



ANNO VICESIMO NONO  
ELIZABETHÆ SECUNDÆ REGINÆ

VICTORIA

## Pay-roll Tax Act 1980

No. 9440

An Act to alter the general exemption from Liability to Pay-roll Tax, to amend the *Pay-roll Tax Act 1971* and for other purposes.

[Assented to 25 November 1980]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

Short title.

1. (1) This Act may be cited as the *Pay-roll Tax Act 1980*.

Principal Act  
No. 8154.  
Reprinted to  
No. 9059.  
Subsequently  
amended by  
Nos. 9192,  
9305 and 9427.  
Commence-  
ment.

(2) In this Act the *Pay-roll Tax Act 1971* is called the Principal Act.

(3) Sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall come into operation on the day on which this Act receives the Royal Assent and sections 3, 13 and 14 shall come into operation on 1 January 1981.

Amendment of  
No. 8154 s. 3.

2. Section 3 of the Principal Act is hereby amended as follows:

(a) In the interpretation of "Wages" in sub-section (1)—

(i) for the words "or allowances" there shall be substituted the words "allowances or other benefits"; and

(ii) after

(ii) after paragraph (c) there shall be inserted the following paragraph:

“(ca) the provision of any wages, salary, commission, bonuses, allowances or other benefits whether in cash or in kind to or in relation to an employé by any person acting for or in concert or under an arrangement or understanding whether formal or informal and whether expressed or implied with the employer;”;

(b) After sub-section (2A) there shall be inserted the following sub-sections:

“(2B) For the purposes of this Act any wages, salary, commission, bonuses, allowances or other benefits referred to in paragraph (ca) in the interpretation of “Wages” shall be deemed to be paid or payable by the employer.

(2c) A reference in this Act to wages paid or payable by the employer includes wages which are deemed to be paid or payable by the employer.

(2D) A reference in this Act to wages paid or payable by a related person or associate in a group includes wages which would be deemed to be paid or payable by a related person or an associate if the related person or associate were the employer of the employé to whom they were paid.”.

3. (1) In section 9A (3A) (ga) of the Principal Act—

Amendment of  
No. 8154 s. 9A.

(a) for the expression “1979” there shall be substituted the expression “1980”;

(b) for the expression “1980” there shall be substituted the expression “1981”.

(2) In section 9B (1) of the Principal Act in the interpretation of “prescribed amount”—

Amendment of  
No. 8154 s. 9B.

(a) for the expression “1980” (where twice occurring) there shall be substituted the expression “1981”;

(b) for the expression “\$5500” (where three times occurring) there shall be substituted the expression “\$7000”;

(c) for the expression “\$7000” (where three times occurring) there shall be substituted the expression “\$8050”;

(d) for the expression “1979” there shall be substituted the expression “1980”.

(3) In

Amendment of  
No. 8154 s. 11A.

- (3) In section 11A of the Principal Act—
- (a) in sub-section (2A) for the expression “1979” there shall be substituted the expression “1980”;
  - (b) in sub-section (2B) for the expression “1980” there shall be substituted the expression “1981”.

Amendment of  
No. 8154 s. 12.

- (4) In section 12 of the Principal Act—
- (a) in sub-section (1) for the expression “\$1600” there shall be substituted the expression “\$1850”;
  - (b) in sub-section (2A) for the expression “\$1600” there shall be substituted the expression “\$1850”.
- (5) In Part A of Schedule One to the Principal Act—
- (a) for the expression “1979” (where three times occurring) there shall be substituted the expression “1980”;
  - (b) for the expression “33000A” (where twice occurring) there shall be substituted the expression “42000A”;
  - (c) for the expression “42000B” (where twice occurring) there shall be substituted the expression “48300B”;
  - (d) for the expression “14850A” there shall be substituted the expression “18900A”;
  - (e) for the expression “1980” (where twice occurring) there shall be substituted the expression “1981”.
- (6) In Part B of Schedule One to the Principal Act—
- (a) for the expression “1979” (where three times occurring) there shall be substituted the expression “1980”;
  - (b) for the expression “1980” (where twice occurring) there shall be substituted the expression “1981”.
- (7) In Part A of Schedule Two to the Principal Act—
- (a) for the expression “1980” there shall be substituted the expression “1981”;
  - (b) for the expression “84000C” (where twice occurring) there shall be substituted the expression “96600C”.
- (8) In Part B of Schedule Two to the Principal Act for the expression “1980” there shall be substituted the expression “1981”.

Amendment of  
No. 8154 s. 4.

4. For sub-sections (1), (2) and (3) of section 4 of the Principal Act there shall be substituted the following sub-sections:

“(1) Subject to the *Public Service Act* 1974 there shall be appointed a Commissioner of Pay-roll Tax who shall have the general administration of this Act and the regulations.

(2) Subject to the *Public Service Act* 1974 there may be appointed such Deputy or Assistant Commissioners of Pay-roll Tax and such other officers and employes as are necessary for the administration of this Act.

(3) A person

(3) A person who is a Deputy or Assistant Commissioner of Pay-roll Tax shall have and may exercise and perform all the powers and functions of the Commissioner under this Act and the regulations.”.

5. For sub-section (5) of section 23 of the Principal Act there shall be substituted the following sub-section:

Amendment of  
No. 8154 s. 23.

“(5) Notwithstanding any Act or any rule of the court to the contrary, in any proceedings for the recovery of tax against any person it shall be sufficient to disclose a cause of action in such proceedings if the particulars of demand state in respect of what wages the tax is payable, the amount sought to be recovered, the date on which the amount was payable and such further and other particulars as the Commissioner or Deputy or Assistant Commissioner as the case may be thinks necessary fully to inform the defendant of the nature of the demand.”.

6. For section 24 of the Principal Act there shall be substituted the following section:

Amendment of  
No. 8154 s. 24.

“24. (1) Notwithstanding any Act or rule of the court to the contrary, in any proceedings for the recovery of tax any process may without leave of the court be served on the defendant—

- (a) personally;
- (b) by leaving the same at his address for service or last known place of business or abode in Victoria;
- (c) by sending the same or a sealed copy thereof by post addressed to the defendant at his last known place of business or abode in Australia; or
- (d) by such other method permitted by any Act or rule of the court.

(2) In any case to which paragraph (c) of sub-section (1) applies, unless the contrary is proved, service thereof shall be deemed to have been effected two days from the date of posting.”.

7. Section 32 of the Principal Act shall be amended as follows:

Amendment of  
No. 8154 s. 32.

- (a) For the expression “An employer” there shall be substituted the expression “A person”;
- (b) For the expression “employer’s” there shall be substituted the expression “person’s”;
- (c) For the word “employer” (where second occurring) there shall be substituted the word “person”.

8. Section 33 of the Principal Act shall be amended as follows:

Amendment of  
No. 8154 s. 33.

- (a) For the expression “An employer” there shall be substituted the expression “A person”;

(b) For

- (b) For the word "employer" (where second occurring) there shall be substituted the word "person";
- (c) After sub-section (2) there shall be inserted the following sub-section:

"(3) Notwithstanding the provisions of sub-section (2), the Commissioner may within 30 days after receiving a request to refer a decision for review or treat an objection as an appeal require the person by notice in writing to give further and better particulars of his objection and the Commissioner shall not be bound to refer the decision or cause the objection to be set down for hearing until 30 days after the Commissioner has received full details of the objection."

Amendment of  
No. 8154 s. 33A.

9. Section 33A of the Principal Act shall be amended as follows:

- (a) For sub-section (1) there shall be substituted the following sub-section:

"(1) Upon any review or appeal under this Act—

- (a) unless the Victorian Taxation Board of Review or the Supreme Court otherwise orders, the objector shall be limited to the grounds stated in his objection and the Commissioner shall be limited to the grounds upon which he has disallowed the objection; and

(b) the burden of proving—

- (i) that any assessment is excessive;
- (ii) that any decision affecting the liability of an objector to pay tax or any determination is erroneous—

shall be upon the objector.";

- (b) In sub-section (2) for the expression "employer's" there shall be substituted the expression "person's".

Amendment of  
No. 8154.  
New s. 45.

10. For section 45 of the Principal Act there shall be substituted the following section:

"45. The Commissioner or any officer authorized by him in writing for the purpose (whether generally or in any specific case) may at any reasonable hour enter premises and inspect and examine any books documents and other papers found in or on those premises and may make extracts from or copies of any books documents or papers for the purposes either of determining whether any of the provisions of this Act are being contravened or of generally enforcing the provisions of this Act."

11. In

11. In section 46 (2) of the Principal Act after the words "in proceedings on" there shall be inserted the words "review or".

Amendment of  
No. 8154 s. 46.

12. For sub-section (2) of section 47 of the Principal Act there shall be substituted the following sub-section:

Amendment of  
No. 8154 s. 47.

"(2) In any case to which paragraph (b) of sub-section (1) applies, unless the contrary is proved, service there of shall be deemed to have been effected two days from the date of posting."

13. (1) The Principal Act as amended by this Act shall apply to and in relation to the assessing, charging, levy and collection of pay-roll tax on all taxable wages paid or payable on or after 1 January 1981.

Transitional  
provisions.

(2) The Principal Act as in force at the time taxable wages were paid or payable shall apply to and in relation to the assessing, charging, levy and collection of pay-roll tax on taxable wages paid or payable prior to 1 January 1981.

14. Section 5 of the *Pay-roll Tax Act 1979* shall be repealed.

Repeal of  
No. 9305 s. 5.