

## CLAUSE NOTES

### *Taxation Related Legislation (Housing Availability and Payroll Relief) Bill 2018*

#### *Part 1 - Preliminary*

- Clause 1            This Act may be cited as the *Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018*.
- Clause 2            Except as provided, the Bill is to commence on 1 July 2018 and is taken to have commenced on 1 July 2018 if the Act receives Royal Assent after that date.
- Part 7, which establishes the first home buyer duty concession, commences on 7 February 2018.
- Part 8, which establishes the pensioner duty concession, commences on 10 February 2018.
- Clause 3            This Act will be repealed 365 days after all of its provisions commence.

#### *Part 2 - Payroll Tax Act 2008 Amended*

- Clause 4            In this Part, the *Payroll Tax Act 2008* is referred to as the Principal Act.
- Clause 5            Amends Schedule 1 of the Principal Act (Calculation of Payroll Tax Liability for Financial Year Commencing 1 July 2008 and Subsequent Financial Years), by omitting certain definitions relating to the payroll tax rate and threshold amount and substituting new definitions that provide for the reduced rate of 4 per cent for taxable wages between \$1.25 million and \$2 million.
- The new definitions provide that no payroll tax is payable for taxable wages under the threshold amount of \$1.25 million, a 4 per cent payroll tax rate is applied to taxable wages between \$1.25 million and \$2 million, and a 6.1 per cent payroll tax rate is applied to taxable wages over \$2.0 million. These thresholds are proportionately reduced in cases where an employer has interstate wages and/or doesn't employ for the full financial year.
- Further changes are made to definitions in Part 2 (Employers who are not members of a group), and Part 3 (Groups with a designated group employer) to provide for the new payroll tax arrangements. The previous provisions for the calculation of payroll tax in those parts are also omitted and substituted with new sections and equations which provide for the new 4 per cent payroll tax bracket.

- Clause 6 Amends Schedule 2 of the Principal Act by inserting Division 3 (Businesses relocating to regional Tasmania) after clause 6 in Division 2 of Part 3 (Exemptions).
- This Division provides a three year payroll tax exemption for wages paid by a business to its employees in regional Tasmania, where the business relocates to Tasmania and commences its physical operations in a regional area.
- Clause 6A provides definitions for the purpose of Division 3 of Part 3. This includes terms such as: relocated business, eligible employee, eligible period, and regional Tasmania. These definitions provide eligibility criteria as to when the exemption can apply.
- Clause 6B provides additional eligibility criteria to determine which employers will be eligible to be a relocating employer.
- Clause 6C establishes provisions that provide the payroll tax exemption for relocated businesses.

***Part 3 - Payroll Tax Rebate (Apprentices, Trainees and Youth Employees) Act 2017 Amended***

- Clause 7 In this Part, the *Payroll Tax Rebate (Apprentices, Trainees and Youth Employees) Act 2017* is referred to as the Principal Act.
- Clause 8 Amends section 3 of the Principal Act (Interpretation) by omitting the definition “eligible period” and substituting a new definition which provides for the payroll tax rebate extension to 30 June 2021 for eligible employees or a class of eligible employee as prescribed in regulations. Existing employees that were already eligible for the current rebate will continue to have access to that rebate for the existing eligible period ending on 30 June 2019.
- Clause 9 Amends section 7 of the Principal Act (Amount of rebate) to provide for the flow on changes resulting from the new 4 per cent payroll tax bracket (introduced in Part 2 of this Bill).
- Therefore, section 7 omits the definitions applicable to the rebate when only one payroll tax rate applied and substitutes new definitions to provide for the new 4 per cent payroll tax bracket.
- The existing rebate calculation method in section 7(2)(a) is omitted and substituted with new calculations to accommodate the new 4 per cent payroll tax arrangements.
- Clause 10 Amends section 27 of the Principal Act (Regulations) to provide that regulations may be made for the purposes of the definition of “eligible period” to prescribe the types of eligible employee, or class of eligible employee that will be eligible for the payroll tax rebate extension.
- Clause 11 The date of repeal of the Principal Act is extended by two years to 30 June 2023.

#### ***Part 4 - Land Tax Act 2000 Amended***

- Clause 12            In this Part, the *Land Tax Act 2000* is referred to as the Principal Act.
- Clause 13            New sections 19D, 19E and 19F are inserted into Division 2 of the Principal Act (Exempt land).
- Section 19D provides for a three year land tax exemption for new dwellings that are made available for long-term rental. This section contains eligibility criteria for the exemption, provides how to apply for the exemption and prescribes when the exemption will cease and what happens if it does cease. Several definitions are provided to clarify terms used in this section.
- Section 19E provides for a one year land tax exemption for short-stay accommodation properties that are made available for long-term rental accommodation within the Greater Hobart Area. This section contains eligibility criteria for the exemption and prescribes how to apply for the exemption. Several definitions are provided to clarify terms used in this section.
- Section 19F provides that the Minister, by order, may extend the period in which an occupancy permit may be issued for the purposes of section 19D and the eligible period and exemption period under section 19E.
- An order issued under this section must be tabled in Parliament and is subject to disallowance.

#### ***Part 5 - First Home Owner Grant Act 2000 Amended***

- Clause 14            In this Part, the *First Home Owner Grant Act 2000* is referred to as the Principal Act.
- Clause 15            Amends section 18(2) of the Principal Act (Amount of grant) to provide for a grant of \$20 000 for eligible transactions that are entered into between 1 July 2018 and 30 June 2019.
- Clause 16            Inserts section 18F to provide for the conditions of the \$20 000 grant.
- The amendment also clarifies that, where a payment of \$20 000 is made to an eligible recipient in anticipation of this Bill receiving Royal Assent, that payment is taken to be a first home owner grant payment for the purposes of the Principal Act.

#### ***Part 6 - Duties Act 2001 Amended***

- Clause 17            In this Part, the *Duties Act 2001* is referred to as the Principal Act.
- Clause 18            Amends section 3 of the Principal Act (Interpretation) by inserting new definitions for the purposes of the new Part 3A (Additional duty on certain dutiable transactions involving foreign persons).

- Clause 19 Provides the meanings for certain definitions introduced by clause 18. Inserts sections 4A (Meaning of a foreign corporation) and 4B (Meaning of a foreign trust).
- Section 4C (Presumption in respect of corporations and trusts) provides that for the definition of foreign person all corporations and trusts are taken to be foreign unless the Commissioner is satisfied otherwise.
- Clause 20 Inserts new Part 3A (Additional duty on certain dutiable transactions involving foreign persons), after section 29 in Chapter 2 of the Principal Act. Part 3A introduces an additional duty of 3 per cent duty on the proportion of the dutiable value of residential property directly acquired by a foreign person and an additional 0.5 per cent on the proportion of the dutiable value of primary production property directly acquired by a foreign person.
- Section 30 defines primary production property for the purpose of the additional duty for foreign persons.
- Section 30A defines residential property for the purpose of the additional duty for foreign persons.
- Section 30B clarifies the treatment of dutiable transactions that relate to more than one parcel of land.
- Section 30C provides for the application of the additional duty for foreign persons where the dutiable transaction relates to residential property.
- Section 30D is an anti-avoidance provision that provides for the application of the additional duty for foreign persons at the residential rate where the property that was the subject of a dutiable transaction becomes residential property within three years of the dutiable transaction occurring.
- Section 30E provides for the application of the additional duty for foreign persons where the dutiable transaction relates to primary production property.
- Section 30F is an anti-avoidance provision that provides for the application of the additional duty for foreign persons at the primary production rate where the property that was the subject of a dutiable transaction becomes primary production property within three years of the dutiable transaction occurring, unless it was classified as residential property at the time of the dutiable transaction.
- Section 30G provides that the additional duty is not chargeable on certain dutiable transactions that attract a concessional rate (for example, properties that transfer to new owners under a deceased estate).
- Section 30H is an anti-avoidance section that provides that the additional duty will be reassessed where a transferee becomes a foreign person within three years of a dutiable transaction.
- Section 30I provides that the additional duty does not apply to dutiable transactions occurring before 1 July 2018.

- Clause 21                    Inserts section 63A and 63B before section 64.
- Section 63A provides the meanings of primary production property and residential property for the purposes of Part 2 (Charging of Duty on Acquisitions of Interests of Landholders) of Chapter 3.
- Section 63B clarifies the treatment of landholdings that relate to more than one parcel of land.
- Clause 22                    Amends section 68 (Acquisition statements) to provide for the acquisition statement to contain further information to determine the liability of foreign persons for additional duty.
- Clause 23                    Inserts section 71A after section 71 of the Principal Act, to provide that the additional duty for foreign persons applies to acquisitions by foreign persons in private landholders that own residential/primary production landholdings.
- Clause 24                    Inserts sections 72A, 72B and 72C after section 72 of the Act.
- Section 72A provides for the additional duty for foreign persons to be applied to acquisitions by foreign persons in public landholders that own residential/primary production landholdings.
- Section 72B is an anti-avoidance section that provides that the additional duty for foreign persons will be reassessed where an acquirer becomes a foreign person within three years of the relevant acquisition.
- Section 72C provides that the additional duty for foreign persons does not apply to acquisitions that occurred before 1 July 2018.
- Clause 25                    Inserts section 84C and 84D before section 85 in Part 4 of the Act.
- Section 84C clarifies what comprises goods and provides the meanings of primary production property and residential property for the purposes of Part 4 of Chapter 3.
- Section 84D provides that if a land use entitlement relates to property that is both residential property and primary production property, for the purpose of calculating duty the land use entitlement is taken to relate to residential property unless the Commissioner is satisfied that there are good reasons to determine that the land use entitlement should relate to primary production property only.

Clause 26

Inserts sections 91, 92, 93 and 94 after section 90 of the Act.

Section 91 provides for the additional duty for foreign persons to be applied to acquisitions by foreign persons of a land use entitlement that relate to residential/primary production property.

Section 92 is an anti-avoidance section that provides for the application of the additional duty for foreign persons where the acquisition relates to a land use entitlement for property that becomes residential property within three years of acquiring the land use entitlement.

Section 93 is an anti-avoidance section that provides for the application of the additional duty for foreign persons where the acquisition relates to a land use entitlement for property that becomes primary production property within three years of acquiring the land use entitlement.

Section 94 is an anti-avoidance section that provides that the additional duty for foreign persons will be reassessed where an acquirer becomes a foreign person within three years of acquiring a land use entitlement that relate to residential/primary production property.

***Part 7 - Duties Act 2001 Further Amended***

Clause 27

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

Clause 28

Amends section 3 of the Principal Act by omitting the current definition of “home” and substituting a new definition that applies to the first home buyer duty concession provisions.

Clause 29

A new Division 2A (First home buyer duty concession), is inserted into Part 5 of Chapter 2 of the Principal Act (Concessional rates of duty) to provide a 50 per cent duty concession to first home buyers of established homes with a dutiable value of up to \$400 000, for a 12 month period.

Section 46A provides definitions for the purpose of the Division.

Section 46B provides that the Minister, by order, may extend the eligible period (which is currently 12 months commencing on 7 February 2018) for an eligible transaction to occur. An order issued under this section must be tabled in Parliament and is subject to disallowance.

Section 46C provides the eligibility criteria that determines whether a person is an eligible first home buyer for the purposes of this Division.

Section 46D provides the eligibility criteria that determines whether the transfer of land is an eligible transaction for the purposes of the duty concession.

Section 46E provides the duty concession to be applied to an eligible transaction.

Section 46F establishes residence requirements if an eligible first home owner has been granted the duty concession.

Section 46G provides for the Commissioner of State Revenue to reassess the duty if it is found that the eligibility requirements of section 46D were not met when the duty concession was provided or the residence requirements of section 46F were not met.

Section 46H provides that the Commissioner can refund any amount of duty paid where the full amount of duty has been paid on a transaction that would have been eligible for the duty concession.

Section 46I establishes provisions to ensure that any payment or benefit relating to the duty concession that is received by someone prior to the Act receiving Royal Assent is taken to have been made under this Act and is not to be made twice.

### *Part 8 - Duties Act 2001 Further Further Amended*

Clause 30 In this Part, the *Duties Act 2001* is referred to as the Principal Act.

Clause 31 New Division 2B (Pensioner duty concession), is inserted into Part 5 of Chapter 2 of the Principal Act (Concessional rates of duty) to provide a 50 per cent duty concession to eligible pensioners that sell their existing home and downsize to a home or unit with a dutiable value of less than \$400 000 and a lower dutiable value than their existing home.

Section 46J provides definitions for the purpose of the Division.

Section 46K provides that the Minister, by order, may extend the eligible period (which is currently 12 months commencing on 10 February 2018) for an eligible transaction to occur. An order issued under this section must be tabled in Parliament and is subject to disallowance.

Section 46L provides the eligibility criteria that determines whether a person is an eligible pensioner for the purposes of this Division.

Section 46M provides the eligibility criteria that determines whether the transfer of land is an eligible transaction for the purposes of the duty concession.

Section 46N provides the duty concession to be applied to an eligible transaction where a former home is transferred within the six months **before** the eligible transaction.

Section 46O provides the duty concession to be applied to an eligible transaction where a former home is transferred within the six months **after** the eligible transaction.

Section 46P provides for the Commissioner of State Revenue to reassess the duty if it is found that the requirements of the Division were not met.

Section 46Q provides that the Commissioner can refund any amount of duty paid where the full amount of duty has been paid on a transaction that would have been eligible for the duty concession.

Section 46R establishes provisions to ensure that any payment or benefit relating to the duty concession that is received by someone prior to the Act receiving Royal Assent is taken to have been made under this Act and is not to be made twice.