



TASMANIA

**REVENUE LEGISLATION (MISCELLANEOUS
AMENDMENTS) ACT 1995**

No. 82 of 1995

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**REVENUE LEGISLATION (MISCELLANEOUS
AMENDMENTS) ACT 1995**

No. 82 of 1995

AN ACT to amend the *Pay-roll Tax Act 1971, Racing and Gaming Act 1952, Land and Income Taxation Act 1910 and Stamp Duties Act 1931*

[Royal Assent 14 November 1995]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART 1

PRELIMINARY

Short title

1—This Act may be cited as the *Revenue Legislation (Miscellaneous Amendments) Act 1995*.

Commencement

2—(1) Part 1 commences on the day on which this Act receives the Royal Assent.

(2) Sections 9, 11 and 12 commence on 1 July 1996.

(3) Part 2 and sections 10, 13, 14, 15, 19, 20 and 21 are taken to have commenced on 1 July 1995.

(4) Part 3 and sections 16, 17, 18 and 22 are taken to have commenced on 16 August 1995.

PART 2**PAY-ROLL TAX ACT 1971* AMENDED****Section 7 amended (Imposition of pay-roll tax)**

3—Section 7 of the *Pay-roll Tax Act 1971* is amended by inserting after subsection (1) the following subsections:—

(1A) For the purpose of ascertaining the monthly pay-roll tax payable by an employer not subject to a deduction under section 9, the following amounts are to be deducted from the amount of taxable wages each month:—

(a) for the year commencing 1 July 1995—

$$\frac{T}{A} \left(15694 \times \frac{D}{M} \right)$$

* No. 43 of 1971. For this Act, as amended to 1 October 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 78 of 1977, No. 91 of 1980, No. 64 of 1981, Nos. 9, 45 and 99 of 1982, No. 57 of 1983, Nos. 29 and 79 of 1984, No. 96 of 1985, No. 50 of 1988, No. 31 of 1989, Nos. 5, 21 and 40 of 1990, Nos. 35 and 43 of 1991, No. 39 of 1992 and No. 30 of 1995.

(b) for the year commencing 1 July 1996—

$$\frac{T}{A} \left(31389 \times \frac{D}{M} \right)$$

where—

“T” is the taxable wages for the month; and

“A” is the Australian wages for the month; and

“D” is the number of days in the month during which the employer was an employer; and

“M” is the number of days in the month.

(1B) For the purposes of ascertaining the monthly payroll tax payable by an employer for the year commencing 1 July 1997 and subsequent years, the following amount is to be deducted from the amount of taxable wages each month:—

$$\frac{T}{A} \left(47083 \times \frac{D}{M} \right)$$

where—

“T” is the taxable wages for the month; and

“A” is the Australian wages for the month; and

“D” is the number of days in the month during which the employer was an employer; and

“M” is the number of days in the month.

Section 9 amended (Deduction for small businesses)

4—Section 9 of the *Pay-roll Tax Act 1971* is amended as follows:—

(a) by inserting “, whose monthly Australian wages are more than \$47 083 and less than \$117 708,” after “employer” in subsection (1);

(b) by omitting subsection (2) and substituting the following subsection:—

(2) The amount referred to in subsection (1) is to be calculated in accordance with the following formulae:—

(a) for the year commencing 1 July 1995—

$$\frac{T}{A} \left\{ P \times \frac{D}{M} - \frac{4}{9} \left(A - P \times \frac{D}{M} \right) \right\}$$

(b) for the year commencing 1 July 1996—

$$\frac{T}{A} \left\{ P \times \frac{D}{M} - \frac{2}{9} \left(A - P \times \frac{D}{M} \right) \right\}$$

where—

“T” is the taxable wages for the month; and

“A” is the Australian wages for the month; and

“D” is the number of days in the month during which the employer was an employer; and

“M” is the number of days in the month; and

“P” is the amount prescribed in subsection (4).

(c) by inserting after subsection (4) the following subsection:—

(5) The deduction for small businesses does not apply in relation to the year commencing 1 July 1997 or any subsequent year.

Section 11A amended (Annual adjustments)

5—Section 11A of the *Pay-roll Tax Act 1971* is amended as follows:—

(a) by omitting subsection (3) and substituting the following subsections:—

(3) For an employer subject to a deduction under section 9 the annual amount of pay-roll tax payable under subsection (1) for the financial years commencing on 1 July 1995 and 1 July 1996 is—

(a) if adjusted Australian wages for the year are \$565 000 or less, nil; and

(b) if adjusted Australian wages for the year are more than \$565 000, an amount ascertained by applying the rate of 7% to the difference between the total of the taxable wages paid or payable by the employer during that financial year and the prescribed amount.

(3A) For an employer not subject to a deduction under section 9 the annual amount of pay-roll tax payable under subsection (1) is as follows:—

(a) for the financial year commencing on 1 July 1995—

(i) if adjusted Australian wages for that year are \$565 000 or less, nil; or

(ii) if adjusted Australian wages for that year are more than \$565 000, an amount ascertained by applying the rate of 7% to the difference between the total of the taxable wages paid or payable by the employer during that financial year and \$188 333;

(b) for the financial year commencing on 1 July 1996—

(i) if adjusted Australian wages for that year are \$565 000 or less, nil; or

(ii) if adjusted Australian wages for that year are more than \$565 000, an amount ascertained by applying the rate of 7% to the difference between the total of the taxable wages paid or payable by the employer during that financial year and \$376 667.

(3B) For any employer the annual amount of pay-roll tax payable under subsection (1) for a financial year commencing on or after 1 July 1997 is—

(a) if adjusted Australian wages for the year are \$565 000 or less, nil; or

(b) if adjusted Australian wages for the year are more than \$565 000, an amount ascertained by applying the rate of 7% to the difference between the total of the taxable wages paid or payable by the employer during that financial year and \$565 000.

- (b) by omitting from subsection (5) the definition of “prescribed amount” and substituting the following definition:—

“prescribed amount” means an amount calculated in accordance with the following formulae:—

- (a) for the year commencing 1 July 1995—

$$\frac{T}{A} \left\{ 565000 \times \frac{D}{365} - \frac{4}{9} \left(A - 565000 \times \frac{D}{365} \right) \right\}$$

- (b) for the year commencing 1 July 1996—

$$\frac{T}{A} \left\{ 565000 \times \frac{D}{365} - \frac{2}{9} \left(A - 565000 \times \frac{D}{365} \right) \right\}$$

PART 3

RACING AND GAMING ACT 1952* AMENDED

Section 70 amended (Payment of commission by bookmakers)

6—Section 70 (1) of the *Racing and Gaming Act 1952* is amended as follows:—

- (a) by omitting from paragraph (a) “2.0 per cent” and substituting “1.5%”;
- (b) by omitting from paragraph (b) “2.5 per cent” and substituting “2.0%”;
- (c) by omitting paragraph (c) and substituting the following paragraphs:—

- (c) an amount equal to 0.5% of all money so paid or payable in respect of all other bets made by the bookmaker in relation to amounts wagered by persons betting in Australia or New Zealand, other than bets made under a telephone sports betting licence; and

* No. 98 of 1952. For this Act, as amended to 1975, see Appendix D to the Annual Volume of Statutes of 1974. Subsequently amended by No. 71 of 1975, No. 85 of 1976, No. 104 of 1977, No. 54 of 1978, Nos. 19 and 73 of 1979, No. 90 of 1980, Nos. 9, 10 and 99 of 1982, Nos. 40 and 83 of 1983, Nos. 29 and 36 of 1984, Nos. 51, 89 and 123 of 1985, Nos. 13 and 31 of 1986, Nos. 39, 42 and 86 of 1987, Nos. 1 and 48 of 1988, No. 32 of 1989, Nos. 5, 22 and 40 of 1990, Nos. 39 and 40 of 1991, No. 37 of 1992, Nos. 53, 54, 55, 93, 94 and 99 of 1993, Nos. 32, 68, 70 and 91 of 1994 and Nos. 52 and 71 of 1995.

- (d) an amount equal to 0·25% of all money so paid or payable in respect of all other bets made by the bookmaker in relation to amounts wagered by persons betting outside Australia and New Zealand, other than bets made under a telephone sports betting licence.

Section 71 amended (Payment of certain commission to clubs)

7—Section 71 of the *Racing and Gaming Act 1952* is amended by omitting subsection (1) and substituting the following subsections:—

(1) The Authority, within 7 days of receiving a commission referred to in section 70 (1), is to pay an amount determined in accordance with subsection (1A) to each club in respect of all bets made—

- (a) at any race meeting conducted in the State in relation to a race conducted by that club; and
- (b) at any race meeting conducted by that club in relation to a race conducted outside this State; and
- (c) at any race meeting conducted by that club in relation to an approved event other than bets made under a telephone sports betting licence.

(1A) For the purposes of subsection (1), the amount is to be—

- (a) 90% of the commission, if the commission is received under section 70 (1) (a); or
- (b) 85% of the commission, if the commission is received under section 70 (1) (b); or
- (c) 100% of the commission, if the commission is received under section 70 (1) (c) or (d).

Section 74L amended (Payment of commission)

8—Section 74L of the *Racing and Gaming Act 1952* is amended by omitting subsection (1) and substituting the following subsection:—

(1) A licensee must pay to the Authority an amount by way of commission in respect of bets made by the licensee under the licence in relation to amounts wagered by persons betting—

- (a) outside Australia and New Zealand, 0.25% of all money paid or payable, contingently or otherwise; and
- (b) in Australia or New Zealand, 0.5% of all money paid or payable, contingently or otherwise.

PART 4**LAND AND INCOME TAXATION ACT 1910* AMENDED****Section 2A amended (Rural land)**

9—Section 2A of the *Land and Income Taxation Act 1910* is amended by omitting subsection (3).

Section 9A amended (Interpretation of Part III)

10—Section 9A (1) of the *Land and Income Taxation Act 1910* is amended as follows:—

- (a) by omitting “or 21D” from the definition of “apportioned assessed land value” and substituting “, 21D or 21DA”;

* 1 Geo. V No. 47. For this Act, as amended to 1959, see Reprint of Statutes (1826–1959), Vol. 3, p. 225. Subsequently amended by No. 39 of 1960, No. 41 of 1961, No. 55 of 1965, No. 80 of 1971, No. 75 of 1973, No. 74 of 1976, No. 85 of 1977, No. 72 of 1978, No. 55 of 1979, Nos. 9 and 78 of 1982, No. 60 of 1983, Nos. 29 and 55 of 1984, No. 108 of 1987, No. 54 of 1989, No. 5 of 1990, No. 46 of 1991, No. 39 of 1992, No. 73 of 1993, Nos. 67 and 68 of 1994 and Nos. 20, 30 and 77 of 1995.

(b) by inserting after the definition of “apportioned assessed land value” the following definition:—

“**co-operative housing land**” means land owned by a registered society within the meaning of the *Co-operative Industrial Societies Act 1928*;

(c) by inserting “, co-operative housing land” after “company land” in the definition of “principal residence land”.

Section 12 amended (Liability of owners for land tax)

11—Section 12 of the *Land and Income Taxation Act 1910* is amended as follows:—

(a) by inserting in subsection (1) (a) “, other than principal residence land or rural land,” after “land” (first occurring);

(b) by omitting subsection (2).

Sections 12A, 12B and 12C repealed

12—Sections 12A, 12B and 12C of the *Land and Income Taxation Act 1910* are repealed.

Section 13C inserted

13—After section 13B of the *Land and Income Taxation Act 1910* the following section is inserted:—

Land tax rebate

13C—(1) The owner of any land may apply to the Commissioner for a rebate of land tax in relation to a financial year if—

(a) the owner was the owner at the start of the financial year; and

- (b) during that financial year a dwelling was constructed on the land and occupied as principal residence land by the owner or a relative of the owner; and
- (c) the owner did not own during the financial year any other land classified as principal residence land.

(2) An application is to be in a form approved by the Commissioner.

(3) On receipt of an application in relation to the financial year commencing on 1 July 1995, the Commissioner, if satisfied that a rebate is payable, is to grant a rebate equal to the difference between the amount of land tax paid and the amount that would have been paid if the land had been assessed as principal residence land.

(4) On receipt of an application in relation to a financial year commencing on 1 July 1996 or later, the Commissioner, if satisfied that a rebate is payable, is to grant a rebate equal to the amount of land tax paid.

Section 21DA inserted

14—After section 21D of the *Land and Income Taxation Act 1910* the following section is inserted:—

Apportioned assessed land value of co-operative housing land

21DA—(1) If co-operative housing land is used partly for residential purposes and partly for other purposes, the Commissioner is to request the Valuer-General to supply separate valuations in respect of each of those parts.

(2) The apportioned assessed land value in respect of any land forming part of co-operative housing land is to be determined in accordance with the following formula:—

$$A = \frac{F}{T} \times V$$

where—

“A” is the apportioned assessed land value; and

“F” is the area of the land used for residential purposes; and

“T” is the total area of total co-operative housing land; and

“V” is the assessed land value of the part of the co-operative housing land used for residential purposes.

Section 21E amended (Onus of establishing facts)

15—Section 21E (1) (a) of the *Land and Income Taxation Act 1910* is amended by inserting “, co-operative housing land” after “company land”.

PART 5

STAMP DUTIES ACT 1931* AMENDED

Section 3 amended (Interpretation)

16—Section 3 (1) of the *Stamp Duties Act 1931* is amended as follows:—

(a) by inserting after the definition of “debenture” the following definition:—

“**de facto spouse**” means a person who lives with another person of the opposite sex as the spouse of that other person although not legally married to that other person;

(b) by inserting after the definition of “farmer” the following definition:—

“**farming company**” means a company—

(a) the shares of which are not listed on a stock exchange; and

(b) which has assets including farming property;

* 22 Geo. V No. 19. For this Act, as amended to 1 September 1987, see the continuing Reprint of Statutes. Subsequently amended by No. 94 of 1987, No. 6 of 1988, No. 55 of 1989, Nos. 5, 30 and 40 of 1990, Nos. 43 and 46 of 1991, No. 41 of 1992, Nos. 24 and 100 of 1993, Nos. 45, 60 and 68 of 1994 and Nos. 20 and 21 of 1995.

(c) by inserting after the definition of “farming operations” the following definition:—

“farming property” means—

- (a) land used solely or principally in the business of primary production; or
- (b) personal property used solely or principally in connection with the business of primary production;

(d) by inserting after the definition of “policy of life assurance” the following definition:—

“primary production” means production from—

- (a) the cultivation of land for the purpose of selling the produce of the cultivation; or
- (b) the maintenance of animals for the purpose of selling them or their natural increase or bodily produce; or
- (c) the keeping of bees for the purpose of selling their honey; or
- (d) a nursery; or
- (e) the propagation for sale of mushrooms or flowers; or
- (f) a forestry undertaking within the meaning of the *Land and Income Taxation Act 1910*; or
- (g) horse breeding;

(e) by inserting after the definition of “the regulations” the following definition:—

“relative”, in relation to a person, means—

- (a) a lineal descendant of the person; or
- (b) an adopted or illegitimate child or step-child of the person; or
- (c) a lineal ancestor of the person; or
- (d) a brother, sister, nephew, niece, aunt or uncle of the person; or

- (e) the spouse or de facto spouse of the person or of a person referred to in paragraph (a), (b), (c) or (d);

Section 18B amended (Loans in connection with duty on instruments relating to purchase of first homes)

17—Section 18B (1) (c) of the *Stamp Duties Act 1931* is amended by omitting “\$100 000” and substituting “\$120 000”.

Section 38 amended (Duty chargeable on returns)

18—Section 38 of the *Stamp Duties Act 1931* is amended by inserting after subsection (5) the following subsection:—

(6) If a person is entitled to an exemption or partial exemption under paragraph (cb) of item 36 of Schedule 3 the duty otherwise chargeable under this Division is to be reduced by the amount of duty attributable to the farming property.

Section 57 amended (Interpretation)

19—Section 57 (1) of the *Stamp Duties Act 1931* is amended as follows:—

- (a) by omitting the definition of “prescribed amount” and substituting the following definition:—

“**prescribed amount**”, in relation to a statement under section 59, means—

- (a) \$6 667 if the statement relates to the 4 month period starting on 1 July 1995 and ending on 31 October 1995; or
- (b) \$4 000 if the statement relates to a month after October 1995;

(b) by omitting the definition of “prescribed period” and substituting the following definition:—

“**prescribed period**”, in relation to a statement under section 59, means—

(a) if the statement relates to a month after June 1995 and before November 1995, the period of 4 months starting on 1 July 1995 and ending on 31 October 1995; or

(b) if the statement relates to any month after October 1995, the month to which the statement relates;

Section 58 amended (Requirement to be registered under this Division)

20—Section 58 of the *Stamp Duties Act 1931* is amended as follows:—

(a) by omitting subsections (1), (2) and (3) and substituting the following subsections:—

(1) A person must apply to be registered under this Division if—

(a) in the 4 month period starting on 1 July 1995 and ending on 31 October 1995, the person—

(i) carries on rental business in Tasmania; and

(ii) receives a total amount of rent from the rental business exceeding \$6 667; or

(b) in a month after October 1995, the person—

(i) carries on rental business in Tasmania; and

(ii) receives a total amount of rent from the rental business exceeding \$4 000 in that month.

(2) An application is to be—

(a) lodged with the Commissioner not later than 21 days after the end of—

(i) the 4 month period in which the amount referred to in subsection (1) (a) (ii) was exceeded; or

(ii) the month in which the amount referred to in subsection (1) (b) (ii) was exceeded; and

(b) in a form approved by the Commissioner.

(b) by omitting from subsection (4) “, (2), or (3), as the case may be,”;

(c) by omitting subsection (5) and substituting the following subsection:—

(5) A person who fails to comply with subsection (1) is guilty of an offence punishable on summary conviction in accordance with subsection (6).

(d) by omitting from subsection (6) “, (2), or (3)”;

(e) by omitting subsection (7) and substituting the following subsections:—

(7) On receipt of an application from a person, and if the Commissioner considers it appropriate to do so, the Commissioner is to register the person under this Division.

(7A) A registration takes effect on the first day of the month immediately following the month in which the prescribed amount was exceeded.

(f) by omitting paragraphs (a) and (b) from subsection (10) and substituting the following paragraphs:—

(a) \$6 667, during the period starting on 1 July 1995 and ending on 31 October 1995; or

(b) \$4 000, during a month after October 1995.

Section 59 amended (Statements to be lodged by registered persons with the Commissioner)

21—Section 59 (1) of the *Stamp Duties Act 1931* is amended as follows:—

(a) by omitting paragraph (b) (i);

- (b) by omitting from paragraph (b) (iii) “\$20.” and substituting “\$20; and”;
- (c) by inserting after paragraph (b) the following paragraph:—
- (c) pay to the Commissioner—
- (i) in respect of a month in the period starting on 1 July 1995 and ending on 31 October 1995, an amount equal to 2% of any amount by which the sum of the monthly total for that month and the aggregate of the monthly totals for the preceding months in the prescribed period, other than any part of those monthly totals in respect of which duty is payable or has been paid under this section, exceeds the prescribed amount; and
- (ii) in respect of a month after October 1995, an amount equal to 2% of the monthly total in excess of the prescribed amount.

Schedule 3 amended (Instruments exempted from duty)

22—Part I of Schedule 3 to the *Stamp Duties Act 1931* is amended as follows:—

- (a) by inserting after “Commonwealth;” in item 7 the following paragraph:—

A conveyance of real property, whether for consideration or not, and which includes personal property used solely or principally in connection with the business of primary production, if the Commissioner is satisfied that the conveyance—

- (a) relates to land which is used and will continue to be used in the business of primary production; and
- (b) did not arise from any arrangements or scheme devised for the purpose of evading the payment of duty by taking the benefit of this exemption; and

(c) is from—

- (i) a natural person to a relative of the person or to a trustee of a trust of which all the beneficiaries are relatives of the person at the time of the conveyance and of which the named beneficiaries cannot be varied other than by the addition of a relative; or
- (ii) a company to a trustee of a trust of which all the beneficiaries are relatives of all the shareholders of the company at the time of the conveyance and of which the named beneficiaries cannot be varied other than by the addition of a relative; or
- (iii) a company to a natural person and all the shareholders of the company are relatives of the person; or
- (iv) a trustee of a trust to a person who is a relative of all those beneficiaries of the trust who are natural persons; or
- (v) a trustee of a trust to a trustee of another trust of which all the beneficiaries are relatives at the time of the conveyance of all those beneficiaries of the first-mentioned trust who are natural persons and of which the named beneficiaries cannot be varied other than by the addition of a relative.

(b) by inserting after “paid.” in item 18 the following paragraph:—

Any instrument made before 31 December 1997 for any additional advance secured by or under a loan security, for the balance outstanding under an earlier loan security, if each loan security applies to the same, or substantially the same, land and that land is used for primary production.

- (c) by inserting after paragraph (ca) of item 36 the following paragraph:—
- (cb) any transfer of shares in a farming company to the extent of the proportion of the value of the shares which is the same proportion that the value of the farming property bears to the value of the total assets of the company, if the transfer is from a natural person to—
- (a) a relative of the person; or
- (b) a trustee of a trust of which the beneficiaries are relatives of the person at the time of the transfer and of which the named beneficiaries cannot be varied other than by the addition of a relative;

*[Second reading presentation speech made in:—
House of Assembly on 26 September 1995
Legislative Council on 9 October 1995]*