

2014

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

PAYROLL TAX AMENDMENT BILL 2014

EXPLANATORY STATEMENT

PAYROLL TAX AMENDMENT BILL 2014

Summary

The *Payroll Tax Amendment Bill 2014* amends the *Payroll Tax Act 2011*.

Overview

The *Payroll Tax Act 2011* (the Act) currently provides a number of payroll tax exemptions for employment agents. There are seven specific exemptions available when wages are paid by an employment agent to a subcontractor, under a contract between the agent and the subcontractor, for work performed by that subcontractor for a client of the employment agent. The subcontractor must demonstrate it is a *bona fide* employer in its own right.

The exemption found at Schedule 2, Part 2.3, section 2.14 (1) (g) of the Act exempts wages if the subcontractor is a genuine employer of the individuals who perform the work for which wages are paid. This provision is inconsistent with the approach of other jurisdictions. The Act does not define ‘genuine employer,’ leading to complexities in administration and application.

This Bill amends the Act to remove the exemption provided to employment agents on wages paid to subcontractors simply due to being a genuine employer. The 6 remaining exemptions found in the Act will continue to be available to employment agents in the appropriate circumstances.

By removing the exemption found at Schedule 2, Part 2.3, section 2.14 (1) (g), a payroll tax exemption will no longer be available where a contractor employs themselves or joins with other unrelated contractors to create a payroll company.

This will remove an exemption in the current legislation that provides a tax advantage to contractors who are not *bona fide* employers.

Where a contractor is a body corporate, partnership or sole trader and has two people working on a contract, one of whom is an employee of the business, the payroll tax exemption will continue to apply under sections section 2.14 (1) exemptions (c), (d) and (e).

This amendment will provide more certainty to Canberra employment agents and contractor communities with regards to their payroll tax liabilities under the Act. Repealing the ‘genuine employer’ exemption will remove confusion around the exemption of wages under the Act and provide a level playing field for those employment agents competing for contractors. This will increase certainty of the ACT’s taxation regime and promote economic growth.

These amendments also align with the priorities of taxation reform, by providing for the administration of a more efficient, equitable and simpler form of taxation.

Commencement Date

The amendments will be effective from 1 July 2014.

Details of the Payroll Tax Amendment Bill 2014

Clause 1 – Name of Act

This is a technical clause that provides the title of the Act. The name of the Act is the *Payroll Tax Amendment Act 2014*.

Clause 2 – Commencement

The Act commences on 1 July 2014.

Clause 3 – Legislation amended

This is a technical clause stating that the legislation being amended is the *Payroll Tax Act 2011*.

Clause 4 – Employment agents and subcontractors Schedule 2, section 2.14 (1) (g)

This clause omits section 2.14 (1) (g) of schedule 2. This section exempted wages paid or payable by employment agents to persons (the subcontractor) under a contract between the agent and the subcontractor for work performed by the subcontractor for a client of the agent where the subcontractor was a genuine employer of the individuals who performed the work for which wages were paid.