

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2008

Second Reading

- Mr Speaker, I move –

That the bill be now read the second time.

The Taxation and Related Legislation (Miscellaneous Amendments) Bill 2008 provides for an act to amend the Duties Act 2001, the First Home Owner Grant Act 2000, the Judicial Review Act 2000, the Land Tax Act 2000 and the Taxation Administration Act 1997.

Taxation legislation is often required to be amended to address miscellaneous issues that are identified with its application in practice. These amendments are generally of an administrative nature and, wherever possible, are packaged together as a number of miscellaneous amendments that are introduced in one bill on an annual basis. This bill is part of this ongoing legislative process and it contains amendments aimed at clarifying the original policy intent of the acts; deleting redundant provisions; ensuring that the legislation accords with current administrative practices; and ensuring continued consistency with the comparable Acts of other jurisdictions.

Mr Speaker, the amendments are not intended to raise any additional revenue. However, some measures may result in minor increases in revenue collection, by enabling the collection of taxes that should be paid according to the original policy intent of the legislation, but are currently being avoided. In other words, there will be no appreciable impact on State tax revenue collection for the current or future years. The amendments, therefore, accord with the Government's Fiscal Strategy with respect to maintaining a competitive State tax environment such that there will be no new taxes and no increase in the rate of any existing taxes.

The amendments contained in the bill before the House were prompted by taxation administrators through the normal course of their interaction with taxpayers, by tax administrators identifying a number of issues through normal and ongoing reviews that require resolution, and in some cases from persons acting on behalf of taxpayers.

The bill firstly amends the Duties Act 2001. These changes are designed to remove doubt and to ensure that the original policy intent of the legislation is maintained, delete redundant provisions, remove opportunities for tax avoidance and to maintain continued consistency with the comparable acts of other jurisdictions.

Mr Speaker, deficiencies identified with the current land-rich provisions will be addressed, with provisions being better aligned with those in a number of other jurisdictions. The current land-rich provisions have been found to be increasingly

ineffective in achieving their aim of ensuring that duty is appropriately paid on acquisitions of majority interests in land-rich corporations.

The bill also gives proper effect to the original policy intent of a number of provisions of the Duties Act. This includes addressing a deficiency identified with the exemption provisions relating to intergenerational rural transfers. The exemption, as presently drafted, is deficient in that it may extend to land that is not actually used as farming land, contrary to the original policy intent. This is mainly an issue where only part of a farm is transferred. Amendments to the Act to link the granting of the exemption to the land tax 'primary production land' classification will clarify these arrangements.

The bill also extends the exemption for private hospital transfers to include the transfer of a 'medical establishment', which includes a private hospital, a day-procedure centre and a residential care service. This is a major concession that will, on the basis of equity and fairness, align the duty treatment of facilities that provide similar services.

Mr Speaker, the bill also amends the First Home Owner Grant 2000. These amendments to the offence provisions of the Act will capture instances where a person makes a statement, in connection with their grant application, that they know to be false or misleading. This will be in addition to the current offence which requires proving that the person dishonestly made a false and misleading statement. A series of further minor amendments to the Act provide for the updating of inconsistent terminology.

Mr Speaker, the bill further provides for minor amendments to the Judicial Review Act 2000, by replacing references to redundant pieces of legislation with references to the relevant current pieces of taxation legislation.

Mr Speaker, a number of amendments are also to be made to the Land Tax Act 2000. These amendments are included to update definitions for consistency with other pieces of legislation, clarify current provisions and to introduce or extend exemption arrangements.

Mr Speaker, an identified limitation in respect of the transitional circumstances rebate will also be addressed. At present, the legislation requires that in order to be entitled to a rebate of land tax where former principle places of residences are held pending their sale, the owner or owners in respect of both the first and second property must be the same. For example, where there is the purchase of a principal residence property, following marriage, there may be a change in the owner or owners name from one property to the next. In such cases, whilst all other requirements of the transitional land rebate are satisfied, the identity of the owners would not be exactly the same in respect of both parcels of land and the legislation, and as currently drafted, the owners would be denied the rebate.

Mr Speaker, the Land Tax Act will also be amended to provide an exemption for all retirement village land. Under the current legislation, the majority of land owned by retirement villages receives the benefit of the principal place of residence zero rate of

land tax. The principal place of residence land tax classification is not, however, extended to include the relatively much smaller remaining land portion of the retirement village which is used, for example, for administrative purposes and therefore treated as general land.

The administrative effort required in apportioning retirement village land between principal place of residence and general land classifications is substantial. Further, as the areas within the retirement village used for administrative purposes are typically minor in proportion to the total land area of the retirement facility, the resultant land tax liability is often small. The amendments will, therefore, reduce the compliance costs incurred by retirement village operators and the costs of administering the Land Tax Act.

Mr Speaker, as with amendments to the Duties Act, this bill also provides for the 'private hospital' definition within the Land Tax Act to be replaced by the broader term 'medical establishment', which expands the current exemption provisions relating to land used for purposes associated with the operation of private hospitals to also apply to land used for day-procedure centres and residential care services.

Mr Speaker, the bill also makes a number of amendments to the Taxation Administration Act 1997. The Taxation Administration Act covers administrative provisions, including investigations, exemptions and compliance, for those state taxes that fall within its scope. The Act applies to duties, land tax and payroll tax and it allows for the exchange of information between jurisdictions and provides for the conduct of investigations in other jurisdictions. The amendments to the Taxation Administration Act are, primarily, minor adjustments to clarify current provisions and coincide with administrative practices.

Mr Speaker, in the interests of consistency, the current debt recovery provisions where recovery actions are undertaken by a collection agency will be amended. As currently drafted, the debt recovery provisions allow the Commissioner to recover unpaid tax, including penalties and interest, and any associated collection costs and expenses from an individual taxpayer through action taken in a court of competent jurisdiction. Alternatively, the Commissioner can use a collection agency to secure payment. However, there is no provision enabling any costs and expenses incurred by the Commissioner in collecting unpaid tax via a collection agency to be recovered.

The amendments facilitated by the bill will allow the Commissioner to recover, through all available means, as a debt due to the Crown, any costs and expenses incurred by the Commissioner in connection with the recovery or attempted recovery of an amount of unpaid tax. This will maintain equity and fairness by ensuring the consistent application of debt recovery provisions across all taxpayers.

Mr Speaker, the amendments contained within the Taxation Legislation (Miscellaneous Amendments) Bill 2008 are designed to maintain the integrity of the acts that are amended to ensure they are effective pieces of legislation.

As I previously indicated, the provisions of this bill are simply designed to ensure the acts operate effectively and are not aimed at raising any appreciable revenue. Mr Speaker, I commend the bill to the House.