

TASMANIA

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2017

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**TAXATION AND RELATED LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 2017**

(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*, the *Land Titles Act 1980*, the *Local Government Act 1993*, the *Payroll Tax Act 2008*, the *Taxation Administration Act 1997*, the *Valuation of Land Act 2001* and the *Taxation Administration Regulations 2010*

Be it enacted by Her 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 and Related Legislation (Miscellaneous Amendments) Act 2017*.

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Parts 3, 4, 5, 6, 8, 9 and 10 commence on 1 July 2017.

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s. 2

Part 1 – Preliminary

- (3) Part 7 is taken to have commenced on
1 July 2016.

PART 2 – DUTIES ACT 2001 AMENDED

3. Principal Act

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

4. Section 199 amended (Exemptions)

Section 199(1) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) an application to register a motor vehicle, or a notice of a change of beneficial ownership of a motor vehicle, if –
 - (i) the application is made, or the notice is given, by an executor of the estate of a deceased person, to register a motor vehicle in the name of a person to whom it is bequeathed in a will of the deceased person; and
 - (ii) the executor is specified in the will; and
 - (iii) there is a statutory declaration by the executor to the effect that, to the best of the executor's knowledge, the will is the last

*No. 15 of 2001

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Part 2 – Duties Act 2001 Amended

will of the deceased person and
the executor is an executor
specified in the will;

PART 3 – DUTIES ACT 2001 FURTHER AMENDED

5. Principal Act

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

6. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after the definition of *recognised stock exchange* the following definition:

Recorder of Titles means the person appointed as Recorder of Titles under section 4(1) of the *Land Titles Act 1980*;

7. Section 6 amended (Imposition of duty on certain transactions concerning dutiable property)

Section 6(1)(b) of the Principal Act is amended by omitting subparagraph (v).

8. Section 42 repealed

Section 42 of the Principal Act is repealed.

*No. 15 of 2001

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Part 3 – Duties Act 2001 Further Amended

9. Section 43 amended (Instrument relating to managed investment scheme)

Section 43 of the Principal Act is amended by omitting subsection (1).

10. Section 44 repealed

Section 44 of the Principal Act is repealed.

11. Section 243 substituted

Section 243 of the Principal Act is repealed and the following section is substituted:

243. Registration of instruments

(1) A person must not register, record, enrol or accept for any purpose an instrument that effects in whole or in part a dutiable transaction, or an instrument that is chargeable with duty, unless –

- (a) the instrument is duly stamped; or
- (b) the instrument is endorsed by the Commissioner or endorsed in a manner approved by the Commissioner.

Penalty: Fine not exceeding 100 penalty units.

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Part 3 – Duties Act 2001 Further Amended

s. 12

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- (2) Nothing in any other Act is to be taken to prevent or prohibit an instrument being, for the purposes of this Act –
- (a) stamped; or
 - (b) endorsed by the Commissioner or endorsed in a manner approved by the Commissioner.

12. Section 244 inserted

After section 243 of the Principal Act, the following section is inserted in Part 2:

244. Electronic conveyancing

- (1) Details in relation to a proposed conveyancing transaction may be entered into TRO by –
- (a) an ELNO, by means of an approved ELN; or
 - (b) the Commissioner; or
 - (c) a person who is authorised under an approval to have an electronic conveyancing document taken to be endorsed under section 53(1)(b) of the *Taxation Administration Act 1997* in accordance with subsection (5).
- (2) There may be issued to an approved ELNO by TRO –

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Part 3 – Duties Act 2001 Further Amended

- (a) a unique identifying number (a ***verification number***), generated by TRO, in relation to –
 - (i) a proposed conveyancing transaction in relation to which details have been entered into TRO under subsection (1); and
 - (ii) an electronic conveyancing document that effects the proposed conveyancing transaction; and
 - (b) an estimation (an ***estimation of duty***), generated by TRO, of the duty that would be payable under this Act in relation to the proposed conveyancing transaction if it were a dutiable transaction.
- (3) At any time before an electronic conveyancing document that effects a proposed conveyancing transaction is executed, a verification number, or an estimation of duty, in relation to the proposed conveyancing transaction may be revoked by the removal from TRO of any reference to the number or the estimation, respectively.

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Part 3 – Duties Act 2001 Further Amended

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(4) A verification number or an estimation of duty, the issue of such a number or estimation and a failure to issue, or revocation of, such a number or estimation is not a decision or assessment, or evidence of a decision or assessment, for the purposes of this Act or the *Taxation Administration Act 1997*.

(5) If –

(a) an electronic conveyancing document that contains a verification number is executed; and

(b) the electronic conveyancing document, or a notice that the document has been executed, is received from an approved ELNO by the Recorder of Titles –

the electronic conveyancing document is taken to have been endorsed under section 53(1)(b) of the *Taxation Administration Act 1997* in accordance with the conditions of the approval that relates to the document.

(6) In this section –

approval means an approval under Division 2 of Part 6 of the *Taxation Administration Act 1997*;

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Part 3 – Duties Act 2001 Further Amended

approved ELNO means an ELNO that has been approved under the *Electronic Conveyancing National Law (Tasmania) Act*;

conveyancing transaction means a transfer of land, a change in the beneficial interest in land, or an acquisition of land, that is, or, if it were effected, would be, a dutiable transaction;

digital signature, in relation to an electronic conveyancing document, means encrypted electronic data intended for the exclusive use of a particular person as a means of identifying that person as a person who signs the document;

digitally signed, in relation to an electronic conveyancing document, means include in the document a digital signature;

electronic conveyancing document means an electronic document, containing a verification number, by which a conveyancing transaction is, if the document is executed, effected, or would, if the document were executed, be effected;

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ELN has the same meaning as Electronic Lodgement Network has in the *Electronic Conveyancing National Law (Tasmania) Act*;

ELNO has the same meaning as Electronic Lodgement Network Operator has in the *Electronic Conveyancing National Law (Tasmania) Act*;

estimation of duty means an estimation of duty, issued under subsection (2)(b), that has not been revoked under subsection (3);

executed, in relation to an electronic conveyancing document, means executed in accordance with section 238, including by being digitally signed;

proposed conveyancing transaction means a conveyancing transaction in respect of which an electronic conveyancing document, by which the transaction is to be effected, has not been executed;

TRO means an electronic database system that is approved by the

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Part 3 – Duties Act 2001 Further Amended

Commissioner for the purposes of
this section;

verification number means a
verification number, issued under
subsection (2)(a), that has not
been revoked under
subsection (3).

PART 4 – LAND TAX ACT 2000 AMENDED

13. Principal Act

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

14. Section 6 amended (Principal residence land)

Section 6 of the Principal Act is amended by inserting after subsection (8) the following subsections:

- (9) Subsections (10) and (11) apply in relation to land in relation to a financial year only if, but for those subsections, the land would not, under this section, be principal residence land in relation to that financial year.
- (10) This subsection and subsection (11) apply to land in relation to a financial year (in this section referred to as the ***relevant financial year***) beginning on 1 July of that year (the ***assessment day***) if –
 - (a) at 1 July in the previous financial year (in this section referred to as the ***critical date***), land is principal residence land under subsection (1); and

*No. 74 of 2000

Taxation and Related Legislation (Miscellaneous Amendments)
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Part 4 – Land Tax Act 2000 Amended

(b) the person who –

(i) was the sole owner of the land on the critical date;
or

(ii) is a person who the Commissioner determines is to be taken to be the sole owner of the land on the critical date –

dies on or after the critical date and before the assessment day;
and

(c) the principal residence of that person was, on the critical date, situated on the land; and

(d) the land is not, after the critical date and before the assessment day –

(i) sold in whole or in part;
or

(ii) transferred, in whole or in part, other than to the personal representative of the deceased person.

(11) If subsection (10) applies to land in relation to a relevant financial year –

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Part 4 – Land Tax Act 2000 Amended

s. 14

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- (a) the land is taken to be, on the assessment day, principal residence land; and
 - (b) section 26 does not apply in relation to the land for the relevant financial year.
- (12) If –
- (a) subsection (10) applies to land in relation to a relevant financial year; and
 - (b) another area of land was, at the critical date, adjoining land under subsection (2) in relation to the land referred to in paragraph (a); and
 - (c) the adjoining land satisfies, on the assessment day, the requirements of subsection (2)(a), (ab) and (d); and
 - (d) no income is derived from the adjoining land after the critical date and before the assessment day; and
 - (e) the adjoining land is not, after the critical date and before the assessment day –
 - (i) sold in whole or in part; or

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Part 4 – Land Tax Act 2000 Amended

- (ii) transferred, in whole or in part, other than to the personal representative of the deceased person –

the adjoining land is taken to be, on the assessment day, principal residence land and section 26 does not apply in relation to the adjoining land for the relevant financial year.

15. Section 11 amended (List of owners)

Section 11 of the Principal Act is amended by omitting subsection (2).

PART 5 – LAND TITLES ACT 1980 AMENDED

16. Principal Act

In this Part, the *Land Titles Act 1980** is referred to as the Principal Act.

17. Section 170A amended (Combination of forms)

Section 170A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “section 55 of the *Valuation of Land Act 2001*, section 13A or 13B of the *Land and Income Taxation Act 1910* or”;
- (b) by omitting from subsection (2) “any such Act” and substituting “section 121 of the *Local Government Act 1993*”;
- (c) by omitting from subsection (3) “any such Act” and substituting “section 121 of the *Local Government Act 1993*”.

18. Section 170B substituted

Section 170B of the Principal Act is repealed and the following section is substituted:

*No. 19 of 1980

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s. 18

Part 5 – Land Titles Act 1980 Amended

170B. Duty of Recorder to transmit certain information

- (1) The Recorder must, as soon as practicable after receiving a notice under section 121 of the *Local Government Act 1993* in relation to land within a municipal area, transmit details of the notice to the general manager of the council in relation to the municipal area.
- (2) The Recorder must provide to the Commissioner of State Revenue –
 - (a) the information, as specified in a notice received by the Recorder under section 121 of the *Local Government Act 1993*; and
 - (b) the information, about the dealing to which the notice relates –

that the Commissioner of State Revenue requires for the purposes of any Act related to taxation and requests the Recorder to provide to him or her.

- (3) The Recorder must provide to the Valuer-General –
 - (a) the information, as specified in a notice received by the Recorder under section 121 of the *Local Government Act 1993*; and

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Part 5 – Land Titles Act 1980 Amended

s. 18

- (b) the information, about the dealing
to which the notice relates –

that the Valuer-General requires for the
purposes of the *Valuation of Land Act*
2001 and requests the Recorder to
provide to him or her.

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s. 19

Part 6 – Local Government Act 1993 Amended

**PART 6 – LOCAL GOVERNMENT ACT 1993
AMENDED**

19. Principal Act

In this Part, the *Local Government Act 1993** is referred to as the Principal Act.

20. Section 121 amended (Change in ownership or occupancy of land)

Section 121 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2B)(a) “and use of the land”;
- (b) by omitting from subsection (2B)(a) “, the *Land and Income Taxation Act 1910*, the *Valuation of Land Act 2001*”;
- (c) by omitting from subsection (2C) “subsection (2) or (2A)” and substituting “subsection (1), (1A), (2) or (2A)”;
- (d) by omitting from subsection (2D) “subsection (2) or (2A)” and substituting “subsection (1), (1A), (2) or (2A)”;
- (e) by omitting from subsection (2E)(a) “subsection (2) or (2A)” and substituting “subsection (1), (1A), (2) or (2A)”;

*No. 95 of 1993

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Part 6 – Local Government Act 1993 Amended

s. 20

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- (f) by omitting from subsection (2E)(b)
“subsection (2) or (2A)” and substituting
“subsection (1), (1A), (2) or (2A)”.

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Part 7 – Payroll Tax Act 2008 Amended

PART 7 – PAYROLL TAX ACT 2008 AMENDED

21. Principal Act

In this Part, the *Payroll Tax Act 2008** is referred to as the Principal Act.

22. Section 29 amended (Motor vehicle allowances)

Section 29(7) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) and substituting the following paragraph:
 - (a) the rate of cents per kilometre determined under subsection 28-25(4) of the ITAA for the purposes of subsection (1) of that section in the financial year immediately preceding the financial year in which the allowance is paid or payable; or
- (b) by inserting in paragraph (b) “of cents per kilometre” after “no rate”.

*No. 16 of 2008

**PART 8 – TAXATION ADMINISTRATION ACT 1997
AMENDED**

23. Principal Act

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

24. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after the definition of *record* the following definition:

Recorder of Titles means the person appointed as Recorder of Titles under section 4(1) of the *Land Titles Act 1980*;

25. Section 20A amended (Commissioner may require information to be provided)

Section 20A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “ownership –” and substituting “ownership; or”;
- (b) by inserting the following paragraph after paragraph (b) in subsection (1):

*No. 74 of 1997

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s. 25

Part 8 – Taxation Administration Act 1997 Amended

(c) a person who is authorised under an approval and who has the express or implied consent of –

(i) the transferee or a tax agent of the transferee; or

(ii) the person who acquires the interest in the beneficial ownership or the tax agent of that person –

to so lodge the information –

(c) by omitting from subsection (1) “or an agent of the Commissioner,”;

(d) by inserting the following subsection after subsection (1):

(1A) If an interest in land is transferred or there is a change of the beneficial ownership of an interest in land –

(a) the transferor or the person who held the interest immediately before the change of the beneficial ownership; or

(b) a tax agent of the transferor or of the person who held the interest immediately before the

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Part 8 – Taxation Administration Act 1997 Amended

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change of the beneficial
ownership; or

(c) a person who is
authorised under an
approval and who has the
express or implied
consent of –

(i) the transferor or a
tax agent of the
transferor; or

(ii) the person who
held the interest
immediately
before the change
of the beneficial
ownership or the
tax agent of that
person –

to so lodge the
information –

must lodge with the
Commissioner, in the approved
form, the information specified,
in an approved form, to be
required to be lodged in relation
to the transfer or change in
beneficial ownership.

Penalty: In the case of –

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Part 8 – Taxation Administration Act 1997 Amended

- (a) a body corporate,
a fine not
exceeding 100
penalty units; or
 - (b) in any other case,
a fine not
exceeding 20
penalty units.
- (e) by inserting in subsection (2) “for the
purposes of subsection (1) or (1A)” after
“an approved form”;
- (f) by inserting in subsection (2) “for the
purposes of subsection (1) or (1A)” after
“the approved form”;
- (g) by inserting in subsection (3) “or
endorsement” after “stamping”;
- (h) by omitting from subsection (4)
“subsection (1)(a) or (b)” twice occurring
and substituting “subsection (1)(a), (b) or
(c)”;
- (i) by inserting the following subsections
after subsection (4):
 - (5) A person referred to in
subsection (1A)(a), (b) or (c) is
taken to have complied with
subsection (1A) in relation to a
transfer or change in beneficial
ownership if any of the following
persons has complied with

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Part 8 – Taxation Administration Act 1997 Amended

s. 25

subsection (1A) in relation to the transfer or change in beneficial ownership:

- (a) another person referred to in subsection (1A)(a), (b) or (c);
 - (b) a person acting on behalf of the person referred to in subsection (1A)(a), (b) or (c);
 - (c) another person referred to in subsection (1)(a), (b) or (c).
- (6) Without limiting the information that may be specified in an approved form, for the purposes of subsection (1) or (1A), as information required to be lodged in relation to a transfer or change in beneficial ownership, the information so specified may consist of, or include, information that is required to be provided by the State under Schedule 1, subsection 396-55 of the *Taxation Administration Act 1953* of the Commonwealth.
- (7) As soon as practicable after receiving information under

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s. 26

Part 8 – Taxation Administration Act 1997 Amended

subsection (1) or (1A), the Commissioner is to provide to –

- (a) the Valuer-General so much of the information as is required by the Valuer-General for the purposes of the *Valuation of Land Act 2001*; and
- (b) the Recorder of Titles so much of the information as is required by the Recorder of Titles for the purposes of the *Land Titles Act 1980*.

26. Section 77 amended (Permitted disclosures)

Section 77(1)(e) of the Principal Act is amended by inserting after subparagraph (i) the following subparagraph:

- (ia) the Recorder of Titles, within the meaning of the *Land Titles Act 1980*;

**PART 9 – TAXATION ADMINISTRATION
REGULATIONS 2010 AMENDED**

27. Principal Regulations

In this Part, the *Taxation Administration Regulations 2010** are referred to as the Principal Regulations.

28. Regulation 6 amended (Administrative fee)

Regulation 6(1) of the Principal Regulations is amended by omitting “, other than by electronic means,” from the definition of *relevant lodging*.

*S.R. 2010, No. 133

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Act 2017
Act No. of

s. 29

Part 10 – Valuation of Land Act 2001 Amended

**PART 10 – VALUATION OF LAND ACT 2001
AMENDED**

29. Principal Act

In this Part, the *Valuation of Land Act 2001** is referred to as the Principal Act.

30. Section 55 repealed

Section 55 of the Principal Act is repealed.

*No. 102 of 2001

Taxation and Related Legislation (Miscellaneous Amendments)
Act 2017
Act No. of

Part 11 – Concluding Provision

s. 31

PART 11 – CONCLUDING PROVISION

31. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.