

TASMANIA

TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2014

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TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2014

(Brought in by the Treasurer, the Honourable Peter Carl Gutwein)

A BILL FOR

An Act to amend the *Duties Act 2001*, the *Land Tax Act 2000* and the *Taxation Administration Act 1997*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Taxation Legislation (Miscellaneous Amendments) Act 2014*.

2. Commencement

- (1) Except as provided in this section, the provisions of this Act commence on the day on which this Act receives the Royal Assent.
- (2) Part 3 is taken to have commenced on 22 November 2012.
- (3) Part 4 is taken to have commenced on 21 October 2013.

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Part 1 – Preliminary

- (4) Part 6 is taken to have commenced on 1 July 2013.

3. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which this Act receives the Royal Assent.

PART 2 – DUTIES ACT 2001 AMENDED

4. Principal Act

In this Part, the *Duties Act 2001** is referred to as the Principal Act.

5. Section 47 amended (Deceased estates)

Section 47 of the Principal Act is amended by inserting after subsection (1) the following subsections:

(1A) Subject to section 53(j), if –

- (a) a transfer of dutiable property is made to a beneficiary by the legal personal representative of a deceased person; and
- (b) the transfer is made under, but only partially in conformity with, a trust contained in the will of the deceased person –

the dutiable value of the dutiable property is to be reduced by the value of so much of the transfer as is made in conformity with the trust and is not made for valuable consideration.

*No. 15 of 2001

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Part 2 – Duties Act 2001 Amended

(1B) Despite subsection (1A), the minimum amount payable on a transfer to which the subsection applies is \$50.

6. Section 50 amended (Adjustment of dutiable value of transfer on a company wind-up)

Section 50(1) of the Principal Act is amended by omitting “transfer” second occurring and substituting “dutiable property”.

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Part 3 – Duties Act 2001 Further Amended

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PART 3 – DUTIES ACT 2001 FURTHER AMENDED

7. Principal Act

In this Part, the *Duties Act 2001** is referred to as the Principal Act.

8. Section 53 amended (Exemptions relating to various transactions)

Section 53 of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

- (d) a lease, excluding premiums of more than \$1 300 paid for or in connection with the grant, transfer or surrender of the lease;

*No. 15 of 2001

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Part 4 – Duties Act 2001 Further Further Amended

**PART 4 – DUTIES ACT 2001 FURTHER FURTHER
AMENDED**

9. Principal Act

In this Part, the *Duties Act 2001** is referred to
as the Principal Act.

**10. Section 53 amended (Exemptions relating to various
transactions)**

Section 53 of the Principal Act is amended by
omitting paragraph (d) and substituting the
following paragraph:

- (d) a lease, excluding premiums of more
than \$3 000 paid for or in connection
with the grant, transfer or surrender of
the lease;

**11. Section 225 amended (Intergenerational rural
transfers)**

Section 225(3)(e) of the Principal Act is
amended by inserting “the person or of” after
“of”.

*No. 15 of 2001

PART 5 – LAND TAX ACT 2000 AMENDED

12. Principal Act

In this Part, the *Land Tax Act 2000** is referred to as the Principal Act.

13. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *business*:

certified forest practices plan has the same meaning as in the *Forest Practices Act 1985*;

- (b) by inserting the following definition after the definition of *flat*:

Forest Practices Authority means the body continued by section 4AA of the *Forest Practices Act 1985* under the name “Forest Practices Authority”;

- (c) by inserting the following definition after the definition of *spouse*:

State Permanent Forest Estate Policy means the policy of that name

*No. 74 of 2000

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Part 5 – Land Tax Act 2000 Amended

referred to in section 4C(fb) of
the *Forest Practices Act 1985*;

14. Section 3B inserted

After section 3A of the Principal Act, the
following section is inserted in Part 1:

**3B. Joint tenants to be treated as tenants in
common**

For the purposes of this Act, joint tenants
in relation to land are to be taken to be
tenants in common in equal shares in
relation to the land.

15. Section 7 amended (Primary production land)

Section 7 of the Principal Act is amended by
omitting subsection (1A).

16. Section 10 amended (Liability for land tax)

Section 10(2) of the Principal Act is amended by
inserting “or, if there is a sale, or transfer, of
land by an owner of land by whom land tax is
payable, is due on the relevant day, within the
meaning of section 39, in relation to the sale or
transfer, whichever date occurs first” after
“determines”.

17. Section 16 substituted

Section 16 of the Principal Act is repealed and
the following section is substituted:

16. Notice of change in use of land

An owner of land must, within 30 days, notify the Commissioner in writing, if –

- (a) the land ceases to be principal residence land, ceases to be primary production land, ceases to be exempt land or ceases to be land to which section 30A applies; or
- (b) a factor that is relevant to determining whether or not, or the extent to which, the land, or a part of the land, is principal residence land, primary production land or exempt land, has altered; or
- (c) all or part of the land has ceased to be, or has become, land that the Commissioner is required to apportion under section 19A, 19B or 19C or section 30A.

Penalty: Fine not exceeding 10 penalty units.

18. Section 19B amended (Partially exempt land: public parks and gardens)

Section 19B(2) of the Principal Act is amended as follows:

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Part 5 – Land Tax Act 2000 Amended

- (a) by inserting “a park or garden” after “not”;
- (b) by inserting in paragraph (a) “that is a park or garden” after “proportion of the land”.

19. Section 27 amended (Apportioned assessed land value for primary production land)

Section 27 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the business of primary production” and substituting “primary production purposes”;
- (b) by omitting from subsection (2) “the business of primary production” and substituting “primary production purposes”;
- (c) by inserting the following subsection after subsection (3):
 - (4) In this section, primary production land is used for primary production purposes if the land is –
 - (a) used for the business of primary production within the meaning of section 7(2); or

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-
- (b) declared a private timber reserve under the *Forest Practices Act 1985*; or
 - (c) permanent timber production zone land within the meaning of the *Forest Management Act 2013*; or
 - (d) land in respect of which there is in effect a certified forest practices plan, being a plan certified by the Forest Practices Authority under section 19 of the *Forest Practices Act 1985* in accordance with the State Permanent Forest Estate Policy.

20. Section 30A inserted

After section 30 of the Principal Act, the following section is inserted in Division 4:

30A. Apportionment where multiple partial exemptions apply

- (1) This section applies in relation to land if the land is land to which, but for subsection (2), more than one of section 19A, 19B or 19C may apply.
- (2) If this section applies in relation to land –

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Part 5 – Land Tax Act 2000 Amended

- (a) sections 19A, 19B and 19C do not apply in relation to the land; and
 - (b) the Commissioner is to apportion the land value of the land between exempt land and general land.
- (3) For the purpose of the Commissioner apportioning under subsection (2)(b) the land value of the land between exempt land and general land –
 - (a) the apportioned assessed land value in respect of exempt land is to be determined by multiplying the assessed land value of the land by the relevant exempt proportion of the land; and
 - (b) the apportioned assessed land value in respect of general land is to be the assessed land value of the land less the apportioned assessed land value in respect of exempt land calculated under paragraph (a).
- (4) For the purposes of subsection (3), the relevant exempt proportion of the land is the proportion of the land determined by adding together all the parts of the land to which the apportioned assessed land value in respect of exempt land may, but for this section, be applied under

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Part 5 – Land Tax Act 2000 Amended

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section 19A(2)(a), section 19B(2)(a) or
section 19C(2)(a), respectively.

- (5) Land tax is not payable in respect of so much of the land as is land to which the apportioned assessed land value in respect of exempt land is assigned under subsection (3)(a).

21. Section 39 amended (Recovery of unpaid land tax)

Section 39 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2) “, before the end of the relevant day,” after “must”;
- (b) by inserting in subsection (3) “, before the end of the relevant day,” after “must”;
- (c) by inserting the following subsections after subsection (8):
 - (9) The Commissioner, if satisfied that special circumstances exist, may, by notice in writing to a person who is, before the sale or transfer of land, the owner of the land, determine that the relevant day in relation to the sale or transfer of land is a day specified in the notice or determined in accordance with the notice.

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Part 5 – Land Tax Act 2000 Amended

(10) In this section –

relevant day, in relation to a sale or transfer of land, means –

- (a) the day on which the sale or transfer of land is completed; or
- (b) if a day is specified in, or determined under, a notice issued under subsection (9) in relation to the sale or transfer, that day.

PART 6 – LAND TAX ACT 2000 FURTHER AMENDED

22. Principal Act

In this Part, the *Land Tax Act 2000** is referred to as the Principal Act.

23. Section 19C amended (Partially exempt land: flood prevention structure)

Section 19C of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “flood levee” and substituting “flood prevention structure”;
- (b) by omitting from subsection (2) “flood levee” first occurring and substituting “flood prevention structure”;
- (c) by omitting from subsection (2)(a) “used for the purposes of a flood levee” and substituting “on which the flood prevention structure is situated”;
- (d) by omitting subsection (3) and substituting the following subsection:

(3) In this section –

flood prevention structure
means any of the
following things:

*No. 74 of 2000

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Part 6 – Land Tax Act 2000 Further Amended

- (a) a flood levee, a stormwater basin or a subterranean stormwater drain, whether the levee, basin or drain is a naturally occurring phenomenon or a man-made structure;
- (b) an improvement of any type that is designed and used to regulate water levels for the purposes of flood protection;
- (c) a naturally occurring ridge or wall that regulates water levels –

but does not include such a thing if an unrelated capital improvement is situated on, above or below the thing;

unrelated capital improvement
means a capital improvement that is not –

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- (a) a capital improvement related to providing protection against floods; or
- (b) a pipeline, drain, cable or wire.

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Part 7 – Taxation Administration Act 1997 Amended

**PART 7 – TAXATION ADMINISTRATION ACT 1997
AMENDED**

24. Principal Act

In this Part, the *Taxation Administration Act 1997** is referred to as the Principal Act.

25. Section 20A inserted

After section 20 of the Principal Act, the following section is inserted in Part 3:

20A. Commissioner may require information to be provided

- (1) If an interest in land is transferred or there is a change of the beneficial ownership of an interest in land –
 - (a) the transferee or the person who acquires the interest in the beneficial ownership; or
 - (b) a tax agent of the transferee or of the person who acquires the interest in the beneficial ownership –

must lodge with the Commissioner, or an agent of the Commissioner, in the approved form, the information specified, in an approved form, to be required to be lodged in relation to the

*No. 74 of 1997

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Part 7 – Taxation Administration Act 1997 Amended

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transfer or change in beneficial
ownership.

Penalty: In the case of –

- (a) a body corporate, a fine
not exceeding 100 penalty
units; or
 - (b) in any other case, a fine
not exceeding 20 penalty
units.
- (2) The Commissioner, or an agent of the Commissioner, must not stamp or endorse an instrument that relates to a transfer of, or a change of the beneficial ownership of, an interest in land if the information specified, in an approved form, to be required to be lodged in relation to the transfer or change in beneficial ownership has not been provided or has not been provided in the approved form.
- (3) Subsection (2) does not apply in relation to an instrument that relates to a transfer of, or a change of the beneficial ownership of, an interest in land if the Commissioner has approved the stamping of the instrument, or instruments of the kind specified in the approval, despite a failure to comply with that subsection.
- (4) A person referred to in subsection (1)(a) or (b) is to be taken to have complied

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Part 7 – Taxation Administration Act 1997 Amended

with subsection (1) in relation to a transfer or change in beneficial ownership if another person referred to in subsection (1)(a) or (b) has complied with subsection (1) in relation to the transfer or change in beneficial ownership.