

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910

TAXATION (ADMINISTRATION) (AMENDMENT) ORDINANCE (No. 2) 1988

No. 33 OF 1988

This Ordinance amends the Taxation (Administration) Ordinance 1988 ("the Principal Ordinance").

The amendment to the Principal Ordinance has two purposes:

(a) to confer on the Minister a power under section 99 to determine a rate or amount, as the case may be, in respect of certain provisions of the Payroll Tax Ordinance 1987 as amended by the Payroll Tax (Amendment) Ordinance 1988; and,

(b) to settle, for better caution, that the Minister has had the power under section 99 to determine the value of certain fringe benefits for the purposes of subsection 3(2) of the Payroll Tax Ordinance 1987 and power under section 99 to determine a rate for the purposes of lodgement of payroll tax returns under subsection 16(1) of the Payroll Tax Ordinance 1987.

The Principal Ordinance makes provision in relation to the administration of other ACT taxation legislation. Section 99 provides that the Minister, may by notice in the Gazette, determine amongst other things, the amount of tax under a tax law and the rate at which an amount of tax under a tax law is to be calculated.

The first group of amendments to section 99 of the Principal Ordinance will confer on the Minister specific power to make determinations in relation to the Payroll Tax Ordinance 1987 as amended by the Payroll Tax (Amendment) Ordinance 1988. (For further detail in relation to these provisions in the Payroll Tax Ordinance 1987 see the Explanatory Statement to the Payroll Tax (Amendment) Ordinance 1988.)

Prior to its amendment by the Payroll Tax (Amendment) Ordinance 1988, the Payroll Tax Ordinance 1987 ("the old Payroll Tax Ordinance"), provided for a number of amounts or rates to be determined in relation to the operation of the taxation legislation as the case required (specifically subsection 3(2) and 16(1)). Determinations have been made accordingly.

In order to remove doubts that subsections 3(2) and subsection 16(1) of the old Payroll Tax Ordinance gave authority to the Minister to make determinations by the force of those subsections

alone, the Ordinance includes a specific power to make determinations under section 99 of the Principal Ordinance in relation to these subsections. This part of the Ordinance has been given retrospective operation from 1 August 1987, which was the commencement date of the Payroll Tax Ordinance 1987. It clarifies only, and does not result from any claim by a taxpayer that taxes have been invalidly imposed.

Details of the Ordinance are as follows:

Section 1 This section provides for the short title citation of the Ordinance as the Taxation (Administration) (Amendment) Ordinance (No. 2) 1988.

Section 2 This section provides for the commencement of the provisions of the Ordinance. All provisions are to commence on 1 July 1988 except subsection 5(1) which is deemed to have commenced on 1 August 1987.

Section 3 This section recites that the "Principal Ordinance" is the Taxation (Administration) Ordinance 1987.

Section 4 This section amends section 25 of the Principal Ordinance, to provide that tax, duty or a licence fee that is assessed, is remittable in the same circumstances in which the tax would be refunded if it had been paid. Words which might lead to ambiguity have been omitted.

Section 5 This section amends section 99 of the Principal Ordinance.

Subsection 5(1) adds provisions clearly conferring authority under this section for the Minister to set amounts relating to the value of meals, sustenance or the use of premises provided in connection with employment, under subsection 3(2) of the Payroll Tax Ordinance 1987 and clearly giving the power to set the rate in subsection 16(1) of that Ordinance above which lodgement of monthly returns is required.

Subsection 5(2) confers on the Minister power to make determinations under various specified provisions of the Payroll Tax Ordinance 1987 as amended by the Payroll Tax (Amendment) Ordinance 1988.

AUTHORISED BY THE MINISTER OF STATE FOR THE ARTS AND TERRITORIES