

DRAFT SECOND READING SPEECH

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Taxation and Related Legislation (Miscellaneous Amendments) Bill 2016

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Madam Speaker

The Taxation and Related Legislation (Miscellaneous Amendments) Bill 2016 amends the *Duties Act 2001*, the *Land Tax Act 2000*, the *Taxation Administration Act 1997*, the *Payroll Tax Act 2008* and the *First Home Owner Grant Act 2000*.

Taxation legislation often requires amendments to maintain currency and administrative effectiveness by addressing issues that emerge over time. The Government wishes to maintain fairness for all taxpayers by enhancing the clarity of State taxation law.

The amendments to taxation legislation contained in this Bill clarify existing provisions, improve equity of application, and provide certainty for taxpayers. These amendments are largely administrative in nature, and are not expected to have a significant impact on revenue.

The amendments to the First Home Owner Grant Act facilitate the Government's 2016-17 Budget initiative to provide an estimated \$9.6 million in additional assistance to first home builders who enter eligible transactions for the purchase or construction of a new home between 1 January 2016 and 30 June 2017.

Duties Act

Madam Speaker,

The Duties Act is to be amended to restore the policy intent that statutory and court ordered vesting transactions are to be assessed for duty as though they were a transfer of dutiable property. A drafting error in a previous amendment Act resulted in the unintended consequence that such vesting transactions were no longer properly referred to.

However, there are certain types of statutory vesting transactions that are not intended to be subject to duty. The Duties Act is to be amended to clarify that no duty is chargeable on certain vesting transactions under the *Administration and Probate Act 1935*, the *Associations Incorporation Act 1964* and the *Strata Titles Act 1998*. This amendment is to commence retrospectively from 1 July 2001, consistent with the commencement of the Duties Act on that date.

Madam Speaker, the Duties Act currently provides an exemption on the transfer of dutiable property made in accordance with a financial agreement made under the *Family Law Act 1975* of the Commonwealth. The Duties Act is to be amended to provide for a refund where dutiable property is transferred and the transaction is subsequently approved in a financial agreement made under various sections of the Family Law Act. This amendment will improve consistency in the duty treatment of transfers made under other types of instruments or Orders pursuant to the Family Law Act.

Finally, the Duties Act is to be amended to clarify that, where the Commissioner considers that the consideration paid for a dutiable transaction is inadequate, and a taxpayer objects and provides an alternative valuation of the property, the Commissioner may treat the valuation provided by a taxpayer, or an alternative valuation obtained by the Commissioner, as the unencumbered value of the property. Thus, the Commissioner's ability to assess duty on the higher of the unencumbered value or the consideration where there is an objection will be clarified for the taxpayer.

Land Tax Act

Madam Speaker,

The Land Tax Act provides a reduced rate of land tax with regard to land owned by a sporting club or body of persons where the land is used for certain sporting activities.

However, the \$25 000 tax-free threshold that applies to general land does not apply to this reduced rate of land tax. In cases where the land value is less than \$58 000, the lack of a tax-free threshold can result in land that is subject to the reduced rate of land tax actually being charged more tax than general land.

The Land Tax Act is to be amended to ensure that relevant sporting clubs and bodies are also able to obtain the benefit of the tax-free threshold; which restores the original intent of the Act to apply a reduced rate of land tax to sporting clubs. This amendment will reduce the land tax burden on all organisations that are eligible for the reduced rate of land tax by \$100 per annum.

First Home Owner Grant Act

Madam Speaker,

The Government announced in the 2016-16 State Budget that it would double the grant available to first home builders to \$20 000 per new home from 1 January 2016 to 30 June 2017. This means that Tasmania has the highest first home owner grant offered by any government in Australia. Grants paid to first home builders and first home buyers of new homes will result in an increase in Tasmania's housing stock and will continue to support economic activity in the building sector.

The First Home Owner Grant Act is to be amended to increase the grant to \$20 000 per new home, for agreements entered into between 1 July 2016 and 1 July 2017. However, the Government is also honouring its commitment to eligible applicants who entered into agreements between 1 January 2016 and 30 June 2016 by paying the additional \$10 000 by way of grant deed.

The Act is also being amended to clarify that, where an applicant installs a moveable building on vacant land that they already own, the moveable building must be a new moveable building, for example a building that has not previously used as a place of residence, rather than a used moveable building, in order to be eligible for a grant. This is consistent with the Government's focus on incentivising the construction of new dwellings.

Payroll Tax Act

Madam Speaker,

Tasmania's Payroll Tax Act is harmonised with that of most other states, and Tasmania has agreed to maintain harmonisation with the payroll tax legislation of New South Wales and Victoria. Harmonisation makes it easier for businesses that operate in multiple jurisdictions to understand and comply with their payroll tax obligations.

The Payroll Tax Act includes contractor anti-avoidance provisions that result in contractors being treated as employees for payroll tax purposes, with specific exclusions where appropriate.

The contractor provisions are to be amended to:

- restore the original intent to ensure that, where owner-drivers provide additional services that are not ancillary to the conveyance of goods, the payments to the owner-driver are treated as taxable wages;
- remove the exclusion for commissions paid to insurance agents from the contractor provisions; and
- remove the exclusion for commissions paid to door-to-door sellers of goods used for domestic purposes from the contractor provisions.

These amendments will maintain the harmonisation with New South Wales that Tasmania has committed to, and reduce opportunities for tax avoidance brought about by structuring business practices to take advantage of exclusions.

The Payroll Tax Act is also to be amended to introduce a five year limit on refunds of payroll tax overpayments to align with the refund timeframes of New South Wales and Victoria, and to align with the extended refund timeframes for land tax and duties being introduced in this Amendment Bill.

The final payroll tax amendment is to replace out of date references to payroll tax thresholds with the current thresholds.

Taxation Administration Act

Madam Speaker,

The Taxation Administration Act is to be amended to extend the period during which a taxpayer can seek a refund of overpaid tax from three years to five years to align with the refund timeframes in other states. Extending the refund period will increase harmonisation with other states' taxation laws, making it simpler for taxpayers who operate across jurisdictions, to comply with taxation laws, and claim a refund when they have overpaid tax.

Madam Speaker,

There are circumstances where taxes paid to the Commissioner by companies subsequently found to be insolvent may be considered unfair preference payments under the *Corporations Act 2001* of the Commonwealth. That is, payments that are greater than the Commissioner, as a creditor, would have received in relation to the outstanding tax debt on the winding up of the company.

Normally, the liquidator would seek the return of unfair preference payments so that they can be included in the assets of the insolvent company for distribution to creditors. However, the Taxation Administration Act does not include any ability for the Commissioner to remit unfair preference payments to a liquidator. Such a remission must then be made by way of an *ex gratia* payment by the Treasurer.

The Taxation Administration Act is to be amended to enable the Commissioner to remit unfair preference payments to a liquidator to the extent that he is lawfully required to do so.

The final amendment allows the Commissioner to offset refunds of tax, and any associated interest owing to a taxpayer on a refund, against any liabilities of the person under a taxation law or another Act of which the Commissioner of Taxation has the general administration. The amendment is consistent with the arrangements in other jurisdictions, protects the integrity of the revenue base and will improve the operational efficiency of the State Revenue Office.

Conclusion

Madam Speaker,

The majority of these amendments are taxpayer favourable and will improve the clarity of the legislation, ease of compliance through harmonisation with other jurisdictions, and improve the administration of the taxes. They will clarify the policy intent of the legislation, which will provide certainty to both the Commissioner of State Revenue and the taxpayer. These outcomes are consistent with the Government's ongoing red tape reduction strategy.

Madam Speaker, I commend this Bill to the House and recommend it be read a second time.