

## DUTIES AMENDMENT BILL 2009

### SECOND READING SPEECH

Mr Speaker

The Duties Amendment Bill 2009 amends the *Duties Act 2001* to implement the Government's Budget initiative to abolish duty on agreements for sale.

This initiative was developed in response to ongoing concerns raised by industry regarding the compliance costs and unintended consequences of the current policy of capturing agreements for sale of real estate for duty. The initiative provides certainty around when the liability to pay duty occurs, which will be at the time of transfer. It also reduces the cost of compliance as the level of record keeping is significantly reduced and removes the possibility of uninformed taxpayers being subject to double duty.

The amendments contained within the Bill ensure that the Tasmanian Duties Act aligns with current Tasmanian conveyancing practice and prevents the possibility of double duty being imposed on legitimate transactions. In doing so, the Bill also ensures that future reforms such as electronic conveyancing are enabled in the Duties Act.

The changes reflect a Government that listens to both industry and taxpayers and acts upon their concerns.

Mr Speaker, the current provisions of the Duties Act impose duty on both an agreement for sale and the actual transfer of property. As a result, the agreement and the transfer must be in conformity or otherwise both will

be subject to duty. This may give rise to double duty being paid on effectively the one transaction.

The amendments abolish the liability for duty on agreement for sale, with duty now only being payable on the consequent transfer document.

This will benefit taxpayers as the liability for duty now arises on the transfer, rather than at the time an agreement was entered into.

This means that if you purchase a house either as a completed dwelling or a new home off-the-plan from a developer, you only pay duty after settlement when you have possession of the property. For off-the-plan purchases, the timing for the payment of duty may be significantly extended over the current arrangements.

This will be beneficial to both the Tasmanian building industry and home buyers. The changes will mean that property purchasers will not have the burden and inconvenience of having to source and pay duty before their purchase is complete. This removes a significant cost and inconvenience to purchasers and removes a disincentive for off-the-plan sales.

As the amendments reduce the possibility of a taxpayer facing double duty, the existing provisions in relation to conformity of agreements for sale and the final transfer are no longer required and are repealed.

Consistency of Duties legislation across jurisdictions is important as it reduces compliance costs for taxpayers and ensures transactions are treated consistently across jurisdictions. This is the reason Tasmania participated in the stamp duties rewrite project which resulted in the Duties Act being enacted in 2001.

The Duties Act is currently aligned with that of New South Wales, which was the lead jurisdiction for the stamp duties rewrite project. At the time, both Tasmania and New South Wales imposed sale of business duty, whereas Victoria, the other main re-write jurisdiction, did not.

To capture a sale of business you effectively need to capture the agreement for sale for duty as there may be no transfer to effect the transaction, unlike the transfer of real property.

In 2008 sale of business duty was abolished in Tasmania and hence Tasmania's policy position is now more closely aligned with Victoria.

Following enactment of the amendments contained within the Bill, the Tasmanian legislation will become more closely aligned with that of Victoria, thereby ensuring that the benefits of cross jurisdiction harmonisation are maintained.

Mr Speaker, this Bill will lower the cost of compliance as record keeping is significantly reduced. A taxpayer can now easily identify when their duty payment is due.

The new provisions clearly indicate when the payment of duty occurs. Generally, taxpayers and the community understand duty to be a transaction tax that is paid at the time of the transaction, being settlement or completion. This is not the case with the current provisions as the time to pay is established at the time of execution and can be payable before the transaction is completed.

Taxpayers will no longer have to look at rulings or obtain copies of contracts not associated with their transaction, such as a copy of the contract for sale for the vendors property, if the sale is conditional.

Further, the amendments are important in ensuring that taxpayers will not be financially disadvantaged or penalised as a result of a duty liability payment that is required prior to the completion of the transaction.

Mr Speaker, in order to prevent loss of revenue by taxpayers attempting to avoid duty, the amendments include anti-avoidance provisions. These anti-avoidance provisions are consistent and equivalent to those in the Victorian legislation.

The anti-avoidance provisions are included to ensure that duty is captured on any sub-sales that occur following an initial agreement for sale and prior to the actual transfer of the dutiable property. This ensures the equitable treatment of all taxpayers.

Mr Speaker, while the imposition of taxes is necessary for the Government to be able to fund the services the community requires, the way in which taxes are imposed need to be as equitable and as efficient as possible.

The amendments contained within this Bill will improve the efficiency of the tax system by reducing compliance costs for taxpayers and providing clarity around duty liability. This is being achieved while maintaining interjurisdictional consistency, especially with Victoria.

Mr Speaker, I commend the Bill to the House.