

FACT SHEET

TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL (NO.2) 2011

- The Taxation and Related Legislation (Miscellaneous Amendments) Bill (No.2) 2011 amends the *Duties Act 2001*, the *First Home Owner Grant Act 2000*, the *Land Tax Act 2000*, the *Payroll Tax Act 2008*, and the *Taxation Administration Act 1997*.
- The Duties Act is to be amended to:
 - Allow the Commissioner of State Revenue to disregard the value of goods in determining the dutiable value of property in a transaction that consists of a grant, surrender or transfer of lease of a commercial property that also involves goods.
 - Provide an exemption on a declaration of trust over property or transfer to the trustee of a special disability trust, if the property is to be used as the principal place of residence of the beneficiary of the special disability trust.
 - Clarify that for the purposes of the land-rich provisions, an interest in a mineral tenement or an interest in a gas pipeline is taken to be an interest in land.
 - Clarify that if a private corporation has an entitlement to or interest in land, anything that is part of the land as a fixture is to be taken into account in determining the extent of the interest in land.
 - Update the intergenerational rural transfer exemption provisions to reflect contemporary ownership structures of family farming businesses.
- The First Home Owner Grant Act is to be amended to:
 - Clarify that an applicant cannot apply for a review by the Court or administrative review body unless they have first followed the objection processes contained in the First Home Owner Grant Act.

This amendment will ensure that the review rights and processes applying to decisions under the First Home Owner Grant Act are consistent with those applying to taxpayers under the Taxation Administration Act.

- The Land Tax Act is to be amended to:
 - Allow land held in a special disability trust to be classified as principal residence land, provided the land is occupied by the beneficiary of the trust as their principal place of residence and the beneficiary does not own any other principal residence land.

- The Payroll Tax Act is to be amended to:

Adopt the harmonised payroll tax treatment of shares and options granted to employees, deemed employees (generally contractors) and directors. At present, the Payroll Tax Act relies upon certain provisions contained in the *Income Tax Assessment Act 1936* (Cwlth) which have been repealed and replaced with significantly different provisions. The previous link to, and reliance on, the Commonwealth's definitions and concepts has consequently been lost.

These amendments are to commence on 1 July 2012.

- The Taxation Administration Act is to be amended to:
 - Modify the existing refund provisions to make it simpler for the Commissioner to issue a refund of overpaid tax when the overpayment has been identified as part of an investigation.
 - Prevent a taxpayer from objecting to an assessment that results from the Commissioner's determination of a previous objection.
 - Clarify that if an assessment is made and/or tax paid based on an interpretation or practice that applied at the time, the taxpayer cannot later request a reassessment or refund, nor the Commissioner issue a reassessment for additional tax, based on a new interpretation or practice that applied after the original assessment or payment, unless a legislative change brings about that change in interpretation or practice. This amendment is to apply from 25 October 2008 to protect the revenue base for the full three year statutory refund period.
- The *Revenue Legislation (Miscellaneous Amendments) Act 2002* and the *Revenue Measures Act 2005* are to be repealed, and those "savings and transitional arrangements" that are still necessary are to be incorporated into the Duties Act and the Taxation Administration Act.