules) is numbered to maintain  
3            consistent part, division and section numbering with the *Payroll Tax*  
4            *Act 2007* (NSW) (the *NSW Act*), including—

- 5            (a) having a gap in part numbering if there is no equivalent in this  
6            Act of a part of the NSW Act; and
- 7            (b) having a gap in section numbering if there is no equivalent in  
8            this Act of a section of the NSW Act; and
- 9            (c) for a section that does not have an equivalent in the NSW  
10           Act—using a section number that is not used in the NSW Act.

11           **Examples**

12           1    There is no pt 8 or s 12 in this Act.

13           2    There is no s 53A in the NSW Act.

14           *Note*    An example is part of the Act, is not exhaustive and may extend, but  
15           does not limit, the meaning of the provision in which it appears (see  
16           Legislation Act, s 126 and s 132).

17           **4        Notes**

18           A note included in this Act is explanatory and is not part of this Act.

19           *Note*    See the Legislation Act, s 127 (1), (4) and (5) for the legal status of  
20           notes.

1 **5 Offences against Act—application of Criminal Code etc**

2 Other legislation applies in relation to offences against this Act.

3 *Note 1 Criminal Code*

4 The Criminal Code, ch 2 applies to all offences against this Act (see  
5 Code, pt 2.1).

6 The chapter sets out the general principles of criminal responsibility  
7 (including burdens of proof and general defences), and defines terms  
8 used for offences to which the Code applies (eg *conduct*, *intention*,  
9 *recklessness* and *strict liability*).

10 *Note 2 Penalty units*

11 The Legislation Act, s 133 deals with the meaning of offence penalties  
12 that are expressed in penalty units.

1 **Part 2** **Imposition of payroll tax**

2 **Division 2.1** **Imposition of tax**

3 **6** **Imposition of payroll tax**

4 Payroll tax is imposed on all taxable wages.

5 **7** **Who is liable for payroll tax?**

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

8 **8** **Amount of payroll tax**

9 The amount of payroll tax payable by an employer must be worked  
10 out in accordance with schedules 1 and 2.

11 **9** **When must payroll tax be paid?**

12 (1) A person who is liable to pay payroll tax on taxable wages must pay  
13 the tax—

14 (a) within 7 days after the end of the month in which the wages  
15 were paid or payable, other than June; and

16 (b) within 21 days after the end of June in relation to taxable  
17 wages paid or payable in June.

18 (2) However, if the commissioner believes on reasonable grounds that a  
19 person may leave Australia before any payroll tax becomes payable  
20 by the person, the tax is payable on the day fixed by the  
21 commissioner by notice served on the person.

1 **Division 2.2 Taxable wages**

2 **10 Meaning of *taxable wages***

3 (1) For this Act, *taxable wages* are wages that are taxable in the ACT.

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

5 **11 Wages taxable in the ACT**

6 (1) For this Act, wages are taxable in the ACT if—

7 (a) the wages are paid or payable by an employer in relation to  
8 services performed by an employee entirely in the ACT; or

9 (b) the wages are paid or payable by an employer in relation to  
10 services performed by an employee in 2 or more Australian  
11 jurisdictions, or partly in 1 or more Australian jurisdictions and  
12 partly outside all Australian jurisdictions, and—

13 (i) the employee is based in the ACT; or

14 (ii) if the employee is not based in an Australian  
15 jurisdiction—the employer is based in the ACT; or

16 (iii) if both the employee and employer are not based in an  
17 Australian jurisdiction—the wages are paid or payable in  
18 the ACT; or

19 (iv) if both the employee and employer are not based in an  
20 Australian jurisdiction and the wages are not paid or  
21 payable in an Australian jurisdiction—the wages are paid  
22 or payable in relation to services performed mainly in the  
23 ACT; or



1 (c) the wages are paid or payable by an employer in relation to  
2 services performed by an employee entirely outside all  
3 Australian jurisdictions and are paid or payable in the ACT.

4 *Note* Section 66A (Wages paid or payable in relation to services performed in  
5 other countries) provides an exemption for wages paid or payable in  
6 relation to services performed entirely in 1 or more other countries for a  
7 continuous period of more than 6 months.

8 (2) The question of whether wages are taxable in the ACT must be  
9 decided by taking into account only the services performed by the  
10 employee in relation to the employer in the month in which the  
11 wages are paid or payable.

12 (3) Any wages paid or payable by an employer in relation to an  
13 employee in a month are taken to be paid or payable in relation to  
14 the services performed by the employee in relation to the employer  
15 in that month.

16 **Example**

17 If wages paid in a month are paid to an employee in relation to services performed  
18 over several months, the question of whether the wages are taxable in the ACT  
19 must be decided by taking into account only services performed by the employee  
20 in the month in which the wages are paid. Services performed in previous months  
21 are disregarded (services performed in previous months will be relevant to the  
22 question of whether wages paid in the previous months are taxable in the ACT).

23 *Note* An example is part of the Act, is not exhaustive and may extend, but  
24 does not limit, the meaning of the provision in which it appears (see  
25 Legislation Act, s 126 and s 132).

26 (4) However, if no services are performed by an employee in relation to  
27 an employer in the month in which wages are paid or payable in  
28 relation to the employee—

29 (a) the question of whether the wages are taxable in the ACT must  
30 be decided by taking into account only the services performed  
31 by the employee in relation to the employer in the most recent  
32 prior month in which the employee performed services in  
33 relation to the employer; and

- 1 (b) the wages are taken to be paid or payable in relation to the  
2 services performed by the employee in relation to the employer  
3 in that most recent prior month.
- 4 (5) Also, if no services were performed by an employee in relation to an  
5 employer in the month in which wages are paid or payable in  
6 relation to the employee or in any prior month—
- 7 (a) the wages are taken to be paid or payable in relation to services  
8 performed by the employee in the month in which the wages  
9 are paid or payable; and
- 10 (b) the services are taken to have been performed at a place or  
11 places where it may be reasonably expected that the services of  
12 the employee in relation to the employer will be performed.
- 13 (6) All amounts of wages paid or payable in the same month by the  
14 same employer in relation to the same employee must be aggregated  
15 for the purpose of deciding whether they are taxable in the ACT (as  
16 if they were paid or payable for all services performed by the  
17 employee in the month in which the wages are paid or payable, or  
18 the most recent prior month).
- 19 **Example**
- 20 If 1 amount of wages is paid by an employer in a particular month for services  
21 performed in the ACT, and another amount of wages is paid by the same  
22 employer in the same month for services performed by the same employee in  
23 another Australian jurisdiction, the wages paid must be aggregated (as if they  
24 were paid for all services performed by the employee in that month). Accordingly,  
25 s (1)(b) would be applied for the purpose of deciding whether the wages are  
26 taxable in the ACT.
- 27 (7) If wages are paid in a different month from the month in which they  
28 are payable, the question of whether the wages are taxable in the  
29 ACT must be decided by taking into account the earlier of the  
30 relevant months.

1 **11A Jurisdiction in which employee is based**

- 2 (1) For this Act, the jurisdiction in which an employee is based is the  
3 jurisdiction in which the employee's principal place of residence is  
4 located.
- 5 (2) The jurisdiction in which an employee is based must be decided by  
6 taking into account the state of affairs in the month in which the  
7 relevant wages are paid or payable.
- 8 (3) If more than 1 jurisdiction would qualify as the jurisdiction in which  
9 an employee is based in a month, the jurisdiction in which the  
10 employee is based must be decided by taking into account the state  
11 of affairs on the last day of that month.
- 12 (4) For this Act, an employee who does not have a principal place of  
13 residence is taken to be an employee who is not based in an  
14 Australian jurisdiction.
- 15 (5) For wages paid or payable to a corporate employee, the jurisdiction  
16 in which the employee is based must be worked out under  
17 section 11B instead of this section (as if a reference in section 11B  
18 to an employer were a reference to an employee).
- 19 (6) For this section, a *corporate employee* is a company—
- 20 (a) that is taken to be an employee under section 34  
21 (Contractors—people taken to be employees) or section 39  
22 (Employment agents—people taken to be employees); or
- 23 (b) to which a payment is made that is taken to be wages payable  
24 to an employee under section 42 (Employment agents—  
25 agreement to reduce or avoid liability to payroll tax) or  
26 section 47 (Agreement etc to reduce or avoid liability to  
27 payroll tax).

1 **11B Jurisdiction in which employer is based**

- 2 (1) For this Act, the jurisdiction in which an employer is based is—
- 3 (a) if the employer has an ABN—the jurisdiction in which the  
4 employer’s registered business address is located; or
- 5 (b) in any other case—the jurisdiction in which the employer’s  
6 principal place of business is located.
- 7 (2) If wages are paid or payable in connection with a business carried  
8 on by an employer under a trust, the employer’s registered business  
9 address is—
- 10 (a) if the trust has an ABN—the registered business address of the  
11 trust; or
- 12 (b) if the trust does not have an ABN—the registered business  
13 address of the trustee of the trust.
- 14 (3) If an employer has registered business addresses in different  
15 jurisdictions at the same time, the jurisdiction in which the employer  
16 is based at that time is the jurisdiction in which the employer’s  
17 principal place of business is located.
- 18 (4) The jurisdiction in which an employer is based must be decided by  
19 taking into account the state of affairs in the month in which the  
20 relevant wages are paid or payable.
- 21 (5) If more than 1 jurisdiction would qualify as the jurisdiction in which  
22 an employer is based in a month, the jurisdiction in which the  
23 employer is based must be decided by taking into account the state  
24 of affairs on the last day of that month.
- 25 (6) For this Act, an employer is taken to be an employer who is not  
26 based in an Australian jurisdiction if the employer has neither a  
27 registered business address nor a principal place of business.

1 **11C Place and date of payment of wages**

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

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

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

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

12 (3) Wages are taken to be payable at the place at which they are paid.

13 (4) However, wages that are not paid by the end of the month in which  
14 they are payable are taken to be payable at—

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

17 (b) if wages have not previously been paid by the employer to the  
18 employee—the place where the employee last performed  
19 services in relation to the employer before the wages became  
20 payable.

1 (5) Also, if wages paid or payable in the same month by the same  
2 employer in relation to the same employee are paid or payable in  
3 more than 1 Australian jurisdiction, the wages paid or payable in  
4 that month are taken to be paid or payable in the Australian  
5 jurisdiction in which the highest proportion of the wages is paid or  
6 payable.

7 *Note* Section 11 (Wages taxable in the ACT) requires all wages paid or  
8 payable in the same month by the same employer in relation to the same  
9 employee to be aggregated for the purpose of deciding whether the  
10 wages are taxable in the ACT. Section 11C ensures only 1 Australian  
11 jurisdiction can be considered to be the jurisdiction in which the wages  
12 are paid or payable.

1 **Part 3** **Wages**

2 **Division 3.1** **General concept of wages**

3 **13** **Meaning of *wages***

4 (1) For this Act, *wages* means wages, remuneration, salary,  
5 commission, bonuses or allowances paid or payable to an employee,  
6 including—

7 (a) an amount paid or payable as remuneration to a person by the  
8 Territory or a territory authority; and

9 (b) an amount paid or payable under a contract prescribed by  
10 regulation, to the extent to which the payment is attributable to  
11 labour; and

12 (c) an amount paid or payable by a company as remuneration in  
13 relation to a director of the company; and

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

16 *Note* Other provisions that define *wages* for this Act include the following:

- 17 • a fringe benefit (see s 14);
- 18 • a superannuation contribution (see s 17);
- 19 • the grant of a share or option to an employee by an employer in  
20 relation to services performed by the employee in certain  
21 circumstances (see s 18);
- 22 • the grant of a share, or option, by a company to a director of the  
23 company who is not an employee in certain circumstances (see  
24 s 24);
- 25 • a termination payment (see s 28);
- 26 • an amount that exceeds the exempt component of a motor vehicle  
27 allowance (see s 29);
- 28 • an amount of accommodation allowance that exceeds the exempt  
29 rate (see s 30);





1    **15            Value of wages that are fringe benefits**

2            (1) For this Act, the value of wages that are a fringe benefit is worked  
3            out as follows:

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

4            (2) In this Act, a reference to taxable wages that were paid or payable  
5            by an employer in a month is, in relation to taxable wages that are  
6            fringe benefits—

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

9                    (b) if an election by the employer is in force under section 16—a  
10                    reference to an amount worked out under the section.

11            (3) In this Act, a reference to taxable wages that were paid or payable  
12            by an employer in a year is, in relation to taxable wages that are  
13            fringe benefits, a reference to an amount worked out by adding  
14            together the amounts under subsection (2) (a) or (b) (or  
15            subsection (2) (a) and (b)), for the months of that year.

16            (4) In this section:

17                    ***FBT rate*** means the rate of fringe benefits tax imposed by the  
18                    FBTA Act that applies when the liability to payroll tax under this  
19                    Act arises.

20                    ***TV*** means the value that would be the taxable value of the benefit as  
21                    a fringe benefit for the FBTA Act.

1 **16 Employer election for taxable value of fringe benefits**

2 (1) An employer who has paid or is liable to pay fringe benefits tax  
3 imposed by the FBTA Act in relation to a period of not less than  
4 15 months before 30 June in any year may elect to include as the  
5 value of the fringe benefits paid or payable by the employer in a  
6 month—

7 (a) in a return lodged in relation to each of the first 11 months  
8 after 30 June in the year—<sup>1</sup>/<sub>12</sub>th of the amount worked out  
9 under subsection (2), or the part of that amount that, under  
10 section 10 (Meaning of *taxable wages*), consists of taxable  
11 wages for the year of tax (under the FBTA Act) ending on  
12 31 March before the beginning of the current financial year;  
13 and

14 (b) in the return lodged in relation to the 12th month—the amount  
15 worked out under subsection (2), or the part of that amount  
16 that, under section 10, consists of taxable wages for the year of  
17 tax (under the FBTA Act) ending on 31 March before the  
18 month, less the total of the amounts of fringe benefits included  
19 in the returns for each of the earlier 11 months.

20 (2) An amount is worked out under this subsection as follows:

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

21 (3) An election under subsection (1) takes effect when it is notified to  
22 the commissioner.

23 *Note* If a form is approved under the *Taxation Administration Act 1999*,  
24 s 139C for this section, the form must be used.

25 (4) After an employer has made an election under subsection (1), the  
26 employer must lodge returns containing amounts worked out in  
27 accordance with the election unless the commissioner approves, by  
28 written notice given to the employer, the termination of the election  
29 and allows the employer to include the value mentioned in  
30 section 15 (2) (a) (Value of wages that are fringe benefits).

- 1 (5) If an employer ceases to be liable to pay payroll tax, the value of  
2 taxable wages that are fringe benefits to be included in the  
3 employer's final return is (whether or not the employer has made an  
4 election under subsection (1)) the value of the fringe benefits paid or  
5 payable by the employer for the period beginning on the previous  
6 1 July until the date when the employer ceases to be liable to payroll  
7 tax, less the value of the fringe benefits paid or payable by the  
8 employer in that period when payroll tax has been paid.
- 9 (6) In this section:
- 10 *AFBA* means the aggregate fringe benefits amount under the FBTA  
11 Act, section 136 (Interpretation).
- 12 *FBT rate* means the rate of fringe benefits tax imposed by the  
13 FBTA Act that applies when the liability to payroll tax under this  
14 Act arises.

## 15 Division 3.3 Superannuation contributions

### 16 17 Wages includes superannuation contribution

- 17 (1) For this Act, *wages* includes a superannuation contribution.
- 18 (2) For this Act, a *superannuation contribution* is a contribution paid  
19 or payable by an employer in relation to an employee—
- 20 (a) to or as a superannuation fund under the *Superannuation*  
21 *Industry (Supervision) Act 1993* (Cwlth); or
- 22 (b) as a superannuation guarantee charge under the  
23 *Superannuation Guarantee (Administration) Act 1992* (Cwlth);  
24 or
- 25 (c) to or as any other form of superannuation, provident or  
26 retirement fund or scheme including—
- 27 (i) the Superannuation Holding Accounts Special Account  
28 under the *Small Superannuation Accounts Act 1995*  
29 (Cwlth); and

- 1 (ii) a retirement savings account under the *Retirement*  
2 *Savings Accounts Act 1997* (Cwlth); and
- 3 (iii) an entirely or partly unfunded fund or scheme.
- 4 (3) Setting aside any money or anything that is worth money as, or as  
5 part of, a superannuation fund, superannuation guarantee charge or  
6 any other form of superannuation, provident or retirement fund or  
7 scheme is taken to be paying a superannuation contribution.
- 8 (4) Making a superannuation contribution of anything that is worth  
9 money is taken to be paying a superannuation contribution of the  
10 amount equal to its value, and its value must be worked out under  
11 section 43 (Value of wages paid in kind) as if the section mentioned  
12 the contribution instead of wages.
- 13 (5) A superannuation, provident or retirement fund or scheme is  
14 unfunded to the extent that money paid or payable by an employer  
15 in relation to an employee covered by the fund or scheme is not paid  
16 or payable in the employee's period of service with the employer.
- 17 (6) In this section:
- 18 *employee* includes anyone to whom, because of a paragraph of the  
19 definition of *wages* in section 13 (1), an amount paid or payable in  
20 the circumstances mentioned in the paragraph is wages.

1 **Division 3.4** **Shares and options**

2 **18** **Inclusion of grant of shares and options as wages**

- 3 (1) For this Act, *wages* includes the grant of a share or option to an  
4 employee by an employer in relation to services performed by the  
5 employee if the share or option is an ESS interest and is granted to  
6 the employee under an employee share scheme.

7 *Note* A grant of a share or option to an employee by an employer that is not  
8 an ESS interest will be taxable as a fringe benefit under div 3.2 (Fringe  
9 benefits).

- 10 (2) The wages are taken, for the purpose of the imposition of payroll  
11 tax, to be paid or payable on the relevant day.

- 12 (3) For this division, the *relevant day* is the day that the employer elects  
13 in accordance with this division to treat as the day when the wages  
14 are paid or payable.

- 15 (4) To remove any doubt, the grant of a share or option is valuable  
16 consideration for section 46 (Wages paid by or to third parties).

- 17 (5) In this section:

18 *employee share scheme*—see the *Income Tax Assessment Act 1997*  
19 (Cwlth), section 83A-10 (Meaning of *ESS interest* and *employee*  
20 *share scheme*).

21 *ESS interest*—see the *Income Tax Assessment Act 1997* (Cwlth),  
22 section 83A-10.

- 1     **19           Choice of relevant day**
- 2           (1) The employer can elect to treat as the relevant day either the date  
3           when the share or option is granted to the employee or the vesting  
4           date.
- 5           (2) For this division, a share or option is *granted* to a person if—
- 6               (a) someone else transfers the share or option to the person (other  
7               than, for a share, by issuing the share to that person); or
- 8               (b) for a share—someone else allots the share to the person; or
- 9               (c) for an option—someone else confers the option on, or  
10              otherwise creates the option in, the person; or
- 11              (d) the person otherwise acquires a legal interest in the share or  
12              option from someone else; or
- 13              (e) the person acquires a beneficial interest in the share or option  
14              from someone else.
- 15           (3) To remove any doubt, if an employee acquires a right to be granted  
16           a share or option, or another material benefit, at the employer’s  
17           election, the share or option is not granted until the employer elects  
18           to grant the share or option.
- 19           (4) For this division, the *vesting date* in relation to a share is whichever  
20           of the following happens first:
- 21               (a) the date when the share vests in the employee (that is, when  
22               any conditions applying to the grant of the share have been met  
23               and the employee’s legal or beneficial interest in the share  
24               cannot be rescinded);
- 25               (b) the date at the end of the period of 7 years from the date when  
26               the share is granted to the employee.

- 1           (5) For this division, the *vesting date* in relation to an option is  
2           whichever of the following happens first:
- 3           (a) the date when the share to which the option relates is granted to  
4           the employee;
- 5           (b) the date when the employee exercises a right under the option  
6           to have the share the subject of the option transferred to,  
7           allotted to or vested in the employee;
- 8           (c) the date at the end of the period of 7 years from the date when  
9           the option is granted to the employee.

10       **20           Deemed choice of relevant day in special cases**

- 11           (1) If an employer grants a share or option to an employee and the value  
12           of the grant of the share or option is not included in the taxable  
13           wages of the employer for the financial year when the share or  
14           option was granted, the employer is taken to have elected to treat the  
15           wages that are the grant of that share or option as being paid or  
16           payable on the vesting date.
- 17           (2) If an employer grants a share or option to an employee and the value  
18           of the grant of the share or option is nil or, if the employer were to  
19           elect to treat the date of grant as the relevant day, the wages that are  
20           the grant would not be liable to payroll tax, the employer is taken to  
21           have elected to treat the wages that are the grant of that share or  
22           option as being paid or payable on the date when the share or option  
23           was granted.

24       **21           Effect of rescission, cancellation of share or option**

- 25           (1) If the grant of a share or option is withdrawn, cancelled or  
26           exchanged before the vesting date for any valuable consideration  
27           (other than the grant of other shares or options)—
- 28           (a) the date of withdrawal, cancellation or exchange is taken to be  
29           the vesting date of the share or option; and

- 1 (b) the market value of the share or option, on the vesting date, is  
2 taken to be the amount of the valuable consideration (and,  
3 accordingly, that amount is the amount paid or payable as  
4 wages on that date).
- 5 (2) If an employer includes the value of a grant of a share or option in  
6 the taxable wages of the employer for a financial year and the grant  
7 is rescinded because the conditions attaching to the grant were not  
8 met, the taxable wages of the employer, in the financial year in  
9 which the grant is rescinded, must be reduced by the value of the  
10 grant as previously included in the taxable wages of the employer.
- 11 (3) Subsection (2) does not apply just because an employee fails to  
12 exercise an option or to otherwise exercise the employee's rights in  
13 relation to a share or option.

14 **22 Grant of share as result of exercise of option**

15 The grant of a share by an employer is not wages for this Act if the  
16 employer is required to grant the share because of the exercise of an  
17 option by a person and—

- 18 (a) the grant of the option to the person is wages for this Act; or  
19 (b) the option was granted to the person before 1 July 2005.

20 **23 Value of shares and options**

- 21 (1) If the grant of a share or option is wages under this division, the  
22 amount paid or payable as wages is taken, for this Act, to be the  
23 value of the share or option (expressed in Australian currency) on  
24 the relevant day, less the consideration (if any) paid or given by the  
25 employee in relation to the share or option (other than consideration  
26 in the form of services performed).



- 1           (2) The value of a share or option is—
- 2                 (a) the market value; or
- 3                 (b) the amount worked out as provided for by the Commonwealth
- 4                     income tax provisions.
- 5           (3) The employer may elect the method by which the value of a share or
- 6                     option is worked out in any return lodged under this Act.
- 7           (4) However, the commissioner may determine the method by which
- 8                     the value of a share or option is worked out if the grant of the share
- 9                     or option is not included as wages in a return lodged by an employer
- 10                    as required under this Act.
- 11           (5) In working out the market value of a share or option, anything that
- 12                     would prevent or restrict conversion of the share or option to money
- 13                     must be disregarded.
- 14           (6) The Commonwealth income tax provisions apply with the following
- 15                     changes, and any other necessary changes:
- 16                 (a) the value of an option must be worked out as if it were a right
- 17                     to acquire a beneficial interest in a share;
- 18                 (b) as if a reference to the acquisition of a beneficial interest in a
- 19                     share or right were a reference to the grant of a share or option.
- 20           (7) In this section:
- 21                     ***Commonwealth income tax provisions*** means the *Income Tax*
- 22                     *Assessment Act 1997* (Cwlth), section 83A-315 (Market value of
- 23                     ESS interest).
- 24                     *Note 1*   A reference to an Act includes a reference to the statutory instruments
- 25                     made or in force under the Act, including any regulation (see
- 26                     Legislation Act, s 104).
- 27                     *Note 2*   See the *Income Tax Assessment Regulations 1997* (Cwlth), div 83A
- 28                     (Employee share schemes).

- 1     **24           Inclusion of shares and options granted to directors as**  
2     **wages**
- 3           (1) For this Act, *wages* includes the grant of a share or option by a  
4           company to a director of the company who is not an employee of the  
5           company as remuneration for the director's appointment or services.
- 6           (2) Also, the other provisions of this division apply in relation to the  
7           grant as if—
- 8               (a) a reference to the employer were a reference to the company;  
9               and
- 10              (b) a reference to the employee were a reference to the director of  
11              the company; and
- 12              (c) any other necessary changes, and any changes prescribed by  
13              regulation, were made.
- 14           (3) However, if wages mentioned in this section are fringe benefits, the  
15           value of the wages must be worked out under division 3.2 (Fringe  
16           benefits), not this division.
- 17           (4) In this section:
- 18               *director*, of a company, includes—
- 19               (a) a person who, under a contract or other arrangement, is to be  
20               appointed as a director of the company; and
- 21               (b) a former director of the company.
- 22           *Note*     Section 13 (Meaning of *wages*) provides that a reference to an employee  
23           in this Act includes a reference to anyone to whom an amount that is  
24           treated as wages under this Act is paid or payable. See also s 11 (Wages  
25           taxable in the ACT), that deems the wages to be paid or payable in  
26           relation to services performed.

1   **26**           **Place where wages are payable**

2           (1) Wages that are the grant of a share or option are taken to be paid or  
3           payable in the ACT if—

4                   (a) for a share—the share is a share in a local company; or

5                   (b) for an option—the option is an option to acquire shares in a  
6                   local company.

7           (2) In any other case, wages that are the grant of a share or option are  
8           taken to be paid or payable outside the ACT.

9                   *Note*       The place where wages are paid or payable is sometimes relevant to  
10                   deciding whether the wages are liable to payroll tax under this Act (see  
11                   s 11 (Wages taxable in the ACT)).

12           (3) In this section:

13                   ***local company*** means—

14                   (a) a company incorporated or taken to be incorporated under the  
15                   Corporations Act that is taken to be registered in the ACT for  
16                   that Act; or

17                   (b) any other body corporate that is incorporated under a territory  
18                   law.

1 **Division 3.5 Termination payments**

2 **27 Definitions—div 3.5**

3 In this division:

4 ***employment termination payment*** means—

5 (a) an employment termination payment under the ITAA,  
6 section 82-130 (What is an *employment termination*  
7 *payment?*); or

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

12 (c) a transitional termination payment under the *Income Tax*  
13 *(Transitional Provisions) Act 1997* (Cwlth), section 82-10  
14 (Pre-10 May 2006 entitlements—*transitional termination*  
15 *payments*).

16 ***relevant contract***—see section 32 (Meaning of *relevant contract*—  
17 *div 3.7*).

18 ***termination payment*** means—

19 (a) a payment made because of the retirement from, or termination  
20 of, an office or employment of an employee, being—

21 (i) an unused annual leave payment; or

22 (ii) an unused long service leave payment; or

- 1 (iii) so much of an employment termination payment paid or  
2 payable by an employer, whether or not paid to the  
3 employee or to another entity, that would be included in  
4 the assessable income of an employee under the ITAA,  
5 part 2-40 (Rules affecting employees and other taxpayers  
6 receiving PAYG withholding payments) if all of the  
7 employment termination payment had been paid to the  
8 employee; or
- 9 (b) an amount paid or payable by a company because of the  
10 termination of the services or office of a director of the  
11 company, whether or not paid to the director or to another  
12 entity, that would be an employment termination payment if  
13 that amount had been paid or payable because of termination of  
14 employment; or
- 15 (c) an amount paid or payable by a person who is an employer  
16 under a relevant contract because of the termination of the  
17 supply of the services of an employee under the contract,  
18 whether or not paid to the employee or to anyone else, if the  
19 amount would be an employment termination payment if that  
20 amount had been paid or payable because of termination of  
21 employment.

22 *unused annual leave payment*—see the ITAA, section 83-10  
23 (Unused annual leave payment is assessable).

24 *unused long service leave payment*—see the ITAA, section 83-75  
25 (Meaning of *unused long service leave payment*).

26 **28 Termination payments**

27 For this Act, *wages* includes a termination payment.

1 **Division 3.6 Allowances**

2 **29 Motor vehicle allowances**

- 3 (1) For this Act, *wages*, for a financial year, does not include the  
4 exempt component of a motor vehicle allowance paid or payable for  
5 the year.
- 6 (2) Accordingly, if the total motor vehicle allowance paid or payable to  
7 an employee for a financial year does not exceed the exempt  
8 component, the motor vehicle allowance is not *wages* for this Act.
- 9 (3) If the total motor vehicle allowance paid or payable to an employee  
10 for a financial year exceeds the exempt component (if any), only the  
11 amount that exceeds the exempt component of the motor vehicle  
12 allowance is included as *wages* for this Act.
- 13 (4) The *exempt component* of a motor vehicle allowance paid or  
14 payable for a financial year is worked out as follows:

$$E = K \times R$$

- 15 (5) In this section:

16 *E* means the exempt component.

17 *K* means the number of business kilometres travelled in the financial  
18 year.

19 *R* means the exempt rate for the financial year.

- 20 (6) *K* is worked out using the continuous recording method, or the  
21 averaging method, whichever method is selected and used by the  
22 employer under schedule 1, part 1.5 (Motor vehicle allowances).
- 23 (7) The commissioner may, in writing, approve the use by an employer  
24 of another method of working out *K* (including the use of an  
25 estimate).

26 *Note* Power to make a statutory instrument includes power to make different  
27 provision for different categories (see Legislation Act, s 48).

- 1 (8) If the commissioner approves the use of a method under  
2 subsection (7) for an employer for a financial year, the employer  
3 must use the method to work out K.
- 4 (9) The Minister may determine the exempt rate for a financial year.
- 5 (10) A determination is a notifiable instrument.
- 6 *Note* A notifiable instrument must be notified under the Legislation Act.
- 7 (11) For this section, the *exempt rate* for a financial year is—
- 8 (a) the rate prescribed by regulation under the ITAA,  
9 section 28-25 (How to calculate your deduction) for working  
10 out a deduction for car expenses for a large car using the ‘cents  
11 per kilometre’ method in the financial year immediately before  
12 the financial year in which the allowance is paid or payable; or
- 13 (b) if no rate mentioned in paragraph (a) is prescribed—the rate  
14 determined by the Minister under subsection (9).

15 **30 Accommodation allowances**

- 16 (1) For this Act, *wages*, for a financial year, does not include an  
17 accommodation allowance paid or payable to an employee for a  
18 night’s absence from the person’s usual place of residence that does  
19 not exceed the exempt rate.
- 20 (2) If the accommodation allowance paid or payable to an employee for  
21 a night’s absence from the person’s usual place of residence exceeds  
22 the exempt rate, *wages* includes the allowance only to the extent that  
23 it exceeds the exempt rate.
- 24 (3) The Minister may determine the exempt rate for a financial year.
- 25 (4) For this section, the *exempt rate* for a financial year is—
- 26 (a) the total reasonable amount for daily travel allowance expenses  
27 using the lowest capital city for the lowest salary band for the  
28 financial year determined by the Commissioner of Taxation of  
29 the Commonwealth; or

1 (b) if no determination mentioned in paragraph (a) is in force—the  
2 rate determined by the Minister under subsection (3).

3 (5) A determination under this section is a notifiable instrument.

4 *Note* A notifiable instrument must be notified under the Legislation Act.

## 5 **Division 3.7 Contractor provisions**

### 6 **31 Definitions—div 3.7**

7 In this division:

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

10 *resupply* of goods (the *relevant goods*) acquired from a person  
11 includes—

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

14 (b) a supply to the person of goods in which the relevant goods  
15 have been incorporated; and

16 (c) a supply to the person of something manufactured or produced  
17 from the goods.

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

20 *supply* includes supply by sale, exchange, lease, hire or  
21 hire-purchase, and in relation to services includes the providing,  
22 granting or conferring of services.



1   **32**           **Meaning of *relevant contract*—div 3.7**

2           (1) For this division, a *relevant contract* for a financial year is a  
3           contract under which a person (the *designated person*) in the  
4           financial year, in the course of a business carried on by the  
5           designated person—

6                   (a) supplies services to someone else in relation to the  
7                   performance of work; or

8                   (b) has supplied to the designated person the services of people in  
9                   relation to the performance of work; or

10                  (c) gives out goods to individuals for work to be performed by  
11                  them in relation to the goods and for resupply of the goods to  
12                  the designated person or, if the designated person is a member  
13                  of a group, to another member of the group.

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

18                   (a) is supplied with services in relation to the performance of work  
19                   that are ancillary to the supply of goods under the contract by  
20                   the person supplying the services or to the use of goods that are  
21                   the property of that person; or

22                   (b) is supplied with services in relation to the performance of work  
23                   if—

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

- 1 (ii) the services are supplied under a contract to which  
2 subparagraph (i) does not apply and the commissioner is  
3 satisfied that the services are performed by a person who  
4 ordinarily performs services of that kind to the public  
5 generally in the financial year; or
- 6 (c) is supplied with services ancillary to the conveyance of goods  
7 by means of a vehicle provided by the person conveying them.
- 8 (3) Subsection (2) does not apply if the commissioner determines that  
9 the contract under which the services are supplied was entered into  
10 with an intention of, directly or indirectly, avoiding or evading the  
11 payment of tax by anyone.
- 12 (4) For this section, an employment agency contract under which  
13 services are supplied by an employment agent, or a service provider  
14 is procured by an employment agent, is not a relevant contract.
- 15 **33 Contractors—people taken to be employers**
- 16 (1) For this Act, a person is taken to be an employer for a financial year  
17 if the person is someone, in the financial year—
- 18 (a) who supplies services to someone else under a relevant  
19 contract; or
- 20 (b) to whom, under a relevant contract, the services of people are  
21 supplied in relation to the performance of work; or
- 22 (c) who, under a relevant contract, gives out goods to other people.
- 23 (2) If a contract is a relevant contract under both section 32 (1) (a) and  
24 (b)—
- 25 (a) the person to whom, under the contract, the services of people  
26 are supplied in relation to the performance of work is taken to  
27 be an employer; and
- 28 (b) despite subsection (1) (a), the person who under the contract  
29 supplies the services is taken not to be an employer.

1    **34           Contractors—people taken to be employees**

2           For this Act, a person is taken to be an employee for a financial year  
3           if the person, in the financial year—

4           (a) performs work in relation to which services are supplied to  
5           someone else under a relevant contract; or

6           (b) if the person is an individual—resupplies goods to an employer  
7           under a relevant contract.

8    **35           Amounts under relevant contracts taken to be wages**

9           (1) For this Act, amounts paid or payable by an employer in a financial  
10          year in relation to the performance of work relating to a relevant  
11          contract or the resupply of goods by an employee under a relevant  
12          contract are taken to be wages paid or payable in the financial year.

13          (2) If an amount mentioned in subsection (1) is included in a larger  
14          amount paid or payable by an employer under a relevant contract in  
15          a financial year, the commissioner may determine the part of the  
16          larger amount that is not attributable to the performance of work  
17          relating to the relevant contract or the resupply of goods by an  
18          employee under the relevant contract.

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

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

1 (b) the value of any share or option (not otherwise included as  
2 wages under this Act) provided or liable to be provided by a  
3 person who is taken to be an employer under a relevant  
4 contract in relation to a person who is taken to be an employee  
5 under the relevant contract that would be included as wages  
6 under division 3.4 (Shares and options) if provided to a person  
7 in the capacity of an employee.

8 **36 Contractors—liability provisions**

9 If, in relation to a payment in relation to the performance of work  
10 that is taken to be wages under this division, payroll tax is paid by a  
11 person who is taken to be an employer under this division (the  
12 *relevant person*)—

13 (a) no-one else is liable to payroll tax in relation to the payment;  
14 and

15 (b) if someone else is liable to make a payment in relation to the  
16 work—that person is not liable to payroll tax in relation to the  
17 payment unless it, or the payment by the relevant person, is  
18 made with an intention of, directly or indirectly, avoiding or  
19 evading the payment of tax by anyone.

20 **Division 3.8 Employment agents**

21 **37 Definitions—Act**

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

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

1 (3) In this section:

2 *contract* includes agreement, arrangement and undertaking.

3 **38 Employment agents—people taken to be employers**

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

6 **39 Employment agents—people taken to be employees**

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

10 **40 Amounts taken to be wages**

11 For this Act, the following are taken to be *wages* paid or payable by  
12 the employment agent under an employment agency contract:

13 (a) any amount paid or payable in relation to the service provider  
14 in relation to the provision of services in relation to the  
15 employment agency contract;

16 (b) the value of any benefit provided in relation to the provision of  
17 services in relation to the employment agency contract that  
18 would be a fringe benefit if provided to a person in the capacity  
19 of an employee;

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

23 **41 Employment agents—liability**

24 If, in relation to wages paid in relation to the performance of work,  
25 payroll tax is paid by an employment agent, no-one else is liable to  
26 payroll tax in relation to the payment.

- 1 **42 Employment agents—agreement to reduce or avoid**  
2 **liability to payroll tax**
- 3 If the effect of an employment agency contract is to reduce or avoid  
4 the liability of any party to the contract to the assessment,  
5 imposition or payment of payroll tax, the commissioner may—
- 6 (a) disregard the contract; and  
7 (b) determine that any party to the contract is taken to be an  
8 employer for this Act; and  
9 (c) determine that any payment made in relation to the contract is  
10 taken to be wages for this Act.

11 **Division 3.9 Wages—other**

- 12 **43 Value of wages paid in kind**
- 13 The value of wages (except fringe benefits and shares and options)  
14 that are paid or payable in kind is the greater of—
- 15 (a) the value agreed or attributed to the wages in, or able to be  
16 worked out for the wages from, arrangements between the  
17 employer and the employee, whichever is the greater; and  
18 (b) if a regulation prescribes how the value of the wages must be  
19 worked out—the value worked out under the regulation.

- 20 **44 GST excluded from wages**
- 21 (1) If a person is liable to pay GST on the supply to which wages paid  
22 or payable to the person relate, the amount or value of the wages on  
23 which payroll tax is payable is the amount or value of the wages  
24 paid or payable to the person minus the relevant proportion of the  
25 amount of GST payable by the person on the supply to which the  
26 wages relate.
- 27 (2) Subsection (1) does not apply in relation to the value of wages that  
28 are a fringe benefit.

1 (3) In this section:

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

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

8 **45 Wages paid by group employers**

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

13 **46 Wages paid by or to third parties**

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

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

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

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

- 1 (2) If any of the following amounts of money or other valuable  
2 consideration would, if paid or given or to be paid or given directly  
3 by a company to a director of the company, be or be included as  
4 wages paid or payable by the company to the director for this Act,  
5 they are taken to be wages paid or payable by the company to the  
6 director:
- 7 (a) any money or other valuable consideration paid or given, or to  
8 be paid or given, to a director of a company, as remuneration  
9 for the appointment or services of the director to the company,  
10 by a person other than the company;
- 11 (b) any money or other valuable consideration paid or given, or to  
12 be paid or given, by a company, as remuneration for the  
13 appointment or services of a director to the company, to a  
14 person other than the director;
- 15 (c) any money or other valuable consideration paid or given, or to  
16 be paid or given, by anyone, as remuneration for the  
17 appointment or services of a director to the company, to a  
18 person other than the director.
- 19 (3) In this section:  
20 *director*, of a company—see section 24 (4).

21 **47 Agreement etc to reduce or avoid liability to payroll tax**

22 If anyone enters into any agreement, transaction or arrangement,  
23 whether in writing or otherwise, under which an individual  
24 performs, on behalf of another person, services in relation to which  
25 any payment is made to someone else related or connected to the  
26 individual performing the services and the effect of the agreement,  
27 transaction or arrangement is to reduce or avoid the liability of  
28 anyone to the assessment, imposition or payment of payroll tax, the  
29 commissioner may—

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



- 1 (b) determine that any party to the agreement, transaction or  
2 arrangement is taken to be an employer for this Act; and
- 3 (c) determine that any payment made in relation to the agreement,  
4 transaction or arrangement is taken to be wages for this Act.

1 **Part 4 Exemptions**

2 **Division 4.1 Charitable organisations**

3 **48 Charitable organisations**

4 Wages mentioned in schedule 2, part 2.2 are exempt wages.

5 **Division 4.1A Employment agents**

6 **48A Employments agents and subcontractors**

7 Wages mentioned in schedule 2, part 2.3 are exempt wages.

8 **Division 4.2 Education and training**

9 **49 Educational services and training**

10 Wages mentioned in schedule 2, part 2.4 are exempt wages.

11 **Division 4.3 Hospitals**

12 **51 Hospitals**

13 Wages mentioned in schedule 2, part 2.5 are exempt wages.

1 **Division 4.4** **Maternity, adoption and primary carer**  
2 **leave**

3 **53** **Maternity and adoption leave**

4 (1) Wages are exempt wages if they are paid or payable to an employee  
5 in relation to maternity leave or adoption leave.

6 (2) Subsection (1) applies—

7 (a) only in relation to wages paid or payable for a maximum of  
8 14 weeks leave for any 1 pregnancy, birth or adoption; and

9 (b) only in relation to leave taken before the relevant day for the  
10 pregnancy, birth or adoption; and

11 (c) only if, in relation to the leave, the employee has given the  
12 employer a required document for the leave.

13 (3) To remove any doubt—

14 (a) the reference in subsection (2) (a) to wages paid or payable for  
15 14 weeks leave is taken to be a reference to—

16 (i) for a full-time employee who takes the leave on less than  
17 full pay—wages paid or payable for a period equivalent to  
18 14 weeks leave on full pay; and

19 (ii) for a part-time employee who takes the leave at less than  
20 the employee's average rate of pay over the 6 weeks  
21 immediately before the leave is taken—wages paid or  
22 payable for a period equivalent to 14 weeks leave at that  
23 average rate of pay; and

24 (iii) for any other part-time employee—wages paid or payable  
25 for a period equivalent to 14 weeks leave at the rate of  
26 pay of the employee immediately before the leave was  
27 taken; and

- 1 (b) a reference to 1 birth includes a reference to a multiple birth;  
2 and
- 3 (c) a reference to 1 adoption includes a reference to the adoption  
4 of more than 1 child at the same time.
- 5 (4) The exemption does not apply to any part of wages paid or payable  
6 in relation to maternity or adoption leave that consists of fringe  
7 benefits.
- 8 (5) In this section:
- 9 ***adoption leave***, for an employee, means leave given to the employee  
10 in relation to the adoption of a child by the employee (whether the  
11 leave is taken before or after the adoption), but does not include  
12 leave given to the employee as leave of another kind.
- 13 **Examples for this section of leave of another kind**
- 14 1 sick leave  
15 2 annual leave  
16 3 long service leave
- 17 *Note* An example is part of the Act, is not exhaustive and may extend, but  
18 does not limit, the meaning of the provision in which it appears (see  
19 Legislation Act, s 126 and s 132).
- 20 ***maternity leave***, for an employee, means leave given to a female  
21 employee in relation to her pregnancy or the birth of her child  
22 (whether the leave is taken during or after the pregnancy), but does  
23 not include leave given to the employee as leave of another kind.
- 24 ***relevant day*** means—
- 25 (a) for a birth—the day 6 months after the day of the birth; or  
26 (b) for a pregnancy that ends other than by a birth—the day  
27 6 months after the day the pregnancy ends; or
- 28 (c) for an adoption—the day 6 months after the day that the child  
29 is placed, for the purpose of adoption, in the care of the  
30 adoptive parent.

- 1            ***required document*** means—
- 2            (a) for maternity leave—
- 3                (i) a birth certificate for the child; or
- 4                (ii) a medical certificate stating that the employee was
- 5                        pregnant and the date of the end of the pregnancy; or
- 6            (b) for adoption leave—a statutory declaration stating—
- 7                (i) that a child has been placed, for the purpose of adoption,
- 8                        in the care of the employee as the adoptive parent; and
- 9                (ii) the date of the placement; or
- 10           (c) any other document prescribed by regulation.

11           *Note*     A certificate, statutory declaration or other document must be kept for at

12                        least 5 years (unless the commissioner authorises earlier destruction)

13                        and produced if the commissioner requires its production (see *Taxation*

14                        *Administration Act 1999*, s 57 (Requirement to keep proper records),

15                        s 62 (Accessibility) and s 64 (Period record to be kept)).

16           **53A     Primary carer leave**

17           Wages mentioned in schedule 2, part 2.6 are exempt wages.

- 1 **Division 4.5** **Volunteer firefighters, emergency**  
2 **service volunteers and other**  
3 **volunteers under the Emergencies**  
4 **Act**
- 5 **55** **Volunteer firefighters**
- 6 Wages are exempt wages if they are paid or payable to an employee  
7 in relation to any period when the employee takes part in activities  
8 under the *Emergencies Act 2004* as—
- 9 (a) a volunteer member of the rural fire service; or  
10 (b) a volunteer member of a community fire unit.
- 11 **56** **Emergency service volunteers**
- 12 Wages are exempt wages if they are paid or payable to an employee  
13 in relation to any period when the employee takes part in activities  
14 under the *Emergencies Act 2004* as a volunteer member of the SES.
- 15 **56A** **Other volunteers under Emergencies Act**
- 16 Wages are exempt wages if they are paid or payable to an employee  
17 in relation to any period when the employee takes part in activities  
18 under the *Emergencies Act 2004* as—
- 19 (a) a casual volunteer; or  
20 (b) an emergency services support volunteer.
- 21 **57** **Limitation of exemption**
- 22 An exemption under this division does not apply to wages paid or  
23 payable as recreation leave, annual leave, long service leave or sick  
24 leave.

1     **Division 4.7                    Governor-General and defence**

2     **61                    Governor-General**

3             Wages paid or payable by the Governor-General are exempt wages.

4     **62                    Defence personnel**

5             Wages are exempt wages if they are paid or payable to an employee  
6             in relation to any period when the employee was on leave from  
7             employment because of being a member of—

8             (a) the Defence Force; or

9             (b) an armed force of a Commonwealth country.

10    **Division 4.8                    Foreign government representatives**

11    **64                    Consular and non-diplomatic representatives**

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

15    **Division 4.9                    Services outside Australia**

16    **66A                  Wages paid or payable in relation to services performed  
17                          in other countries**

18            Wages are exempt wages if they are paid or payable in relation to  
19            services performed by an employee entirely in 1 or more other  
20            countries for a continuous period of more than 6 months beginning  
21            on the day when wages were first paid or payable to the employee  
22            for the services.

- 1 **Division 4.10 Exemptions—other**
- 2 **66B Wages paid or payable to certain unemployed people**
- 3 Wages mentioned in schedule 2, part 2.7 are exempt wages.
- 4 **66C Wages paid or payable from certain bank accounts**
- 5 Wages mentioned in schedule 2, part 2.8 are exempt wages.
- 6 **66D Wages paid or payable by territory authority**
- 7 Wages mentioned in schedule 2, part 2.9 are exempt wages.



1 **Part 5** **Grouping of employers**

2 **Division 5.1** **Interpretation—pt 5**

3 **67** **Definitions—pt 5**

4 In this part:

5 *associated person* means a person who is associated with someone  
6 else in accordance with any of the following:

- 7 (a) people are associated people if they are related people;
- 8 (b) individuals are associated people if they are partners in a  
9 partnership to which the *Partnership Act 1963* applies;
- 10 (c) private companies are associated people if common  
11 shareholders have a majority interest in each private company;
- 12 (d) trustees are associated people if anyone is a beneficiary  
13 common to the trusts (not including a public unit trust scheme)  
14 of which they are trustees;
- 15 (e) a private company and a trustee are associated people if a  
16 related body corporate of the company is a beneficiary of the  
17 trust (not including a public unit trust scheme) of which the  
18 trustee is a trustee.

19 *business* includes the following, whether carried on by 1 person or 2  
20 or more people together:

- 21 (a) a profession or trade;
- 22 (b) any other activity carried on for fee, gain or reward;
- 23 (c) the activity of employing 1 or more people who perform duties  
24 in connection with another business;
- 25 (d) the carrying on of a trust (including a dormant trust);

1                    (e) the activity of holding any money or property used in  
2                    connection with another business.

3                    **entity** means—

4                    (a) a person; or

5                    (b) 2 or more people who are associated people.

6                    **group** means a group under this part, but does not include any  
7                    member of the group in relation to whom a determination under  
8                    division 5.4 (Groups—miscellaneous) is in force.

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

12                    **related body corporate**—see the Corporations Act, section 9  
13                    (Dictionary).

14                    **related person** means a person who is related to someone else in  
15                    accordance with any of the following:

16                    (a) individuals are related people if—

17                    (i) they are domestic partners; or

18                    *Note*        The Legislation Act, s 169 defines **domestic partner**.

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

21                    (b) private companies are related people if they are related bodies  
22                    corporate;

23                    (c) an individual and a private company are related people if the  
24                    individual is a majority shareholder or director of the company  
25                    or of another private company that is a related body corporate  
26                    of the company;

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

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

8 **68 Grouping provisions to operate independently**

9 The fact that a person is not a member of a group under a provision  
10 of this part does not prevent the person from being a member of a  
11 group under another provision of this part.

12 **Division 5.2 Business groups**

13 **69 Make up of groups**

14 A *group* is made up of all the people or bodies forming a group that  
15 is not part of a larger group.

16 **70 Groups of corporations**

17 Corporations make up a group if they are related bodies corporate.

18 **71 Groups arising from the use of common employees**

19 (1) If 1 or more employees of an employer perform duties in connection  
20 with 1 or more businesses carried on by the employer and 1 or more  
21 other people, the employer and each of the other people make up a  
22 group.

23 (2) If 1 or more employees of an employer are employed solely or  
24 mainly to perform duties in connection with 1 or more businesses  
25 carried on by 1 or more other people, the employer and each of the  
26 other people make up a group.

1            (3) If 1 or more employees of an employer perform duties in connection  
2            with 1 or more businesses carried on by 1 or more other people, and  
3            the duties are performed in connection with, or in fulfilment of the  
4            employer's obligation under, an agreement, arrangement or  
5            undertaking for the provision of services to any 1 or more of the  
6            other people in connection with the business or businesses, the  
7            employer and each of the other people make up a group.

8            (4) Subsection (3) applies to an agreement, arrangement or  
9            undertaking—

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

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

15            *Note*        Section 79 (Exclusion of people from groups) allows the commissioner  
16            to exclude people from a group in certain circumstances.

17            **72            Groups of commonly controlled businesses**

18            (1) If a person or set of people has a controlling interest in each of  
19            2 businesses, the people who carry on the businesses make up a  
20            group.

21            *Note*        Section 79 (Exclusion of people from groups) allows the commissioner  
22            to exclude people from a group in certain circumstances.

23            (2) For this section, a person or set of people has a ***controlling interest***  
24            in a business if—

25            (a) for 1 person—the person is the sole owner (whether or not as  
26            trustee) of the business; or

27            (b) for a set of people—the people are together as trustees the sole  
28            owners of the business; or

- 1 (c) for a business carried on by a corporation—
- 2 (i) the person or each of the set of people is a director of the
- 3 corporation and the person or set of people is entitled to
- 4 exercise more than 50% of the voting power at meetings
- 5 of the directors of the corporation; or
- 6 (ii) a director or set of directors of the corporation that is
- 7 entitled to exercise more than 50% of the voting power at
- 8 meetings of the directors of the corporation is under an
- 9 obligation, whether formal or informal, to act in
- 10 accordance with the direction, instructions or wishes of
- 11 the person or set of people; or
- 12 (d) for a business carried on by a body corporate or unincorporated
- 13 body—the person or set of people make up more than 50% of
- 14 the board of management (however described) of the body or
- 15 control the composition of the board; or
- 16 (e) for a business carried on by a corporation that has a share
- 17 capital—the person or set of people can, directly or indirectly,
- 18 exercise, control the exercise of, or substantially influence the
- 19 exercise of, more than 50% of the voting power attached to the
- 20 voting shares, or any class of voting shares, issued by the
- 21 corporation; or
- 22 (f) for a business carried on by a partnership—the person or set of
- 23 people—
- 24 (i) own (whether beneficially or not) more than 50% of the
- 25 capital of the partnership; or
- 26 (ii) is entitled (whether beneficially or not) to more than 50%
- 27 of the profits of the partnership; or
- 28 (g) for a business carried on under a trust (the *first trust*)—the
- 29 person or set of people (whether or not as a trustee of, or
- 30 beneficiary under, another trust) is the beneficiary in relation to
- 31 more than 50% of the value of the interests in the first trust.

- 1            (3) If—
- 2                    (a) 2 corporations are related bodies corporate; and
- 3                    (b) 1 of the corporations has a controlling interest in a business;
- 4                    the other corporation has a controlling interest in the business.
- 5            (4) If—
- 6                    (a) a person or set of people has a controlling interest in a
- 7                                business; and
- 8                    (b) a person or set of people who carry on the business has a
- 9                                controlling interest in another business;
- 10                    the person or set of people mentioned in paragraph (a) has a
- 11                                controlling interest in the other business.
- 12            (5) If—
- 13                    (a) a person or set of people is the beneficiary of a trust in relation
- 14                                to more than 50% of the value of the interests in the trust; and
- 15                    (b) the trustee of the trust (whether alone or together with another
- 16                                trustee or trustees) has a controlling interest in the business of
- 17                                another trust;
- 18                    the person or set of people has a controlling interest in the business.
- 19            (6) A person who may benefit from a discretionary trust because the
- 20                    trustee or someone else, or the trustee and someone else, exercises
- 21                    or fails to exercise a power or discretion, is taken, for this part, to be
- 22                    a beneficiary in relation to more than 50% of the value of the
- 23                    interests in the trust.

- 1           (7) If—
- 2               (a) a person or set of people has a controlling interest in the
- 3                 business of a trust; and
- 4               (b) the trustee of the trust (whether alone or together with another
- 5                 trustee or trustees) has a controlling interest in the business of a
- 6                 corporation;
- 7               the person or set of people is taken to have a controlling interest in
- 8                 the business of the corporation.
- 9           (8) If—
- 10               (a) a person or set of people has a controlling interest in the
- 11                 business of a trust; and
- 12               (b) the trustee of the trust (whether alone or together with another
- 13                 trustee or trustees) has a controlling interest in the business of a
- 14                 partnership;
- 15               the person or set of people is taken to have a controlling interest in
- 16                 the business of the partnership.

17   **73           Groups arising from tracing of interests in corporations**

- 18           (1) An entity and a corporation form part of a group if the entity has a
- 19               controlling interest in the corporation.
- 20               *Note*     Section 79 (Exclusion of people from groups) allows the commissioner
- 21                 to exclude people from a group in certain circumstances.
- 22           (2) For this section, an entity has a ***controlling interest*** in a corporation
- 23               if the corporation has share capital and—
- 24               (a) the entity has a direct interest in the corporation and the value
- 25                 of the direct interest exceeds 50%; or
- 26               (b) the entity has an indirect interest in the corporation and the
- 27                 value of the indirect interest exceeds 50%; or

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

3                    (3) Division 5.3 (Business groups—tracing of interests in corporations)  
4                    applies to this section.

5                    *Note*            Division 5.3 sets out the way of working out if an entity has a direct  
6                    interest, indirect interest or aggregate interest in a corporation, and the  
7                    value of the interest.

8                    **74                    Smaller groups subsumed by larger groups**

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

11                    (2) If 2 or more members of a group have together a controlling interest  
12                    in a business, all the members of the group and the person or people  
13                    who carry on the business together make up a group.

14                    (3) In this section:  
15                    *controlling interest*, in a business—see section 72 (Groups of  
16                    commonly controlled businesses).

17                    *Note*            Section 79 (Exclusion of people from groups) allows the commissioner  
18                    to exclude people from a group in certain circumstances.

19                    **Division 5.3                    Business groups—tracing of interests**  
20                    **in corporations**

21                    **75                    Application—div 5.3**

22                    This division applies to section 73 (Groups arising from tracing of  
23                    interests in corporations).



1   **76           Direct interest**

- 2           (1) An entity has a *direct interest* in a corporation if—
- 3               (a) for an entity that is a person—the person can, directly or
- 4               indirectly, exercise, control the exercise of, or substantially
- 5               influence the exercise of, the voting power attached to any
- 6               voting shares issued by the corporation; or
- 7               (b) for an entity that is 2 or more people who are associated
- 8               people—each of the associated people can, directly or
- 9               indirectly, exercise, control the exercise of, or substantially
- 10              influence the exercise of, the voting power attached to any
- 11              voting shares issued by the corporation.
- 12           (2) The value of the direct interest of the entity in the corporation is the
- 13           proportion (expressed as a percentage) of the voting power of all
- 14           voting shares issued by the corporation that—
- 15               (a) for an entity that is a person—the person can, directly or
- 16               indirectly, exercise, control the exercise of, or substantially
- 17               influence the exercise of, as mentioned in subsection (1); or
- 18               (b) for an entity that is 2 or more people who are associated
- 19               people—the associated people can, if acting together, directly
- 20               or indirectly, exercise, control the exercise of, or substantially
- 21               influence the exercise of, as mentioned in subsection (1).

22   **77           Indirect interest**

- 23           (1) An entity has an *indirect interest* in a corporation if the corporation
- 24           is linked to another corporation (the *directly controlled corporation*)
- 25           in which the entity has a direct interest.
- 26           (2) A corporation is *linked* to a directly controlled corporation if the
- 27           corporation is part of a chain of corporations—
- 28               (a) that starts with the directly controlled corporation; and

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

3                    **Example**

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

8                    Corporation B also has a direct interest in corporation C. In this case,  
9                    corporations A, B and C form part of a chain of corporations. Both corporations  
10                    B and C are linked to corporation A. The entity that has a direct interest in  
11                    corporation A has an indirect interest in both corporations B and C.

12                    Corporation B also has a direct interest in corporation D. There are now 2 chains  
13                    of corporations, 1 consisting of A, B and C, and 1 consisting of A, B and D.  
14                    Corporations B, C and D are all linked to corporation A and an entity that has a  
15                    direct interest in corporation A would have an indirect interest in corporations B,  
16                    C and D. An entity that has a direct interest in corporation B would have an  
17                    indirect interest in corporations C and D. However, an entity that has a direct  
18                    interest in corporation C only would not have an indirect interest in corporation D,  
19                    as corporation D is not linked to corporation C.

20                    *Note*            An example is part of the Act, is not exhaustive and may extend, but  
21                    does not limit, the meaning of the provision in which it appears (see  
22                    Legislation Act, s 126 and s 132).

23                    (3) The value of the indirect interest of an entity in a corporation (an  
24                    *indirectly controlled corporation*) that is linked to a directly  
25                    controlled corporation is worked out by multiplying together the  
26                    following:

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

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

4 **Example**

5 An entity has a direct interest (with a value of 80%) in corporation A.  
6 Corporation A has a direct interest (with a value of 70%) in corporation B. The  
7 value of the indirect interest of the entity in corporation B is  $80\% \times 70\%$  (that is,  
8 56%). Accordingly, the entity has a controlling interest in corporation B under  
9 s 73 (Groups arising from tracing of interests in corporations).

10 Corporation B also has a direct interest (with a value of 40%) in corporation C.  
11 The value of the indirect interest of the entity in corporation C is  $80\% \times 70\% \times$   
12  $40\%$  (that is, 22.4%). Accordingly, the entity does not have a controlling interest  
13 in corporation C.

- 14 (4) It is possible for an entity to have more than 1 indirect interest in a  
15 corporation.

16 **Examples**

17 1 An entity may have more than 1 indirect interest in a corporation if the  
18 corporation is linked to more than 1 corporation in which the entity has a  
19 direct interest.

20 2 An entity may have more than 1 indirect interest in a corporation if the  
21 corporation is linked to only 1 corporation in which the entity has a direct  
22 interest, but is linked through more than 1 chain of corporations. In this case,  
23 the entity has an aggregate interest in the corporation (see s 78).

24 **78 Aggregation of interests**

- 25 (1) An entity has an *aggregate interest* in a corporation if the entity  
26 has—

27 (a) a direct interest and 1 or more indirect interests in the  
28 corporation; or

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

1            (2) The value of the aggregate interest of an entity in a corporation is  
2            worked out by adding together the following:

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

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

7            **Example**

8            An entity has a direct interest (with a value of 40%) in corporation B.

9            The entity also has a direct interest (with a value of 25%) in corporation A, which  
10            in turn has a direct interest (with a value of 60%) in corporation B. Accordingly,  
11            the entity also has an indirect interest in corporation B with a value of 15% (that  
12            is, 25% × 60%).

13            The value of the entity's aggregate interest in corporation B is the total of the  
14            direct interest (40%) and the indirect interest (15%), which is 55%.

15            Accordingly, the entity has a controlling interest in corporation B under s 73  
16            (Groups arising from tracing of interests in corporations).

17            *Note*     An example is part of the Act, is not exhaustive and may extend, but  
18            does not limit, the meaning of the provision in which it appears (see  
19            Legislation Act, s 126 and s 132).

20            **Division 5.4                    Groups—miscellaneous**

21            **79                    Exclusion of people from groups**

22            (1) The commissioner may determine that a person who would, but for  
23            the determination, be a member of a group is not a member of the  
24            group.

25            (2) The commissioner may make a determination only if satisfied,  
26            having regard to the nature and degree of ownership and control of  
27            the businesses, the nature of the businesses and any other matters  
28            the commissioner considers relevant, that a business carried on by  
29            the person is carried on independently of, and is not connected with  
30            the carrying on of, a business carried on by any other member of the  
31            group.

- 1 (3) The commissioner must not exclude a person from a group if the  
2 person is a body corporate that, because of the Corporations Act,  
3 section 50 (Related bodies corporate), is related to another body  
4 corporate that is a member of the group.
- 5 (4) This section extends to a group made up because of section 74  
6 (Smaller groups subsumed by larger groups).
- 7 (5) The commissioner may revoke a determination that applies to a  
8 person if satisfied that the circumstances in which the determination  
9 was made do not apply to the person.
- 10 (6) A determination may provide for its commencement on or before  
11 the determination's notification day.
- 12 *Note* This subsection provides express authority for a determination to  
13 commence on or before its notification day (see Legislation Act,  
14 s 73 (2) (d)).
- 15 (7) A determination is a notifiable instrument.
- 16 *Note 1* A notifiable instrument must be notified under the Legislation Act.
- 17 *Note 2* Power to make a statutory instrument includes power to amend or repeal  
18 the instrument (see Legislation Act, s 46).

19 **80 Designated group employers**

- 20 (1) The members of a group may, with the commissioner's approval,  
21 designate a qualified member of the group to be the *designated*  
22 *group employer* for the group for this Act.
- 23 (2) A member of a group is a *qualified member* if the member—
- 24 (a) has in the previous financial year paid wages exceeding the  
25 threshold amount for the financial year; or
- 26 (b) is likely in the current financial year to pay wages that are  
27 likely to exceed that amount.

- 1            (3) The members of a group may, with the commissioner’s approval,  
2            designate a member of the group to be the designated group  
3            employer for the group for this Act if none of the members of the  
4            group is a qualified member but the members together—
- 5            (a) have in the previous financial year paid wages exceeding the  
6            threshold amount for the financial year; or
- 7            (b) are, in the commissioner’s opinion, likely in the current  
8            financial year to pay wages that will exceed that amount.
- 9            (4) If the members of a group do not designate a member as the  
10            designated group employer within 7 days after the end of the month  
11            in which the group is established, the commissioner may (but is not  
12            obliged to) designate a member of the group as the designated group  
13            employer.
- 14            (5) The designated group employer of a group stops being the  
15            designated group employer on the earlier of the following days:
- 16            (a) the first day of a return period when there is a change in the  
17            membership of the group;
- 18            (b) the first day of a return period when the members of the group  
19            revoke the designation.
- 20            (6) The designation of a designated group employer under  
21            subsection (1) or (3) must be—
- 22            (a) by written notice; and
- 23            (b) executed by or on behalf of each member of the group; and
- 24            (c) served on the commissioner.
- 25            (7) In this section:
- 26            ***threshold amount***—see schedule 1, section 1.1, definition of ***TA*** (or  
27            ***threshold amount***).

1    **81           Joint and several liability**

- 2           (1) If a member of a group fails to pay an amount that the member is  
3           required to pay under this Act in relation to any period, every  
4           member of the group is liable jointly and severally to pay the  
5           amount to the commissioner.
- 6           (2) If 2 or more people are jointly or severally liable to pay an amount  
7           under this section, the commissioner may recover all of the amount  
8           from them, or any of them, or any 1 of them.
- 9           (3) If, under this section, 2 or more people are jointly and severally  
10          liable to pay an amount that is payable by any 1 of them, each  
11          person is also jointly and severally liable to pay—
- 12               (a) any amount payable to the commissioner under this Act or  
13               another law in relation to the amount, including any interest  
14               and penalty tax; and
- 15               (b) any costs and expenses incurred in relation to the recovery of  
16               the amount that the commissioner is entitled to recover from  
17               the person.
- 18          (4) This Act does not prevent a person who is jointly and severally  
19          liable to pay an amount of tax and who pays the amount to the  
20          commissioner from recovering a contribution from anyone else who  
21          is liable to pay all or part of the amount.
- 22          (5) This section applies whether or not the person was an employer in  
23          the relevant period.

1 **Part 6 Adjustments of tax**

2 **81A Definitions—pt 6**

3 In this part:

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

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

7 **82 Calculation of correct amount of payroll tax**

8 (1) For this part, the *correct amount of payroll tax* payable by an  
9 employer for a financial year is the amount worked out under the  
10 following parts of schedule 1 for the financial year:

11 (a) part 1.2 (Employers who are not members of a group);

12 (b) part 1.3 (Groups with a designated group employer);

13 (c) part 1.4 (Groups with no designated group employer).

14 (2) This part applies in relation to payroll tax paid or payable by an  
15 employer whether as a group employer or individual employer.

16 (3) If an employer is liable for payroll tax both as an individual  
17 employer and group employer (for different periods in the same  
18 financial year), separate adjustments must be made under this part  
19 for any period as a group employer and any period as an individual  
20 employer (and separate calculations of the correct amount of payroll  
21 tax payable by the employer must be made).



- 1     **83           Annual adjustment of payroll tax**
- 2           (1) If the amount of payroll tax paid or payable by an employer when
- 3           the employer lodges the returns for a financial year is greater than
- 4           the correct amount of payroll tax payable by the employer for the
- 5           financial year, the commissioner (on application by the employer)
- 6           must refund to the employer an amount equal to the difference.
- 7           (2) If the amount of payroll tax paid or payable by an employer when
- 8           the employer lodges the returns for a financial year is less than the
- 9           correct amount of payroll tax payable by the employer for the
- 10          financial year, the employer must pay to the commissioner as
- 11          payroll tax an amount equal to the difference.
- 12          (3) Any amount payable by an employer under this section for a
- 13          financial year must be paid within the period in which the employer
- 14          is required to lodge a return under this Act for the return period that
- 15          is or includes June in the financial year.
- 16          (4) The amount of any refund payable to an employer for a financial
- 17          year under this section must be reduced by the amount of any other
- 18          refund of payroll tax made for the financial year to the employer
- 19          (under this section or otherwise) before the time of the refund under
- 20          this section.
- 21     **84           Adjustment of payroll tax if employer changes**
- 22           **circumstances**
- 23           (1) This section applies if an employer's circumstances change in a
- 24           financial year.

- 1 (2) The employer must, if the amount of payroll tax paid or payable by  
2 the employer when the employer lodges returns for the relevant  
3 period before the change of circumstances is less than the correct  
4 amount of payroll tax payable by the employer for the financial  
5 year, pay to the commissioner as payroll tax an amount equal to the  
6 difference.
- 7 (3) A *change of circumstances* happens if the employer—
- 8 (a) ceases to pay or be liable to pay taxable wages and interstate  
9 wages; or
- 10 (b) becomes a group employer following a period as an individual  
11 employer; or
- 12 (c) ceases to be a group employer and becomes an individual  
13 employer.
- 14 (4) The *relevant period* before a change of circumstances is the period  
15 before the change (in the financial year and after any earlier change  
16 of circumstances) for which the employer paid or was liable to pay  
17 taxable wages or interstate wages.
- 18 (5) In working out for this section the correct amount of payroll tax  
19 payable by the employer, the wages paid or payable by the employer  
20 in the relevant period are taken to be the only wages paid or payable  
21 by the employer in the financial year.
- 22 (6) Any amount payable by an employer under this section for a  
23 relevant period must be paid within the period in which the  
24 employer is required to lodge a return under this Act for the relevant  
25 period or the last return under this Act for the relevant period.

- 1 (7) Any payroll tax paid or payable by an employer under this section  
2 must be included as payroll tax paid or payable by the employer for  
3 the purpose of the annual adjustment of payroll tax under this part.

4 **Example**

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

17 *Note* An example is part of the Act, is not exhaustive and may extend, but  
18 does not limit, the meaning of the provision in which it appears (see  
19 Legislation Act, s 126 and s 132).

20 **85 Special provision if wages fluctuate**

- 21 (1) This section applies if a person did not pay and was not liable to pay  
22 taxable wages or interstate wages for any part of a financial year.
- 23 (2) If the person satisfies the commissioner that, because of the nature  
24 of the person's trade or business, the taxable wages and interstate  
25 wages, if any, paid or payable by the person fluctuate with different  
26 periods of the financial year, the commissioner may decide that the  
27 person must be treated for this part—
- 28 (a) if the person has conducted the trade or business in Australia in  
29 all of the financial year—as an employer who pays or is liable  
30 to pay taxable wages throughout that financial year; or

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

5 **Example**

6 The effect of a decision under this section is that when the correct amount of  
7 payroll tax is worked out (for a tax adjustment provided for by this part) the  
8 employer may receive the benefit of the payroll tax threshold for the period for  
9 which the employer must be treated as paying wages, and not just for the period  
10 for which the employer actually pays wages. Without the decision, an employer  
11 may only receive the benefit of a proportion of the threshold amount that is  
12 equivalent to the proportion of the whole financial year for which the employer  
13 actually pays wages.

14 *Note* An example is part of the Act, is not exhaustive and may extend, but  
15 does not limit, the meaning of the provision in which it appears (see  
16 Legislation Act, s 126 and s 132).



- 1 (6) If the commissioner cancels the registration of a person as an  
2 employer in a financial year and the person later pays or is liable to  
3 pay taxable wages in the financial year, the person may, despite the  
4 fact that the person is not required to apply for registration, apply to  
5 the commissioner for registration as an employer, and the  
6 commissioner must then register the person as an employer under  
7 this Act.
- 8 (7) An employer commits an offence if—
- 9 (a) the employer is not already registered under this part; and
- 10 (b) the total of all taxable wages paid or payable in Australia by  
11 the employer in the month exceeds the amount determined for  
12 this section under the *Taxation Administration Act 1999*,  
13 section 139; and
- 14 (c) the employer does not apply to be registered under this part  
15 within 7 days after the end of the month.
- 16 Maximum penalty: 250 penalty units.

17 **87 Returns**

- 18 (1) This section applies to an employer if the employer is registered or  
19 required to apply for registration as an employer under this Act.
- 20 (2) The employer must—
- 21 (a) within 7 days after the end of each month except June, lodge  
22 with the commissioner a return relating to the month; and
- 23 (b) within 21 days after the end of June in each year, lodge with  
24 the commissioner a return relating to June and to the  
25 adjustment of payroll tax paid or payable by the employer in  
26 the financial year ending at the end of June.

27 *Note* If a form is approved under the *Taxation Administration*  
28 *Act 1999*, s 139C for a return, the form must be used.

- 1           (3) The designated group employer for a group may, with the  
2           commissioner's approval, lodge a joint return for this section  
3           covering stated members of the group, including the designated  
4           group employer.
- 5           (4) If a joint return is lodged and the return would, if lodged by a single  
6           employer, comply with this section, each of the employers covered  
7           by the return is taken to have complied with this section.

8   **87A       Monthly returns—lodgement variation**

- 9           (1) An employer may apply to the commissioner for variation of the  
10          periods in relation to which, or the time within which, the employer  
11          must lodge returns.
- 12          (2) An application must—
- 13               (a) be in writing, addressed to the commissioner; and
- 14               (b) state—
- 15                     (i) the applicant's name and address; and
- 16                     (ii) the grounds on which the variation is sought.
- 17          (3) The commissioner may, by written notice given to the employer  
18          (a *variation notice*), vary the periods in relation to which, or the  
19          time within which, the employer must lodge returns if the  
20          commissioner is satisfied on reasonable grounds that it would be  
21          unduly onerous for the employer to lodge a return—
- 22               (a) in relation to each month; or
- 23               (b) within 7 days after the end of each month.
- 24          (4) If a variation notice is in force for an employer, the employer  
25          must—
- 26               (a) lodge returns in accordance with the notice; and

- 1 (b) pay any tax that is payable in relation to each return worked  
2 out in accordance with schedule 1, parts 1.2 to 1.4 as if—
- 3 (i) a reference in the parts to a financial year (other than the  
4 reference in the definition of *FY*) were a reference to the  
5 period as varied by the commissioner; and
- 6 (ii) any other necessary changes, and any changes prescribed  
7 by regulation, were made.
- 8 (5) The commissioner may, by written notice given to the employer,  
9 revoke a variation notice for the employer if the commissioner is no  
10 longer satisfied that it would be unduly onerous for the employer to  
11 lodge returns in relation to each month or within 7 days after the end  
12 of each month.

13 **87B Monthly returns—exemptions**

- 14 (1) An employer may apply to the commissioner for an exemption from  
15 lodging returns under section 87 (Returns) if the employer considers  
16 that—
- 17 (a) the employer is not liable to pay tax; or  
18 (b) tax the employer pays will be refunded.
- 19 (2) An application must—
- 20 (a) be in writing, addressed to the commissioner; and  
21 (b) state—
- 22 (i) the amount of wages payable by the employer; and  
23 (ii) the amount of tax (if any) that, in the employer's opinion,  
24 the employer is liable to pay.



- 1           (3) The commissioner may give a certificate (an *exemption certificate*)  
2           to the employer exempting the employer from lodging returns under  
3           section 87 if the commissioner is satisfied on reasonable grounds  
4           that—
- 5           (a) tax will not be payable by the employer; or  
6           (b) tax paid by the employer will be refunded.
- 7           (4) If an exemption certificate is in force in relation to an employer, the  
8           employer—
- 9           (a) need not lodge returns under section 87; and  
10          (b) must lodge a return relating to each financial year or other  
11          period stated in the certificate within 21 days after the end of  
12          the financial year or within any other period stated in the  
13          certificate.
- 14          (5) The commissioner may, by written notice given to the employer,  
15          cancel an employer's exemption certificate if the commissioner is  
16          no longer satisfied that tax will not be payable by the employer or, if  
17          tax is payable, that it will be refunded.

1 **Part 8A** **Notification and review of**  
2 **decisions**

3 **87C** **Meaning of *reviewable decision*—pt 8A**

4 In this part:

5 *reviewable decision* means a decision mentioned in schedule 3,  
6 column 3 under a provision of this Act mentioned in column 2 in  
7 relation to the decision.

8 **87D** **Reviewable decision notices**

9 If the commissioner makes a reviewable decision, the commissioner  
10 must give a reviewable decision notice to each entity mentioned in  
11 schedule 3, column 4 in relation to the decision.

12 *Note 1* The commissioner must also take reasonable steps to give a reviewable  
13 decision notice to any other person whose interests are affected by the  
14 decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

15 *Note 2* The requirements for reviewable decision notices are prescribed under  
16 the *ACT Civil and Administrative Tribunal Act 2008*.

17 **87E** **Applications for review**

18 The following may apply to the ACAT for review of a reviewable  
19 decision:

20 (a) an entity mentioned in schedule 3, column 4 in relation to the  
21 decision;

22 (b) any other person whose interests are affected by the decision.

23 *Note* If a form is approved under the *ACT Civil and Administrative*  
24 *Tribunal Act 2008* for the application, the form must be used.



1 **Part 10 Transitional**

2 **200 Meaning of *old Act*—pt 10**

3 In this part:

4 *old Act* means the *Payroll Tax Act 1987* as in force immediately  
5 before 1 July 2011.

6 **201 Application of this Act and old Act**

7 (1) This Act applies to payroll tax on taxable wages that are paid or  
8 payable on or after 1 July 2011.

9 (2) Despite its repeal, the old Act continues to apply to payroll tax on  
10 taxable wages (within the meaning of the old Act) paid or payable  
11 before 1 July 2011.

12 **202 General saving**

13 Any act, matter or thing that had effect under a provision of the old  
14 Act immediately before 1 July 2011 continues to have effect under  
15 the corresponding provision of this Act, subject to this part or any  
16 regulation under this part.

17 **203 Fringe benefits—employer election**

18 An election by an employer under the old Act, section 3B (1) that  
19 was in force immediately before 1 July 2011 is taken, on and after  
20 that day, to be an election under this Act, section 16 (1).

- 1     **204        Superannuation contributions relating to pre-1 July 1996**  
2     **service**
- 3           (1) Despite section 11 or section 17, *wages* does not include a  
4           superannuation contribution paid or payable in relation to services  
5           performed by an employee before 1 July 1996.
- 6           (2) A superannuation contribution that is alleged by an employer to be  
7           paid in relation to services performed by an employee before  
8           1 July 1996 must be evidenced to the commissioner's satisfaction in  
9           the employer's records for payroll tax purposes.
- 10          (3) In particular, the employer's records must show the way the  
11          contribution is worked out and any actuarial basis for it.
- 12          (4) For subsection (3), and any assessment of payroll tax to which the  
13          subsection is material, the certificate of a fellow or accredited  
14          member of the Institute of Actuaries of Australia to the effect that  
15          the actuarial basis on which an amount is worked out is justified is  
16          evidence and, in the absence of evidence to the contrary, proof of  
17          that fact.
- 18          (5) If records are not kept as required by this section, the commissioner  
19          may assume that a payment by an employer as a superannuation  
20          contribution on or after 1 July 1996 is an amount payable in relation  
21          to services performed by an employee on or after that day.

22     **205        Approval relating to motor vehicle allowance**

23           An approval given to an employer by the commissioner under the  
24           old Act, section 3C (7) that was in force immediately before  
25           1 July 2011 is taken, on and after that day, to be an approval given  
26           under this Act, section 29 (7).

1 **206 Designated group employer**

2 The designation of an employer as a designated group employer that  
3 had effect under the old Act immediately before 1 July 2011 has  
4 effect as if it were the designation of a designated group employer  
5 under this Act.

6 **207 Registration of employers**

7 An employer who was registered under the old Act, section 7  
8 immediately before 1 July 2011 is taken, on and after that day, to be  
9 registered under this Act, section 86.

10 **208 Approval relating to group training organisation**

11 An approval given to an entity by the commissioner under the old  
12 Act, section 9AB (3) that was in force immediately before  
13 1 July 2011 is taken, on and after that day, to be an approval given  
14 under this Act, schedule 2, section 2.16 (3).

15 **209 Variation of time for lodging returns**

16 A notice given to an employer by the commissioner under the old  
17 Act, section 17 (3) that was in force immediately before 1 July 2011  
18 is taken, on and after that day, to be a variation notice given under  
19 this Act, section 87A (3).

20 **210 Exemption from lodging returns**

21 A certificate granted to an employer by the commissioner under the  
22 old Act, section 18 (3) that was in force immediately before  
23 1 July 2011 is taken, on and after that day, to be an exemption  
24 certificate given under this Act, section 87B (3).

- 1   **211**       **Transitional regulations**
- 2           (1) A regulation may prescribe transitional matters necessary or  
3           convenient to be prescribed because of the enactment of this Act.
- 4           (2) A regulation may modify this part (including in relation to another  
5           territory law) to make provision in relation to anything that, in the  
6           Executive's opinion, is not, or is not adequately or appropriately,  
7           dealt with in this part.
- 8           (3) A regulation under subsection (2) has effect despite anything  
9           elsewhere in this Act or another territory law.
- 10          (4) This section expires 2 years after the day it commences.

- 11   **212**       **Expiry—pt 10**
- 12           This part (other than section 211) expires 5 years after the day it  
13           commences.

1 **Schedule 1 Calculation of payroll tax**  
2 **liability**

3 (see s 8, s 29 (6) and s 82)

4 **Part 1.1 Interpretation—sch 1**

5 **1.1 Definitions—sch 1**

6 In this schedule:

7 *financial year* means the financial year beginning on 1 July 2011 or  
8 1 July in any later financial year.

9 *FY* means the number of days in the financial year.

10 *R* means the rate determined under the *Taxation Administration*  
11 *Act 1999*, section 139 for this schedule.

12 *TA* (or *threshold amount*) means the amount determined under the  
13 *Taxation Administration Act 1999*, section 139 for this schedule.



1 **Part 1.2** **Employers who are not members**  
2 **of a group**

3 *Note* This part may apply to a period other than a financial year or a month  
4 (see s 87A (4) (b)).

5 **1.2 Application—pt 1.2**

6 This part applies only to an employer who is not a member of a  
7 group.

8 **1.3 Definitions—pt 1.2**

9 In this part:

10 *C*, for a financial year, means the number of days in the financial  
11 year for which the employer paid or was liable to pay taxable wages  
12 or interstate wages (otherwise than as a member of a group).

13 *IW*, for a financial year, means the total interstate wages paid or  
14 payable by the employer (otherwise than as a member of a group) in  
15 the financial year.

16 *TW*, for a financial year, means the total taxable wages paid or  
17 payable by the employer (otherwise than as a member of a group) in  
18 the financial year.

19 **1.4 Payroll of employer not more than threshold**

20 The employer is not liable to pay payroll tax for a financial year if  
21 the total taxable wages and interstate wages paid or payable by the  
22 employer (otherwise than as a member of a group) in that year is not  
23 more than the *employer's threshold amount* worked out as follows:

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

1 **1.5 Payroll of employer over threshold**

2 If the total taxable wages and interstate wages paid or payable by an  
3 employer (otherwise than as a member of a group) in a financial  
4 year is more than the employer's threshold amount, the employer is  
5 liable to pay as payroll tax for that year the amount worked out as  
6 follows:

7

$$\left[ TW - \left[ \frac{TW}{TW + IW} \times TA \times \frac{C}{FY} \right] \right] \times R$$

1 **Part 1.3** **Groups with a designated group**  
2 **employer**

3 *Note* This part may apply to a period other than a financial year or a month  
4 (see s 87A (4) (b)).

5 **1.6 Application—pt 1.3**

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

8 **1.7 Definitions—pt 1.3**

9 In this part:

10 *C*, for a financial year, means the number of days in the financial  
11 year in relation to which at least 1 member of the group paid or was  
12 liable to pay (as a member of the group) taxable wages or interstate  
13 wages.

14 *GIW*, for a financial year, means the total interstate wages paid or  
15 payable by the group in the financial year.

16 *GTW*, for a financial year, means the total taxable wages paid or  
17 payable by the group in the financial year.

18 *TW*, for a financial year, means the total taxable wages paid or  
19 payable by the employer (as a member of the group) in the financial  
20 year.

21 **1.8 Payroll of group not more than threshold**

22 None of the members of a group is liable to pay payroll tax for a  
23 financial year if the total taxable wages and interstate wages paid or  
24 payable by the group in that year is not more than the *group*  
25 *threshold amount* worked out as follows:

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

1 **1.9 Payroll of group over threshold**

2 (1) If the total taxable wages and interstate wages paid or payable by a  
3 group in a financial year is more than the group threshold amount,  
4 payroll tax is payable in accordance with subsections (2) and (3).

5 (2) The designated group employer for the group is liable to pay as  
6 payroll tax for the financial year the amount worked out as follows:

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

7 (3) Each member of the group (other than the designated group  
8 employer) is liable to pay as payroll tax for the financial year the  
9 amount worked out as follows:

$$TW \times R$$

1 **Part 1.4** **Groups with no designated**  
2 **group employer**

3 *Note* This part may apply to a period other than a financial year or a month  
4 (see s 87A (4) (b)).

5 **1.10 Application—pt 1.4**

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

8 **1.11 Meaning of *TW*—pt 1.4**

9 In this part:

10 *TW*, for a financial year, means the total taxable wages paid or  
11 payable by the employer (as a member of the group) in the financial  
12 year.

13 **1.12 Calculation of payroll tax**

14 Each member of the group is liable to pay as payroll tax for the  
15 financial year the amount worked out as follows:

$$TW \times R$$



1 **1.14 Averaging method**

2 (1) If an employer selects the averaging method for the purpose of  
3 working out the number of business kilometres travelled in a  
4 financial year, the following details are required to be recorded by  
5 the employer:

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

10 *Note* *Relevant 12-week period* is defined in s 1.15.

11 (b) the specific purpose for which each relevant business journey  
12 was taken;

13 (c) the distance travelled by the person in the relevant 12-week  
14 period in the course of all relevant business journeys, worked  
15 out on the basis of the odometer readings mentioned in  
16 paragraph (a);

17 (d) the odometer readings at the beginning and end of the relevant  
18 12-week period for each motor vehicle (a *relevant motor*  
19 *vehicle*) provided or maintained by the person for the purpose  
20 of undertaking business journeys;

21 (e) the distance travelled by each relevant motor vehicle in the  
22 relevant 12-week period, worked out on the basis of the  
23 odometer readings mentioned in paragraph (d);

24 (f) the distance travelled by the person in the course of business  
25 journeys undertaken by means of each relevant motor vehicle  
26 in the relevant 12-week period, worked out as a percentage of  
27 the distance travelled by the vehicle in the period (the *relevant*  
28 *percentage*);

- 1 (g) the odometer readings at the beginning and end of the financial  
2 year for each motor vehicle (a *relevant vehicle*) provided or  
3 maintained by the person for the purpose of undertaking  
4 business journeys;
- 5 (h) the distance travelled by each relevant vehicle in the financial  
6 year, worked out on the basis of the odometer readings  
7 mentioned in paragraph (g);
- 8 (i) the distance travelled by the person in the course of business  
9 journeys undertaken by means of each relevant vehicle in the  
10 financial year (which is taken to be the *number of business*  
11 *kilometres travelled in the financial year*), worked out on the  
12 basis that the percentage of the distance that was travelled by  
13 the person in the course of business journeys undertaken by  
14 means of each relevant vehicle in the financial year is the same  
15 as the relevant percentage.
- 16 (2) For the next 4 financial years after the first financial year in which  
17 odometer details are recorded in accordance with subsection (1), an  
18 employer is not required to work out the relevant percentage, or  
19 record the details mentioned in subsection (1) (a) to (f), for the  
20 person but is required to record the other details mentioned in  
21 subsection (1).
- 22 (3) Accordingly, for the next 4 financial years after the first financial  
23 year in which odometer details are recorded in accordance with  
24 subsection (1), the number of business kilometres travelled in the  
25 financial year must be worked out (as mentioned in subsection (1)  
26 (i)) on the basis of the relevant percentage worked out for the first  
27 financial year.



- 1 (4) Despite subsections (2) and (3), an employer is required to work out  
2 the relevant percentage for a financial year, and record the details  
3 mentioned in subsection (1) (a) to (f), if—
- 4 (a) the commissioner serves a notice on the employer before the  
5 beginning of a financial year in the 4-year period directing the  
6 employer to keep the details mentioned in subsection (1) (a) to  
7 (f) for the financial year; or
- 8 (b) the employer wishes to use the recording method mentioned in  
9 this section for 1 or more additional motor vehicles used by the  
10 person in any financial year or for any other reason.
- 11 (5) In a situation mentioned in subsection (4), the new record for the  
12 financial year replaces the relevant percentage details previously  
13 recorded and subsections (2) and (3) apply in relation to the new  
14 record for the financial year as if it were the first financial year in  
15 which odometer details were recorded.
- 16 (6) An employer who has adopted and employed the method of  
17 recording mentioned in subsections (2) and (3) for a person for  
18 4 successive financial years must, in the next succeeding financial  
19 year, make a fresh recording of all the details stated in  
20 subsection (1) if the employer intends to continue to use the same  
21 method of recording for the person.
- 22 (7) Subsections (2) and (3) apply in relation to the new record under  
23 subsection (6) for the financial year as if it were the first financial  
24 year in which odometer details were recorded.
- 25 (8) If the odometer of a motor vehicle is replaced or recalibrated in any  
26 period for which its readings are relevant for this section, the  
27 odometer readings immediately before and after the replacement or  
28 recalibration must be recorded.

- 1 **1.15 Meaning of *relevant 12-week period*—s 1.16**
- 2 (1) For section 1.14, *relevant 12-week period* means a continuous
- 3 period of at least 12 weeks, selected by the employer, throughout
- 4 which a motor vehicle is provided or maintained by a person.
- 5 (2) If the motor vehicle is provided or maintained for less than
- 6 12 weeks, the period must be the entire period for which the motor
- 7 vehicle is provided or maintained.
- 8 (3) The period may overlap the beginning or end of the financial year,
- 9 so long as it includes part of the year.
- 10 (4) If the averaging method is used for 2 or more motor vehicles for the
- 11 same financial year, the odometer readings for those motor vehicles
- 12 must cover periods that are concurrent.
- 13 **1.16 Replacing one motor vehicle with another motor vehicle**
- 14 (1) For the purpose of using the averaging method, an employer may
- 15 nominate 1 motor vehicle as having replaced another motor vehicle
- 16 with effect from a day stated in the nomination.
- 17 (2) After the nomination takes effect, the replacement motor vehicle is
- 18 treated as the original motor vehicle, and the original motor vehicle
- 19 is treated as a different motor vehicle.
- 20 (3) An employer need not repeat for the replacement vehicle the steps
- 21 already taken for the original motor vehicle.
- 22 (4) An employer must record the nomination in writing in the financial
- 23 year when the nomination takes effect.
- 24 (5) However, the commissioner may allow an employer to record the
- 25 nomination at a later time.

1 **1.17 Changing method of recording**

- 2 (1) An employer may change from using the averaging method to using  
3 the continuous recording method with effect from the beginning of a  
4 financial year if the employer complies with section 1.13  
5 (Continuous recording method) for the financial year.
- 6 (2) An employer may change from using the continuous recording  
7 method to using the averaging method with effect from the  
8 beginning of a financial year if the employer complies with  
9 section 1.14 (Averaging method) for the financial year.

<b>Schedule 2</b>	Other ACT provisions
<b>Part 2.1</b>	Calculation of monthly payroll tax
<b>Division 2.1.1</b>	Employer not member of group
Section 2.1	

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1 **Schedule 2**            **Other ACT provisions**

2 (see s 8, ss 48 to 51 and s 53A)

3 **Part 2.1**                **Calculation of monthly payroll**  
4 **tax**

5 **Division 2.1.1**        **Employer not member of group**

6 **2.1**            **Application—div 2.1.1**

7                This division applies only to an employer who is not a member of a  
8                group.

9 **2.2**            **Employer not member of group—amount of tax payable**  
10 **each month**

11                (1) The amount of payroll tax payable by an employer on taxable wages  
12                paid or payable by the employer in a month is the amount worked  
13                out as follows:

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

14                (2) If *D* is equal to or more than *TW* for a month, the employer is not  
15                required to pay payroll tax for the month.

16                (3) In this section:

17                *D* means the deductible amount mentioned in section 2.3 or  
18                section 2.4 for the employer.

19                *R* means the rate determined under the *Taxation Administration*  
20                *Act 1999*, section 139 for this section.

21                *TW* means the total taxable wages paid or payable by the employer  
22                (otherwise than as a member of a group) in the month.

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1   **2.3       Employer not member of group—deductible amount for**  
2   **employer not paying interstate wages**

- 3       (1) For an employer who pays or is liable to pay taxable wages in a  
4       month but does not pay and is not liable to pay interstate wages in  
5       the month, the *deductible amount* for the month is the amount  
6       determined for section 86 (Registration).
- 7       (2) Subsection (1) applies whether the employer pays or is liable to pay  
8       wages for all of the month or only part of the month.

9   **2.4       Employer not member of group—deductible amount for**  
10 **employer who pays taxable and interstate wages**

- 11       (1) The *deductible amount* for an employer who pays or is liable to pay  
12       taxable wages and interstate wages in a month is—
- 13           (a) if notice has been given under subsection (2) and no  
14           determination under subsection (6) is in force—the amount  
15           stated in the most recent notice given under subsection (2); or
- 16           (b) if a determination is in force under subsection (6)—the amount  
17           stated in the determination.
- 18       (2) From time to time, the employer may give a notice to the  
19       commissioner, containing the information required by the  
20       commissioner, of an amount, worked out in accordance with  
21       subsection (3), that the employer claims to be the employer's  
22       deductible amount for the month and later months.

- 23       (3) The amount must be worked out as follows:

$$D = \frac{A \times T}{(T + I)}$$

- 24       (4) In subsection (3):

25           *A* means the amount determined for section 86 (Registration).

26           *D* means the deductible amount for the month.

1 *I* means the estimated interstate wages in the financial year in  
2 which D occurs.

3 *T* means the estimated taxable wages in the financial year in  
4 which D occurs.

5 (5) The deductible amount claimed must not be more than the amount  
6 mentioned in section 2.3 (1).

7 (6) At any time, the commissioner may, by written notice to the  
8 employer, determine an amount, not more than the amount  
9 mentioned in section 2.3 (1), as the deductible amount for the  
10 employer for 1 or more months stated in the determination.

11 (7) A determination under subsection (6) may be made on application  
12 by the employer or on the commissioner's own initiative.

13 (8) At any time, the commissioner may, by written notice to the  
14 employer, revoke a determination made under subsection (6).

15 **Division 2.1.2 Group with designated group**  
16 **employer**

17 **2.5 Application—div 2.1.2**

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

20 **2.6 Group with designated group employer—amount of tax**  
21 **payable each month if approval in force**

22 (1) If an approval is in force under section 87 (3) (Returns) for the  
23 designated group employer to lodge a joint return—

24 (a) the amount of payroll tax payable by the designated group  
25 employer on taxable wages paid or payable in a month by the  
26 employers covered by the return is the amount worked out as  
27 follows:

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

- 1 (b) the amount of payroll tax payable by each employer who is a  
2 member of the group but is not covered by the return on  
3 taxable wages paid or payable by the employer in a month is  
4 the amount worked out as follows:

$$TW \times R$$

- 5 (2) If *D* is equal to or more than *JTW* for a month, the designated group  
6 employer is not required to pay payroll tax for the month.

- 7 (3) In this section:

8 *D* means the deductible amount mentioned in section 2.8 (Group  
9 with designated group employer—deductible amount for groups not  
10 paying interstate wages) or section 2.9 (Group with designated  
11 group employer—deductible amount for groups paying taxable and  
12 interstate wages) for the group.

13 *JTW* means the total taxable wages paid or payable in the month by  
14 the employers covered by the return (as members of a group).

15 *R* means the rate determined under the *Taxation Administration*  
16 *Act 1999*, section 139 for this section.

17 *TW* means the total taxable wages paid or payable by the employer  
18 (as a member of the group) in the month.

19 **2.7 Group with designated group employer—amount of tax**  
20 **payable each month if approval not in force**

- 21 (1) If an approval under section 87 (3) (Returns) is not in force for the  
22 designated group employer to lodge a group return—

- 23 (a) the amount of payroll tax payable by the designated group  
24 employer on taxable wages paid or payable by the designated  
25 group employer in a month is the amount worked out as  
26 follows:

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

- 1 (b) the amount of payroll tax payable by each employer who is a  
2 member of the group on taxable wages paid or payable by the  
3 employer in a month is the amount worked out as follows:

$$TW \times R$$

- 4 (2) If *D* is equal to or more than *GTW* for a month, the designated  
5 group employer is not required to pay payroll tax for the month.

- 6 (3) In this section:

7 *D* means the deductible amount mentioned in section 2.8 (Group  
8 with designated group employer—deductible amount for groups not  
9 paying interstate wages) or section 2.9 (Group with designated  
10 group employer—deductible amount for groups paying taxable and  
11 interstate wages) for the group.

12 *GTW* means the total taxable wages paid or payable in the month by  
13 the designated group employer (as a member of a group).

14 *R* means the rate determined under the *Taxation Administration*  
15 *Act 1999*, section 139 for this section.

16 *TW* means the total taxable wages paid or payable by the employer  
17 (as a member of the group) in the month.

18 **2.8 Group with designated group employer—deductible**  
19 **amount for groups not paying interstate wages**

- 20 (1) For a group in which 1 or more members pay or are liable to pay  
21 taxable wages in a month but no members pay or are liable to pay  
22 interstate wages in the month, the *deductible amount* for the month  
23 is the amount determined for section 86 (Registration).
- 24 (2) Subsection (1) applies whether group members pay or are liable to  
25 pay wages for all of the month or only part of the month.



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1   **2.9       Group with designated group employer—deductible**  
2           **amount for groups paying taxable and interstate wages**

3           (1) The *deductible amount* for a group in which 1 or more members  
4           pay or are liable to pay taxable wages or interstate wages in a month  
5           is—

6           (a) if notice has been given under subsection (2) and no  
7           determination under subsection (6) is in force—the amount  
8           stated in the most recent notice given under subsection (2); or

9           (b) if a determination is in force under subsection (6)—the amount  
10          stated in the determination.

11          (2) From time to time, the designated group employer may give a notice  
12          to the commissioner, containing the information required by the  
13          commissioner, of an amount, worked out in accordance with  
14          subsection (3), that the employer claims to be the group’s deductible  
15          amount for the month and later months.

16          (3) The amount must be worked out as follows:

$$D = \frac{A \times T}{(T + I)}$$

17          (4) In subsection (3):

18            *A* means the amount determined for section 86 (Registration).

19            *D* means the deductible amount for the month.

20            *I* means the estimated interstate wages payable by the group in the  
21            financial year in which *D* occurs.

22            *T* means the estimated taxable wages payable by the group in the  
23            financial year in which *D* occurs.

24          (5) The deductible amount claimed must not be more than the amount  
25          mentioned in section 2.8 (1).

- 1 (6) At any time, the commissioner may, by written notice to the  
2 designated group employer, determine an amount, not more than the  
3 amount mentioned in section 2.8 (1), as the deductible amount for  
4 the group for 1 or more months stated in the determination.
- 5 (7) A determination under subsection (6) may be made on application  
6 by the designated group employer or on the commissioner's own  
7 initiative.
- 8 (8) At any time, the commissioner may, by written notice to the  
9 designated group employer, revoke a determination made under  
10 subsection (6).

11 **Division 2.1.3 Group with no designated group**  
12 **employer**

13 **2.10 Application—div 2.1.3**

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

16 **2.11 Group with no designated group employer—amount of**  
17 **tax payable each month**

- 18 (1) The amount of payroll tax payable by each member of the group on  
19 taxable wages paid or payable by the member in a month is the  
20 amount worked out as follows:

$$TW \times R$$

- 21 (2) In this section:

22 ***R*** means the rate determined under the *Taxation Administration*  
23 *Act 1999*, section 139 for this section.

24 ***TW*** means the total taxable wages paid or payable by the employer  
25 (as a member of the group) in the month.

1 **Part 2.2 Charitable organisations**

2 **2.12 Meaning of *charitable organisation*—pt 2.2**

3 In this part:

4 *charitable organisation* means an organisation, society, institution  
5 or body carried on for a religious, educational, benevolent or  
6 charitable purpose, other than one carried on for securing financial  
7 benefit to its members.

8 **2.13 Exemption from payroll tax—charitable organisations**

9 Wages are exempt wages if they are paid or payable—

- 10 (a) by a charitable organisation (other than a charitable  
11 organisation carried on for an educational purpose); or
- 12 (b) by a charitable organisation that is a school or college (other  
13 than a technical school or college) carried on by a body  
14 corporate, society or association and providing education at or  
15 below, but not above, the secondary level of education.



- 1 (e) the subcontractor is a sole trader and individuals of both of the  
2 following kinds perform the work for which the wages are paid  
3 or payable:
- 4 (i) the subcontractor;
- 5 (ii) an employee of the subcontractor;
- 6 (f) the individuals who perform the work for which the wages are  
7 paid or payable together work for not more than 8 days in any  
8 month under a contract with the agent;
- 9 (g) the subcontractor is a genuine employer of the individuals who  
10 perform the work for which the wages are paid.
- 11 (2) For this section—
- 12 (a) a reference to a *contract* is taken to include a reference to an  
13 agreement, arrangement or undertaking, whether formal or  
14 informal and whether express or implied; and
- 15 (b) a reference to *supply* is taken to include a reference to supply  
16 by sale, exchange, lease, hire or hire-purchase, and in relation  
17 to services includes the providing, granting or conferring of  
18 services; and
- 19 (c) a reference to *services* is taken to include a reference to results  
20 (whether goods or services) of work performed.



1 (c) the eligible training is a part of a course of training that began  
2 before the start of the training period, or continues after the end  
3 of the training period.

4 (6) The Minister may declare that approved training is not recognised  
5 training.

6 (7) A declaration is a disallowable instrument.

7 *Note* A disallowable instrument must be notified, and presented to the  
8 Legislative Assembly, under the Legislation Act.

9 (8) In this section:

10 *approved training* means training under an approved training  
11 contract.

12 *approved training contract*—see the *Training and Tertiary*  
13 *Education Act 2003*, dictionary.

14 *recognised training* means approved training other than training  
15 declared under subsection (6) not to be recognised training.

16 **2.16 Exemption from tax—trainees under approved training**  
17 **contracts**

18 (1) This section applies to a trainee if an approved group training  
19 organisation employs the trainee under an approved training  
20 contract.

21 (2) Wages are exempt wages if they are paid or payable to the trainee  
22 by the approved group training organisation.

23 (3) On application by an entity, the commissioner may approve the  
24 entity as a group training organisation if satisfied that the entity—

25 (a) is a not-for-profit entity; and

26 (b) provides training to trainees under approved training contracts;  
27 and

- 1 (c) makes trainees available to work for other people.
- 2 *Note* If a form is approved under the *Taxation Administration Act 1999*,  
3 s 139C for an application, the form must be used.
- 4 (4) In this section:
- 5 ***approved group training organisation*** means an organisation that is  
6 approved by the commissioner under subsection (3).
- 7 ***approved training contract***—see the *Training and Tertiary*  
8 *Education Act 2003*, dictionary.
- 9 ***trainee***—see the *Training and Tertiary Education Act 2003*,  
10 dictionary.
- 11 *Note* ***Trainee*** is defined as a person who undertakes training under a training  
12 contract, and includes an apprentice.



1 **Part 2.5** **Hospitals**

2 **2.17** **Hospitals**

3 Wages are exempt wages if they are paid or payable by a hospital  
4 that is a recognised hospital under the *Health Insurance Act 1973*  
5 (Cwlth).

1 **Part 2.6 Primary carer leave**

2 **2.18 Primary carer leave**

3 (1) Wages are exempt wages if they are paid or payable to an employee  
4 in relation to primary carer leave.

5 (2) Subsection (1) applies—

6 (a) only in relation to wages paid or payable for a maximum of  
7 14 weeks leave for any 1 birth or adoption; and

8 (b) only in relation to leave taken before the relevant day for the  
9 birth or adoption; and

10 (c) only if, in relation to the leave, the employee has given the  
11 employer a required document for the leave.

12 (3) To remove any doubt—

13 (a) the reference in subsection (2) (a) to wages paid or payable for  
14 14 weeks leave is taken to be a reference to—

15 (i) for a full-time employee who takes the leave on less than  
16 full pay—wages paid or payable for a period equivalent to  
17 14 weeks leave on full pay; and

18 (ii) for a part-time employee who takes the leave at less than  
19 the employee's average rate of pay over the 6 weeks  
20 immediately before the leave is taken—wages paid or  
21 payable for a period equivalent to 14 weeks leave at that  
22 average rate of pay; and

23 (iii) for any other part-time employee—wages paid or payable  
24 for a period equivalent to 14 weeks leave at the rate of  
25 pay of the employee immediately before the leave was  
26 taken; and

- 1 (b) a reference to 1 birth includes a reference to a multiple birth;  
2 and
- 3 (c) a reference to 1 adoption includes a reference to the adoption  
4 of more than 1 child at the same time.
- 5 (4) The exemption does not apply to any part of wages paid or payable  
6 in relation to primary carer leave that consists of fringe benefits.
- 7 (5) In this section:
- 8 ***primary carer leave***, for an employee—
- 9 (a) means leave given to the employee as the primary carer of a  
10 child in relation to the birth or adoption of the child (whether  
11 the leave is taken before or after the birth or adoption); but
- 12 (b) does not include leave given to the employee as leave of  
13 another kind.
- 14 **Examples—primary carers**
- 15 1 a parent of the child  
16 2 the domestic partner of a parent of the child  
17 3 a grandparent of the child
- 18 **Examples—leave of another kind**
- 19 1 sick leave  
20 2 annual leave  
21 3 long service leave
- 22 *Note 1* For the meaning of ***domestic partner***, see the Legislation Act, s 169.
- 23 *Note 2* An example is part of the Act, is not exhaustive and may extend, but  
24 does not limit, the meaning of the provision in which it appears (see  
25 Legislation Act, s 126 and s 132).

- 1           **relevant day** means—
- 2           (a) for a birth—the day 6 months after the day of the birth; or
- 3           (b) for an adoption—the day 6 months after the day that the child
- 4           is placed, for the purpose of adoption, in the care of the
- 5           adoptive parent.
- 6           **required document** means, for primary carer leave in relation to—
- 7           (a) a newly born child—
- 8                 (i) a birth certificate for the child; and
- 9                 (ii) a statutory declaration stating that the employee is the
- 10              primary carer for the child; or
- 11           (b) a child placed for adoption—a statutory declaration stating—
- 12                 (i) that the child has been placed, for adoption, in the care of
- 13                 the adoptive parent; and
- 14                 (ii) the date of the placement; and
- 15                 (iii) that the employee is the primary carer for the child; or
- 16           (c) any other document prescribed by regulation.
- 17           *Note*     A certificate, statutory declaration or other document must be kept for at
- 18                   least 5 years (unless the commissioner authorises earlier destruction)
- 19                   and produced if the commissioner requires its production (see *Taxation*
- 20                   *Administration Act 1999*, s 57 (Requirement to keep proper records),
- 21                   s 62 (Accessibility) and s 64 (Period record to be kept)).

1 **Part 2.7** **Certain unemployed people**

2 **2.19** **Certain unemployed people**

3 (1) Wages are exempt wages if they are paid or payable to a prescribed  
4 person, if the wages are in relation to the period of 2 years  
5 beginning on the first day of the person's employment by the  
6 employer by whom those wages were paid or are payable.

7 (2) In this section:

8 *prescribed person*, in relation to an employer, means a person who  
9 was, for longer than 12 months immediately before starting  
10 employment with the employer—

11 (a) unemployed; and

12 (b) receiving an allowance under the *Social Security Act 1991*  
13 (Cwlth) for that unemployment.

14 (3) For subsection (2), definition of *prescribed person*, a period of not  
15 longer than 4 weeks, or periods totalling not longer than 4 weeks,  
16 when a person was employed, or was not receiving an allowance  
17 under the *Social Security Act 1991* (Cwlth) for unemployment, must  
18 be disregarded in working out whether a period is a period of longer  
19 than 12 months mentioned in the definition.

1 **Part 2.8 Certain bank accounts**

2 **2.20 Certain bank accounts**

3 (1) Wages are exempt wages if they are paid or payable from a bank  
4 account kept under the *Financial Management Act 1996*, part 5,  
5 unless—

6 (a) the bank account is nominated by the Minister for this  
7 paragraph; or

8 (b) the wages are paid or payable by an entity prescribed for the  
9 *Taxation (Government Business Enterprises) Act 2003*,  
10 section 9; or

11 (c) the wages are paid or payable by an entity to which a direction  
12 under the *Taxation (Government Business Enterprises)*  
13 *Act 2003*, section 10 applies to make the entity liable to tax  
14 under this Act.

15 (2) A nomination under subsection (1) (a) is a disallowable instrument.

16 *Note* A disallowable instrument must be notified, and presented to the  
17 Legislative Assembly, under the Legislation Act.

1 **Part 2.9** **Territory authorities**

2 **2.21** **Territory authorities**

3 Wages are exempt wages if they are paid or payable by a territory  
4 authority funded solely by money appropriated from the public  
5 money of the Territory by an Act unless—

6 (a) the wages are paid or payable by a territory authority  
7 prescribed for the *Taxation (Government Business Enterprises)*  
8 *Act 2003*, section 9; or

9 (b) the wages are paid or payable by a territory authority to which  
10 a direction under the *Taxation (Government Business*  
11 *Enterprises) Act 2003*, section 10 applies to make the authority  
12 liable to tax under this Act.

## Schedule 3 Reviewable decisions

(see pt 8A)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	32 (3)	contract entered into with intention either directly or indirectly of avoiding or evading payment of tax	party to contract
2	35 (2)	determine part of amount not attributable to performance of work	party to contract
3	42	disregard contract etc	person taken to be employer
4	47	disregard agreement, transaction or arrangement etc	person taken to be employer
5	79 (1)	refuse to determine that person is not member of group	person who seeks determination
6	79 (5)	revoke determination that person is not member of group	person who has determination revoked
7	87A (3)	refuse to give variation notice	applicant for variation
8	87A (5)	revoke employer's variation notice	employer
9	87B (3)	refuse to give exemption certificate	applicant for certificate
10	87B (5)	cancel employer's exemption certificate	employer
11	sch 2, s 2.16 (3)	refuse to approve entity as group training organisation	applicant for approval



1 **Schedule 4**            **Consequential amendments**

2 (see s 103)

3 **Part 4.1**                    **Administrative Decisions**  
4                                    **(Judicial Review) Act 1989**

5 **[4.1]**            **Schedule 1, item 14, column 2**

6                    *substitute*

7                    *Payroll Tax Act 2011*

8 **Part 4.2**                    **Taxation Administration Act 1999**

9 **[4.2]**            **Section 4, paragraph (i)**

10                    *substitute*

11                    (i) the *Payroll Tax Act 2011*;

12 **[4.3]**            **Section 40 (7)**

13                    *substitute*

14                    (7) This section does not apply to returns the lodging of which may be  
15                    varied under the *Payroll Tax Act 2011*, section 87A.

## 1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACAT
- 7 • ACT
- 8 • Corporations Act
- 9 • domestic partner (see s 169 (1))
- 10 • domestic partnership (see s 169 (2))
- 11 • exercise (a function)
- 12 • financial year
- 13 • function
- 14 • GST
- 15 • individual
- 16 • in relation to
- 17 • liability
- 18 • person
- 19 • reviewable decision notice
- 20 • rural fire service
- 21 • SES
- 22 • State
- 23 • territory authority
- 24 • the Territory
- 25 • under.

26 **ABN** means the ABN (Australian Business Number) for an entity  
27 under the *A New Tax System (Australian Business Number)*  
28 *Act 1999 (Cwlth)*.

- 1           **agent** includes—
- 2           (a) a person who, in the ACT, on behalf of someone else outside
- 3           the ACT, holds or has the management or control of the
- 4           business of the other person, and
- 5           (b) a person who, by an order of the commissioner, is declared to
- 6           be an agent or the sole agent for anyone else for this Act and
- 7           on whom notice of that order has been served.
- 8           **associated person**, for part 5 (Grouping of employers)—see
- 9           section 67.
- 10          **Australian jurisdiction** means the ACT, another Territory or a State.
- 11          **business**, for part 5 (Grouping of employers)—see section 67.
- 12          **company** includes all bodies and associations (corporate and
- 13          unincorporate) and partnerships.
- 14          **contract**, for division 3.7 (Contractor provisions)—see section 31.
- 15          **corporation**—see the Corporations Act, section 9.
- 16          **correct amount of payroll tax**, for part 6 (Adjustments of tax)—see
- 17          section 82.
- 18          **corresponding law** means a law of a State or another Territory
- 19          relating to the imposition on employers of a tax on wages paid or
- 20          payable by them and the assessment and collection of that tax.
- 21          **designated group employer** means a member designated for a group
- 22          under section 80.
- 23          **director of a company** includes a member of the governing body of
- 24          the company.

- 1           **employer** means a person who pays or is liable to pay wages, and  
2 includes—
- 3           (a) the Territory or a territory authority; and
- 4           (b) a person taken to be an employer under this Act; and
- 5           (c) a public, local or municipal body or authority constituted under  
6 the law of the Commonwealth, a State or Territory unless,  
7 being an authority constituted under the law of the  
8 Commonwealth, it is immune from the operation of this Act.
- 9           **employment agency contract**—see section 37.
- 10          **employment agent**—see section 37.
- 11          **employment termination payment**, for division 3.5 (Termination  
12 payments)—see section 27.
- 13          **entity**, for part 5 (Grouping of employers)—see section 67.
- 14          **exempt wages** mean wages that are declared under this Act to be  
15 exempt wages.
- 16          **FBTA Act** means the *Fringe Benefits Tax Assessment Act 1986*  
17 (Cwlth).
- 18          **fringe benefit**—see section 14 (3).
- 19          **granted**, for a share or option, for division 3.4 (Shares and  
20 options)—see section 19 (2).
- 21          **group**, for part 5 (Grouping of employers)—see section 67.
- 22          **group employer**, for part 6 (Adjustments of tax)—see section 81A.
- 23          **individual employer**, for part 6 (Adjustments of tax)—see  
24 section 81A.
- 25          **instrument** includes a cheque, bill of exchange, promissory note,  
26 money order or a postal order issued by a post office.
- 27          **interstate wages** means wages that are taxable wages under a  
28 corresponding law.

- 1           **ITAA** means the *Income Tax Assessment Act 1997* (Cwlth).
- 2           **month** means the month of January, February, March, April, May,  
3           June, July, August, September, October, November and December.
- 4           **option** means an option or right, whether actual, prospective or  
5           contingent, of a person to acquire a share or to have a share  
6           transferred or allotted to the person.
- 7           **paid**, in relation to wages, includes provided, conferred and  
8           assigned.
- 9           **payroll tax** means tax imposed by section 6.
- 10          **perform**, in relation to services, includes render.
- 11          **private company** for part 5 (Grouping of employers)—see  
12          section 67.
- 13          **registered business address**, for an entity that has an ABN, means  
14          the address shown in the Australian Business Register as the entity's  
15          address for service under the *A New Tax System (Australian  
16          Business Number) Act 1999* (Cwlth).
- 17          **related body corporate**, for part 5 (Grouping of employers)—see  
18          section 67.
- 19          **related person**, for part 5 (Grouping of employers)—see section 67.
- 20          **relevant contract**—
- 21           (a) for division 3.5 (Termination payments)—see section 27; and  
22           (b) for division 3.7 (Contractor provisions)—see section 32.
- 23          **relevant day**, for division 3.4 (Shares and options)—see  
24          section 18 (3).
- 25          **resupply**, of goods, for division 3.7 (Contractor provisions)—see  
26          section 31.
- 27          **return period**, in relation to an employer, means a period for which  
28          the employer must lodge a return under this Act.

- 1            **reviewable decision**, for part 8A (Notification and review of  
2            decisions)—see section 87C.
- 3            **service provider**—see section 37.
- 4            **services**, for division 3.7 (Contractor provisions)—see section 31.
- 5            **share** means a share in a company, and includes a stapled security.
- 6            **superannuation contribution**—see section 17 (2).
- 7            **supply**, for division 3.7 (Contractor provisions)—see section 31.
- 8            **taxable wages**—see section 10.
- 9            **termination payment**, for division 3.5 (Termination payments)—see  
10            section 27.
- 11           **unused annual leave payment**, for division 3.5 (Termination  
12           payments)—see section 27.
- 13           **unused long service leave payment**, for division 3.5 (Termination  
14           payments)—see section 27.
- 15           **vesting date**, for division 3.4 (Shares and options)—  
16           (a) in relation to a share—see section 19 (4); and  
17           (b) in relation to an option—see section 19 (5).
- 18           **voting share**—see the Corporations Act, section 9.
- 19           **wages**—see part 3.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2011.

**2 Notification**

Notified under the Legislation Act on 2011.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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