

Second Reading Speech

Taxation Legislation (Miscellaneous Amendments) Bill 2012

Mr Speaker

The Taxation Amendments Bill 2012 amends the *Duties Act 2001*, the *Land Tax Act 2000*, the *Payroll Tax Act 2008* and the *Taxation Administration Act 1997*.

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 contained in this Bill clarify existing provisions, improve equity of application, ensure the maintenance of inter-jurisdictional consistency and provide certainty for taxpayers.

Duties

Relationship property

Mr Speaker,

The Duties Act provides a series of exemptions for the transfer of relationship property upon the breakdown of a marriage, de facto relationship or personal relationship. Many couples now hold relationship property by non-traditional methods, such as family trusts and private companies, rather than in their own names. Property settlements are increasingly likely to include property that is not held directly by the parties. To improve harmonisation with the exemption provided by Commonwealth Family Law, the definitions of matrimonial, de facto and relationship property are to be amended to include property held by a related person or entity of the parties to the relationship. Where property held by a related person is transferred to one of the parties in accordance with a financial agreement or court order, the transfer will now be exempt.

Leases

Mr Speaker,

The Duties Act is to be amended to restore the policy intent that the transfer or surrender of a lease requires duty to be paid where a premium or consideration is paid. This treatment will be consistent with the current treatment of the granting of a lease where a premium is paid. Annual rent payments will remain exempt from duty.

However, to reduce the administrative burden, the Duties Act is to be amended to exempt such transactions where the consideration or premium paid is \$1 300 or less. It is anticipated that the majority of transactions, which are for nominal consideration and would attract \$20 duty, will now be exempt.

Land used for partially exempt purposes

The Duties Act provides an exemption for the transfer to a council of real property that is a public road or a park or garden to be used for free public recreational purposes. However, the Duties Act does not clarify the extent to which the property must be used for these exempt purposes. The result is that where a property is only partially used for an exempt purpose, the whole of the transfer is effectively exempt.

The Act is to be amended to enable the Commissioner to apportion duty on transfers so that the portion of the property used for the exempt purpose is exempt and the portion used for other purposes is taxable.

Land tax

Owner of land

The Land Tax Act makes the owner of land at 1 July each year liable for tax. The Land Tax Act defines the owner to be the person appearing on the Title to the land.

However there are cases where the registration of the new ownership on the Title can be delayed leaving the previous owner liable for land tax.

The Land Tax Act is to be amended so that the Commissioner may treat another person as the owner of the land if he or she is satisfied on reasonable grounds that that person has become the owner of the land.

This amendment will ensure that taxpayers are able to be treated equitably. However, it is not intended to provide for apportionment of a property's annual land tax liability when the property changes hands. The current ability to apportion land tax by agreement of the purchaser/vendor on settlement of a contract will not change.

Land used for partially exempt purposes

The Land Tax Act provides specific exemptions for land used for a number of purposes, including council owned land used as parks and gardens and land subject to a conservation covenant. However, the Land Tax Act does not clarify the extent to which the land must be used for these exempt purposes, and does not provide an apportionment ability. The result is that where a parcel of land is only partially used for an exempt purpose, the whole of the land is effectively exempt.

The Land Tax Act is to be amended to enable the Commissioner to apportion land tax, with regards to council-owned parks and gardens, and land subject to a conservation covenant, so that the area used for the exempt purpose is exempt and the area used for other purposes is taxable.

Payroll tax

Maternity and adoption leave

The Payroll Tax Act is to be amended to maintain inter-jurisdictional harmonisation with respect to the payroll tax treatment of maternity and adoption leave payments. Tasmania provides a payroll tax exemption for wages paid to an employee in respect of maternity or adoption leave for a period of up to 14 weeks. However, some employers allow their staff to take extended leave at a reduced rate of pay. The Payroll Tax Act is to be amended to extend that 14 week period where an employee takes their entitlement over a longer period at a reduced rate of pay. For example, where a mother takes her 14 week maternity leave entitlement over 28 weeks at half pay, the employer will be able to claim a payroll tax exemption for the 28 weeks instead of the current 14 week maximum.

This amendment will assist employers to be more flexible with maternity and adoption leave arrangements and is in line with arrangements in other jurisdictions.

Government agencies

Mr Speaker,

Since 1996, General Government sector agencies have been subject to payroll tax, when a change in the way agencies were funded prompted that policy decision. However, the advent of Tasmanian Health Organisations, which are partially funded by the Australian Government, has prompted Treasury to review of the efficiency of subjecting Government agencies to payroll tax.

The Payroll Tax Act is to be amended to provide a mechanism to exempt Government entities forming the General Government sector from payroll tax. Because it is difficult to comprehensively define the Government entities that should and should not be taxable in legislation, the Minister responsible for the administration of the Payroll Tax Act will publish a notice declaring the Government entities that are exempt.

Government organisations that compete with the private sector, including Government Business Enterprises and State-owned Companies, will remain taxable.

This amendment will be revenue neutral, as the Budget appropriations of these Government entities will be adjusted to reflect that they are no longer required to pay payroll tax.

Taxation Administration*Waiver of fees*

Mr Speaker,

The Taxation Administration Act is to be amended to allow the Commissioner of State Revenue to waive prescribed fees for the lodgement of documents for assessment. Lodgement fees are charged where licensed self-assessors choose to lodge documents for assessment with the State Revenue Office instead of self-assessing in accordance with their licence. However, there may be circumstances where the State Revenue Office's online self-assessment systems are non-operational, and in these circumstances it would be inequitable to charge a licensed self-assessor from lodging documents with the State Revenue Office for assessment.

Suspension of objections

The Taxation Administration Act allows a taxpayer to object to an assessment or decision of the Commissioner, and the Act allows the Commissioner to suspend an objection determination in certain circumstances, for example, where additional information is needed. However, the Act does not currently allow the Commissioner to recommence the objection process on his or her own motion. The Taxation Administration Act is to be amended to allow the Commissioner to revoke the suspension of an objection if there are reasonable grounds to do so.

Conclusion

Mr Speaker, the amendments contained in this Bill clarify existing provisions, improve equity of application, ensure the maintenance of inter-jurisdictional consistency and provide certainty for taxpayers.

I commend this Bill to the House.