

TAXATION CONCESSIONS AND REBATES BILL 2011

NOTES ON CLAUSES

Part 1 – Preliminary

Part 1 of the Act contains the short title and commencement provisions.

Clause 1 Short title.

Clause 2 Parts 2 and 4 of the Act are taken to have commenced on 16 June 2011, Parts 4 and 5 are taken to have commenced on 1 July 2011, and Part 3 is taken to have commenced on 16 December 2011. Part 1 commences on the day on which the Act receives Royal Assent.

Part 2 – *Duties Act 2001* Amended

Clause 3 In this Part, the *Duties Act 2001* is referred to as the Principal Act.

Clause 4 Amends section 30 so that the concessional rate of duty available to eligible first home buyers applies to a dutiable transaction only if the agreement for sale or transfer is entered into on or before 20 May 2004 and on or before 16 June 2011.

The term “agreement for sale or transfer” used in section 30 and throughout the *Duties Act*, refers to the real estate purchase contract. It does not refer to the transfer instrument itself.

A note is inserted to clarify that while the *agreement* for sale or transfer must have been entered into on or after 20 May 2004 and on or before 16 June 2011, it is not necessary that the transfer of dutiable property take place on or before 16 June 2011.

The concessional rate of duty does not apply if the Commissioner is of the opinion that the agreement for sale or transfer was entered into as part of a scheme.

This clause provides that the Commissioner, unless satisfied to the contrary, is to presume the existence of a scheme if the parties to an agreement for sale or transfer entered into after 16 June 2011 enter into another agreement for sale or transfer with respect to the same property on or before 16 June 2011 (by backdating an agreement for example).

This clause provides that the parties to an agreement for sale or transfer in section 6 and 6A includes a person or persons nominated by the parties.

- Clause 5 Amends sections 30A(1)(c) and 30A(2) so that these provisions refer to both a transfer and an agreement for sale or transfer.

Amends section 30 so that the concessional rate of duty available to eligible first home buyers applies to an agreement for sale or transfer only if the agreement is entered into on or after 20 May 2004 and on or before 16 June 2011.

Part 3 – *Duties Act 2001 Further Amended*

- Clause 6 In this Part, the *Duties Act 2001* is referred to as the Principal Act.
- Clause 7 Repeals section 30 of the Principal Act and relies on the *Acts Interpretation Act 1931* for any transitional issues.
- Clause 8 Repeals section 30A of the Principal Act and relies on the *Acts Interpretation Act 1931* for any transitional issues.

Part 4 – *Employment Incentive Scheme (Payroll Tax Rebate) Act 2009 Amended*

- Clause 9 In this Part, the *Employment Incentive Scheme (Payroll Tax Rebate) Act 2009* is referred to as the Principal Act.
- Clause 10 Provides for the Crown to establish a scheme for the payment of rebates equivalent to the payroll tax paid on new employment created between 16 June 2011 and 30 June 2012, and provides that rebates may be paid in respect of wages paid before 1 July 2013.
- Clause 11 Amends the date on which the Act is repealed from 1 January 2015 to 1 January 2017.
- Clause 12 Provides that a claim under a scheme established under section 4(1) may not be made after 31 December 2011, and a claim under a scheme established under section 4(3) may not be made after 31 December 2013.

Part 5 – *Land Tax Act 2000 Amended*

- Clause 13 In this Part, the *Land Tax Act 2000* is referred to as the Principal Act.
- Clause 14 Amends section 3 by omitting the definition of shack land.
- Clause 15 Repeals section 6A, which formerly provided the criteria that must be met before the Commissioner determined land to be shack land.
- Clause 16 Amends section 8 by omitting shack land from the list of land classes that general land is not. Paragraph (c), which is being omitted, will not be incorporated into the Land Tax Act until 1 July 2011 when Part 4 of the *Taxation and Related Legislation*

(Miscellaneous Amendments) Act 2011 commences.

- Clause 17 Amends section 16 so that the owner of land is no longer required to notify the Commissioner if it ceases to be shack land.
- Clause 18 Amends subsections 19(a) and (b) so that principal residence land and primary production land owned 50 per cent or more by a person in receipt of a current Pensioner Concession Card or other prescribed card, or a person in receipt of a special rate pension under the *Veteran's Entitlements Act 1986* of the Commonwealth, is exempt from land tax. The result of this amendment is that general land owned 50 per cent or more by these classes of pensioners is no longer exempt from land tax.
- Clause 19 Amends subsection 20(2) by omitting shack land from the list of land classes for which land tax may be set in respect of.
- Clause 20 Amends subsection 24(1A) by omitting shack land from the classes of land that may be aggregated under subsection 24(1) if the owner holds more than one parcel of land in the same class.
- The inclusion of shack land amongst the classes of land that may be aggregated under subsection 24(1) will not be incorporated into the Land Tax Act until 1 July 2011 when Part 4 of the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2011* commences.
- Clause 21 Amends subsection 36(1) by omitting whether land is shack land from the facts that the owner of land is to establish to the Commissioner's satisfaction.

Part 6 – Land Rating Tax Act 2000 Amended

- Clause 22 In this Part, the *Land Rating Tax Act 2000* is referred to as the Principal Act.
- Clause 23 Repeals section 5A, which formerly provided that the amount of land tax payable in respect of shack land was nil.

Part 7 – Repeal

- Clause 24 Provides that this Act is repealed on the 90th day from the day on which Part 3 commences.