

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Brendan Smyth)

Payroll Tax Amendment Bill 2013

A Bill for

An Act to amend the *Payroll Tax Act 2011*

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

1 Name of Act

This Act is the *Payroll Tax Amendment Act 2013*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Payroll Tax Act 2011*.

**4 Meaning of *relevant contract*—div 3.7
Section 32 (2) (b) (ii) and (c)**

substitute

(ii) the services are of a kind ordinarily required by the designated person for less than 180 days in a financial year; or

(iii) the services are provided for a period or periods that together are not more than 90 days in the financial year, and are not services—

(A) provided by someone who provides similar services to the designated person; or

(B) in relation to the performance of work if any of the people who perform the work also perform similar work for the designated person;

for a period or periods that together are more than 90 days in the financial year; or

(iv) the services are supplied under a contract to which subparagraphs (i) to (iii) do not apply, and the commissioner is satisfied that the services are performed

- 1 by someone who ordinarily performs services of that kind
2 to the public generally in the financial year; or
- 3 (c) is supplied by a person (the *contractor*) with services in
4 relation to the performance of work under a contract to which
5 paragraphs (a) and (b) do not apply if the work to which the
6 services relate is performed—
- 7 (i) by 2 or more people employed by, or who provide
8 services for, the contractor in the course of a business
9 carried on by the contractor; or
- 10 (ii) if the contractor is a partnership of 2 or more
11 individuals—by 1 or more of the members of the
12 partnership and 1 or more people employed by, or who
13 provide services for, the contractor in the course of a
14 business carried on by the contractor; or
- 15 (iii) if the contractor is an individual—by the contractor and
16 1 or more people employed by, or who provide services
17 for, the contractor in the course of a business carried on
18 by the contractor; or
- 19 (d) is supplied with—
- 20 (i) services ancillary to the transfer of goods by a vehicle
21 provided by the person transferring the goods; or
- 22 (ii) services solely in relation to the procurement of people
23 wanting to be insured by the designated person; or
- 24 (iii) services in relation to the door-to-door sale of goods
25 solely for domestic purposes on behalf of the designated
26 person.

5 Groups of commonly controlled businesses
New section 72 (6A)

insert

(6A) If a person mentioned in subsection (6) makes a valid disclaimer of the person's interest in the trust, subsection (6) and the corresponding earlier provisions are taken not to have applied to the person on and after the day the interest arose.

6 New section 72 (9)

insert

(9) In this section:

corresponding earlier provisions means the following:

- (a) the *Payroll Tax Act 1987* (repealed), section 3J (6);
- (b) the *Taxation Administration Act 1999*, section 115 (6) (repealed);
- (c) the *Taxation (Administration) Act 1987* (repealed), section 80 (6).

7 Exclusion of people from groups
New section 79 (1A)

insert

(1A) The commissioner may determine that people who would, but for the determination, be members of a group are not members of the group.

8 Section 79 (2)

omit

is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member of the group

substitute

or people is, or businesses carried on by the person or people are, carried on independently of, and is, or are, not connected with the carrying on of, a business or businesses carried on by any other member or members of the group

9 Section 79 (3)

substitute

- (3) The commissioner must not determine that a body corporate is not a member of a group with another body corporate if the bodies corporate are related bodies corporate because of the [Corporations Act](#), section 50 (Related bodies corporate).

10 New section 79 (6A)

insert

- (6A) Without limiting subsection (6), a determination may provide for its commencement before 1 July 2008.

**11 Joint and several liability
Section 81 (1)**

substitute

- (1) If a person fails to pay an amount that the person is required to pay under this Act in relation to any period, every member of any group of which the person was a member when the liability to pay arose is liable jointly and severally to pay the amount to the commissioner.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 June 2013.

2 Notification

Notified under the [Legislation Act](#) on 2013.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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