

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Pay-roll Tax

Circular No. 142

**PAY-ROLL TAX (SUPERANNUATION BENEFITS) AMENDMENT
ACT 1996 No. 79 of 1996**

The *Pay-roll Tax Act 1971* was amended by the *Pay-roll Tax (Superannuation Benefits) Amendment Act 1996*, (the Amendment Act) which was assented to on 5 December 1996. The Amendment Act is deemed to apply from 1 July 1996.

This amendment in practice will only affect employers who operate unfunded or partly unfunded superannuation schemes.

The amendments provide clarification to the intention of the *Pay-roll Tax Act* that the tax base includes both contributions paid by an employer in respect of a funded superannuation fund or scheme, and employer contributions that would otherwise have been payable in respect of the accruing employer liability, as if the superannuation scheme were not an unfunded or partly unfunded arrangement. The original amendment in respect of employer superannuation benefits (which commenced on 1 December 1994), was always intended to cover all superannuation arrangements, including those that were unfunded or partly unfunded.

Unfunded or partly unfunded schemes have generally only been established and operated by Government and some Government authorities. Should you be unsure whether your employees are members of an unfunded or partly unfunded scheme, either the Actuary to the scheme, or the administrator of the scheme, will be able to provide clarification.

The Amendment Act amends the definition of "superannuation benefit" under the provisions of the *Pay-roll Tax Act 1971*, to make specific provision with respect to employer liabilities accruing under an unfunded or partly unfunded superannuation scheme. An unfunded or partly unfunded scheme is one where the employer does not provide for the contingent liability as employees' retirement benefits accrue.

In terms of Section 3(3) of the *Pay-roll Tax Act*, the Treasurer may estimate the contingent liability of an employer for benefits that accrue in respect of an employee in the main State Government Scheme established under the *Superannuation Act 1988*, or any other unfunded or partly unfunded

scheme. Generally, the estimated contingent liability of an employer, which is the employer financed superannuation benefit on which pay-roll tax will be levied, will be the accruing employer liability as determined in the most recent Triennial Actuarial Report produced for the particular fund or scheme.

The amending provisions will ensure that employers with unfunded or partly unfunded superannuation schemes are placed on the same footing as other employers.

Should you have any queries about other legal obligations provided under the *Pay-roll Tax Act*, you are encouraged to consult the Pay-roll Tax Act Guide to Legislation, issued as Circular No.137 on 18 April, 1996.

Any enquiries about the matter contained in this Circular should be directed to the State Taxation Office on telephone (08) 8226 3735.

12 December 1996

COMMISSIONER OF STATE TAXATION

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