

DRAFT SECOND READING SPEECH

HON. PETER GUTWEIN MP

Taxation and Related Legislation (Miscellaneous Amendments) Bill 2017

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Madam Speaker,

The Taxation and Related Legislation (Miscellaneous Amendments) Bill 2017 amends the *Duties Act 2001*, *Land Tax Act 2000*, *Land Titles Act 1980*, *Local Government Act 1993*, *Payroll Tax Act 2008*, *Taxation Administration Act 1997*, *Taxation Administration Regulations 2010* and the *Valuation of Land Act 2001*.

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 proposed amendments are designed to maintain the operational integrity of the above Acts by complying with nationally imposed third party reporting requirements, implementing electronic conveyancing, maintaining interjurisdictional consistency, streamlining administration, and ensuring equity for taxpayers. These amendments are expected to have a negligible impact on total State taxation revenue.

Madam Speaker,

The Duties and Taxation Administration Acts are to be amended to facilitate the collection of information required to meet Australian Government third party reporting requirements. Consequential amendments to the Land Titles Act, Local Government Act and Valuation of Land Act are also necessary.

Following announcement in its 2013-14 Budget, the Australian Government has proceeded to implement its tax compliance measure relating to improving compliance through third party reporting and data matching. From 1 July 2016, all states and territories are now required by the *Taxation Administration Act 1953 (Cth)* to fully comply with the reporting requirements by providing a prescribed dataset to the Australian Taxation Office in relation to property transfers. Specifically, states and territories are obliged to collect and report information in relation to transfers of freehold interest in real property that occur from 1 July 2016 onwards.

To date, Tasmania has been complying with its reporting requirements to the extent of providing information to the ATO that is currently collected and available.

The proposed legislative changes provide for system changes and the collection and reporting of additional information, including foreign ownership. In order to comply with the reporting requirements, the Commissioner of State Revenue will collect and report the required information. This ensures that the State will comply with Commonwealth third party reporting requirements for land transfers.

Madam Speaker,

The Duties and Taxation Administration Acts are to be further amended to facilitate the introduction of electronic conveyancing by providing for electronic endorsement and associated modifications when completing property transactions.

Increasingly, legal firms, conveyancers and financial institutions are moving towards completing property transactions electronically.

In response, the Council of Australian Governments in 2010 agreed to the formation of an online property exchange network, called Property Exchange Australia or PEXA. PEXA provides a national electronic conveyancing solution to the Australian property industry.

This amendment is consistent with the COAG agreement and will facilitate the introduction of electronic conveyancing in Tasmania by providing a mechanism for electronic endorsement of duty.

To further support electronic conveyancing, the Taxation Administration Regulations are to be amended to ensure that electronic lodgements are treated consistently with equivalent paper based lodgements, which may include the levying of a lodgement fee in certain circumstances.

Madam Speaker,

The key policy provisions of Tasmania's Payroll Tax Act are harmonised nationally. Tasmania has also agreed to maintain harmonised legislation with New South Wales and Victoria. Harmonisation makes it easier for businesses that operate in multiple jurisdictions to understand and comply with their payroll tax obligations.

The Payroll Tax Act is to be amended to reflect changes to the *Income Tax Assessment Act 1997 (Cth)* in relation to motor vehicle allowances, and to maintain harmonisation with other jurisdictions.

Tasmania's Payroll Tax Act references a motor vehicle allowance rate that was prescribed by regulation under the Commonwealth's Income Tax Assessment Act that has since been repealed. The Commonwealth Commissioner of Taxation has enacted a new provision prescribing a single rate for all motor vehicles.

As this amendment has already commenced in New South Wales and Victoria, it is to commence retrospectively from 1 July 2016 to ensure that Tasmanian employers also have an exempt component of motor vehicle allowances available to them for the 2016-17 financial year.

Madam Speaker,

Land that is classified as principal residence land attracts a land tax rating of zero, meaning land tax is not payable. Under current legislative provisions, where principal residence land becomes part of a deceased estate, and the residence is not occupied by a beneficiary of a deceased estate, the property is reclassified as general land and the estate would incur a land tax liability as at 1 July following the death of the owner.

Depending on the date of death and the complexity of the estate, these arrangements could impose a financial impost on grieving families at a stressful time. For this reason, the Land Tax Act is to be amended to provide for land classified as principal residence land to continue to be

classified as principal residence land for the financial year following death, provided that it was previously the place of residence of a deceased person who was the sole owner. This should allow sufficient time for administration of the estate. Any adjoining land classified as principal residence land at the date of death will also have an extension available subject to it meeting similar conditions.

Madam Speaker, this amendment is designed to reduce the burden on deceased estates by providing an extension to principal residence land classifications, and it potentially relieves a financial impost for family members at what is a very stressful time.

Madam Speaker,

The Duties Act is to be amended to reduce the burden of proof required to be eligible for an exemption from duty for the transfer of a motor vehicle to the beneficiary of a deceased estate.

Currently when a motor vehicle is transferred from a deceased estate, duty will be charged unless certain circumstances exist that warrant exemption. The cost associated with pursuing an exemption, either by the executor or administrator, may exceed the cost of the transfer of duty after taking into account legal fees and probate costs.

Under the new arrangements, an executor of an estate will now be able to apply for an exemption from duty when transferring a motor vehicle to an intended beneficiary, provided that the executor is specified in the will, and a statutory declaration is completed stating that the will is the last known will of the deceased.

This amendment more closely reflects the original policy intent, addresses concerns previously raised by the legal fraternity regarding costs, and will streamline the application process for taxpayers.

Madam Speaker,

There have been a number of changes to the Duties Act in past years to focus the collection of duty on land based transactions, and to move away from imposing duty on instruments that do not transfer or affect the ownership of land. Duty on the following items is now considered inconsistent with those underlining principles and will be abolished from the Act:

- the establishment of a trust relating to unidentified property and non-dutiable property;
- an instrument relating to managed investment scheme that does not transfer, or have the effect of transferring, any dutiable property;
- an instrument that establishes, or that amends, provisions governing a superannuation fund and various other superannuation related instruments; and
- applications to amend strata plans.

Madam Speaker,

The majority of these amendments are likely to be well received as they are taxpayer favourable and will improve the clarity and administration of the legislation. These amendments will clarify the policy intent of the primary legislation, which will provide certainty to both the Commissioner of State Revenue and the taxpayer. I am pleased to say that a number of the

amendments streamline processes and are consistent with the Government's ongoing red tape reduction strategy.

Madam Speaker, I commend this Bill to the House and recommend it be read a second time.