

Second Reading Speech

Taxation and Related Legislation (Miscellaneous Amendments) Bill 2013

Mr Speaker,

The Taxation and Related Legislation (Miscellaneous Amendments) Bill 2013 amends the *Duties Act 2001*, the *First Home Owner Grant Act 2000*, the *Land Tax Act 2000*, 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, and provide certainty for taxpayers.

Duties Act

Transfer by way of gift

Mr Speaker,

The Duties Act provides a duty exemption for transfers of dutiable property, by way of gift, in circumstances where the transfer is for any charitable, religious or educational purpose. However, because the wording of the exemption refers specifically to transfers, the exemption is not available to other dutiable transactions, such as a declaration of trust.

In addition, transfers, which are intended to be gifts, are often made for nominal consideration. As, by definition, a gift requires no consideration to be paid, these transfers are subject to duty.

The Duties Act is to be amended so that the exemption is not restricted to 'transfers', but will apply to any dutiable transaction, including declarations of trust and transfers made for no consideration, in favour of any charitable, religious or educational purpose. While transfers for nominal consideration will still be subject to duty, the amendment will clarify the intention of the legislation.

Capturing duty on House and Land Packages

Duty on agreements for sale was abolished in 2009. There are a few issues that have arisen over time that need addressing in order to ensure equitable treatment of taxpayers. An amendment is required to ensure that the dutiable value of house and land packages includes the value of the building contract, where there is a sale agreement for land linked to a related building agreement, that is, one is dependent on the other.

This will be achieved by including, as part of the consideration for the transfer of land, any payment agreed to be made to the transferor for improvements made, or to be made, to the land. This will ensure equity with the treatment of established houses.

Put and Call Option Agreements

Mr Speaker,

The current Put and Call provisions within the Duties Act are another residual issue from abolishing duty on agreements for sale. Currently, a put and call option agreement covering dutiable property, as well as the assignment of a right to acquire property under a put and call agreement, are dutiable at the time the agreement is first entered into. This is inconsistent with other provisions in the Duties Act, which impose duty at the time dutiable property is transferred.

The Duties Act is to be amended to treat put and call option agreements and the assignment of a right to acquire property under a put and call agreement, in the same way as ordinary sale agreements. Following the amendment, duty will be imposed at the time the dutiable property, being the subject of the put and call option agreement, is transferred.

Intergenerational rural transfers

Mr Speaker,

The Duties Act currently provides a duty exemption for transfers of rural property between family members, with the intent of 'keeping the farm in the family'. The amendments relating to intergenerational rural transfers are being broadened to ensure that modern family structures are taken into consideration in the legislation, and to ensure that these provisions are applied as the policy intended.

Other amendments to the Duties Act

An amendment is being made to the Duties Act to increase the nominal and concessional rate of duty payable from \$20 to \$50. Both the concessional rate and the nominal rate of duty were set at \$20 in 1986, as an amendment to the original *Stamp Duties Act 1931*. This amount was carried over upon the adoption of the current Duties Act. This minimum is being increased to bring the concessional and nominal rates of duty in line with general increases in prices since 1986.

First Home Owner Grant Act

Commissioner's discretion to shorten/extend residency period requirements

Mr Speaker,

Currently, applications to extend or shorten the residency period for occupying a property purchased under the First Home Owner Grant scheme must be made before the residency period ceases. However, the State Revenue Office receives more than half of these applications outside the period for compliance.

To improve efficiency, the First Home Owner Grant Act is to be amended to enable the Commissioner of State Revenue to reduce the minimum period of occupancy, or extend the time in which occupancy must commence, at any time prior to a grant being recalled.

Land Tax Act

Extending Primary Residence Land and Primary Production Land classifications following disasters

Mr Speaker,

A number of recent natural disaster events, including the Tasman Peninsula fires in January 2013, have raised concerns about the equity of removing principal residence land and primary production land classifications following such a disaster.

Currently, a land tax liability would be incurred at the commencement of the financial year following the disaster if there was no longer a dwelling on the property suitable for occupation, or where land is unsuitable for primary production.

The Land Tax Act is to be amended to include a new discretion enabling the Commissioner to extend a Principal Residence Land or Primary Production Land classification for a period

of up to two years in circumstances where the land has been affected by flood, fire or other disaster, and as a result is no longer suitable for its previously classified purpose. This potentially gives the victims of the Tasman Peninsula fires until 1 July 2015 to rebuild their principal residence or re-operate their primary production land in order to continue to receive their relevant classification.

Land held by fixed trustees

The Land Tax Act provides that land held on trust can be classified as a beneficiary's principal place of residence if the trustee of the trust is a registered trustee company, an executor, guardian receiver or liquidator, a trustee of a special disability trust, or a trustee appointed by a court.

There is no compliance or equity reason why beneficiaries of fixed trusts should not be included in this cohort. As such, this amendment extends the principal residence land classification to land owned by a fixed trust provided the beneficiary of the trust uses the property as their principal residence and the beneficiary is entitled to 50 per cent or more of the income and capital of the trust upon it being wound up.

Council Flood levees to be exempt from Land Tax

Under the State and Local Government Financial Reforms, State and local government agreed to be subject to each other's taxes with some exceptions. One such exception was that land used for public purposes would not be subject to land tax.

Consistent with this principle, an amendment will be provided for land owned by councils used for the primary purpose of flood protection, such as the flood levee built on the banks of the Tamar River.

Other amendments to the Land Tax Act

Other amendments being made to the Land Tax Act include tightening the requirements for adjoining land to be classified as principal residence land and providing that a taxpayer must pay all land tax debts which are in default when that taxpayer sells any land they own.

Finally, the Land Tax Act is being amended to remove all obsolete references to previous duty concessions within the Duties Act, which are no longer in application.

Taxation Administration Act

Commissioner's powers regarding the application of Penalty Tax

Mr Speaker,

Whilst the Taxation Administration Act currently provides discretion for the Commissioner of State Revenue to reduce penalty tax and interest payable by any amount, there is no specific power for the Commissioner to re-impose penalty tax or interest should the default continue.

The Taxation Administration Act is to be amended to enable the Commissioner of State Revenue to reapply penalty tax and interest. This provides the Commissioner with flexibility in applying penalty tax and interest, and clarifies existing practices.

Conclusion

Mr Speaker,

The amendments contained in this Bill have been considered by stakeholders and have not been found to contain any unintended consequences.

They provide greater fairness and equity in the application of our state taxation legislation, as well as providing certainty to both the Commissioner of State Revenue and the Taxpayer.

Mr Speaker, I commend this Bill to the House.