

# TASMANIA

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## **TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2016**

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**TAXATION AND RELATED LEGISLATION  
(MISCELLANEOUS AMENDMENTS) BILL 2016**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
14 September 2016

*(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 *Payroll Tax Act 2008*, the *Taxation Administration Act 1997* and the *First Home Owner Grant Act 2000***

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 2016*.

**2. Commencement**

- (1) Except as provided in this section, the provisions of this Act commence on the day on which this Act receives the Royal Assent.

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Part 1 – Preliminary

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- (2) Part 3 is taken to have commenced on 1 July 2001.

**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 7 amended (Imposition of duty on dutiable transactions that are not transfers)**

Section 7(1) of the Principal Act is amended by omitting “section 6(1)(b)” and substituting “section 6(1)(b) or (c)”.

**5. Section 56 amended (Exemptions – break-down of marriages)**

Section 56(3)(b) of the Principal Act is amended by inserting after subparagraph (i) the following subparagraph:

- (ia) a financial agreement made under section 90B, 90C or 90D of that Act; or

**6. Section 56A amended (Exemptions – break-down of de facto relationships)**

Section 56A(3)(b) of the Principal Act is amended by inserting after subparagraph (i) the following subparagraph:

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\*No. 15 of 2001

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Part 2 – Duties Act 2001 Amended

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- (ia) a financial agreement made under section 90UB, 90UC or 90UD of that Act; or

**7. Section 248 amended (Assessment where consideration inadequate)**

Section 248 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “on the agreement or other instrument” and substituting “on the dutiable transaction, or on the agreement or other instrument,”;
- (b) by inserting in subsection (4) “dutiable transaction or” after “any”;
- (c) by omitting from subsection (5) “any instrument” and substituting “a dutiable transaction or instrument”;
- (d) by omitting subsection (6) and substituting the following subsection:
  - (6) If the Commissioner determines an objection referred to in subsection (5), the Commissioner may –
    - (a) determine the value of the real property by treating as the unencumbered value of the real property the value declared in the

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declaration provided  
under subsection (5); or

(b) if not satisfied with the  
value of the real property  
declared in the declaration  
provided under  
subsection (5) –

(i) have the property  
valued; and

(ii) determine the  
value of the real  
property by  
treating as the  
unencumbered  
value of the real  
property the value  
declared in the  
declaration  
provided under  
subparagraph (i).

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Part 3 – Duties Act 2001 Further Amended

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**PART 3 – DUTIES ACT 2001 FURTHER AMENDED**

**8. Principal Act**

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

**9. Section 57AA inserted**

After section 57 of the Principal Act, the following section is inserted in Part 6:

**57AA. Exemptions – certain vestings**

No duty is chargeable under this Chapter on a vesting of dutiable property if –

- (a) it is a vesting of dutiable property in a legal personal representative of a deceased person or under section 12 of the *Administration and Probate Act 1935*; or
- (b) it is a vesting, under the *Associations Incorporation Act 1964*, of dutiable property in an incorporated association; or
- (c) it is a vesting, under the *Strata Titles Act 1998*, of common property in a body corporate on the registration of a strata plan under that Act; or

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\*No. 15 of 2001



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- (d) it is a vesting of dutiable property under section 28 of the *Strata Titles Act 1998* by virtue of the cancellation of a strata plan.

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s. 10

Part 4 – First Home Owner Grant Act 2000 Amended

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**PART 4 – FIRST HOME OWNER GRANT ACT 2000  
AMENDED**

**10. Principal Act**

In this Part, the *First Home Owner Grant Act 2000*\* is referred to as the Principal Act.

**11. Section 13 amended (Eligible transaction)**

Section 13(6) of the Principal Act is amended by inserting “(being, if the moveable building is purchased after the day on which the amendment to this subsection made by the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* commences, a new moveable building)” after “a moveable building”.

**12. Section 18 amended (Amount of grant)**

Section 18(2) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (ac):
  - (ad) if the first home owner grant relates to an eligible transaction that satisfies section 18D, the amount is \$20 000; or

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\*No. 19 of 2000

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Part 4 – First Home Owner Grant Act 2000 Amended

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- (b) by omitting from paragraph (b) “section 18A, 18B or 18C” and substituting “section 18A, 18B, 18C or 18D”.

**13. Section 18D inserted**

After section 18C of the Principal Act, the following section is inserted in Division 5:

**18D. Conditions on increase of grant**

- (1) In this section –

*contract for an off-the-plan purchase*,  
in relation to a new home, means  
a contract for both –

- (a) the purchase of land or an interest in land; and
  - (b) the construction of a new home on that land.
- (2) An eligible transaction satisfies this section if –
    - (a) the commencement date of the eligible transaction is on or after 1 July 2016 but before 1 July 2017; and
    - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months

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Part 4 – First Home Owner Grant Act 2000 Amended

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after the commencement date of  
the eligible transaction.

- (3) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (2) for the eligible transaction to be completed even though the period has expired.
- (4) Despite subsection (2), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2016, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (5) For the avoidance of doubt, a payment of \$20 000 that –
  - (a) was made in anticipation of Part 4 of the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* receiving the Royal Assent; and
  - (b) was made on or after 1 July 2016 but before the *Taxation and Related Legislation*

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*2016* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as amended by that Act, applies.

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s. 14

Part 5 – Land Tax Act 2000 Amended

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**PART 5 – LAND TAX ACT 2000 AMENDED**

**14. Principal Act**

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

**15. Section 38 amended (Special rate of land tax)**

Section 38(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) four-tenths of a cent for every dollar of so much of the assessed land value of the land as is above \$25 000 and zero cents for every dollar of so much of the assessed land value of the land as is \$25 000 or less; or

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\*No. 74 of 2000

*Taxation and Related Legislation (Miscellaneous Amendments)*  
*Act 2016*  
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Part 6 – Payroll Tax Act 2008 Amended

s. 16

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**PART 6 – PAYROLL TAX ACT 2008 AMENDED**

**16. Principal Act**

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

**17. Section 32 amended (What is a relevant contract?)**

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(c)(iii) “contractor –” and substituting “contractor; or”;
- (b) by omitting from subsection (2)(c) “unless the Commissioner determines that the contract or arrangement under which the services are so supplied was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person; or”;
- (c) by omitting paragraph (d) from subsection (2) and substituting the following paragraph:
  - (d) is supplied with services solely for or ancillary to the conveyance of goods by means of a vehicle

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\*No. 16 of 2008

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Part 6 – Payroll Tax Act 2008 Amended

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provided by the person conveying them.

(d) by inserting the following subsections after subsection (2):

(2A) Subsection (2) does not apply if the Commissioner determines that the contract or arrangement under which the services are supplied was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person.

(2B) Subsection (2)(a), (b), (c) or (d) does not apply to a contract under which any additional services or work (of a kind not covered by the relevant paragraph) are supplied or performed under the contract.

**18. Section 80 amended (Designated group employers)**

Section 80 of the Principal Act is amended as follows:

(a) by omitting from subsection (2) “exceeded \$1 010 000” and substituting “exceeded \$1 250 000”;

(b) by omitting from subsection (3) “exceeded \$1 010 000” and substituting “exceeded \$1 250 000”.



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Part 6 – Payroll Tax Act 2008 Amended

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**19. Section 86 amended (Registration)**

Section 86(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “\$19 423 per week” and substituting “\$24 038 per week”;
- (b) by omitting from paragraph (b) “\$19 423 per week” and substituting “\$24 038 per week”.

**20. Schedule 2 amended (Tasmania-Specific Provisions)**

Schedule 2 to the Principal Act is amended by inserting after clause 17 in Part 6 the following clause:

**18. Refunds**

- (1) An application under section 83 for a refund in relation to a financial year may not be made more than 5 years after the most recent of the payments, in relation to the financial year, to which the refund applies was made.
- (2) All or part of an amount of any refund payable to an employer under section 83 may be applied by the Commissioner against any liability of the employer under a taxation law or another Act of which the Commissioner has the general administration.

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Part 6 – Payroll Tax Act 2008 Amended

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**21. Schedule 3 amended (Savings, transitional and other provisions)**

Schedule 3 to the Principal Act is amended by inserting after clause 13 in Part 4 the following Part:

**PART 5 – PROVISIONS CONSEQUENT ON ENACTMENT OF  
TAXATION AND RELATED LEGISLATION (MISCELLANEOUS  
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**14. Application of amendments**

- (1) An amendment made to section 32 by the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* has effect in respect of any amount, benefit or payment referred to in section 35 that is, on or after the date of commencement of the amendment, paid, payable, provided, or made, for or in relation to –
  - (a) the performance of work; or
  - (b) the re-supply of goods.
- (2) Despite subclause (1), an amendment made to section 32 by the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* does not apply to any amount, benefit or payment referred to in section 35 that is paid, payable, provided, or made, for or in relation to –

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- (a) the performance of work before the date of commencement of the amendment; or
  - (b) the re-supply of goods before the date of commencement of the amendment.
- (3) Clause 18 of Part 6 of Schedule 2 applies to any payment whether made before or after the date of commencement of that clause.

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Part 7 – Taxation Administration Act 1997 Amended

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**PART 7 – TAXATION ADMINISTRATION ACT 1997  
AMENDED**

**22. Principal Act**

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

**23. Section 19 amended (Reassessment)**

Section 19(3) of the Principal Act is amended by omitting “3 years” and substituting “5 years”.

**24. Section 28 amended (Application for refund)**

Section 28 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

(3) An application in relation to an amount –

(a) is to be in an approved form; and

(b) is to be –

(i) lodged with the Commissioner within 5 years after the date on which the amount was paid; or

(ii) if the amount is one of 2 or more amounts, to

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\*No. 74 of 1997

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Part 7 – Taxation Administration Act 1997 Amended

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which the application relates, that were instalments paid under section 13 of the *Land Tax Act 2000* in the same financial year and were not paid under an arrangement under section 59 of this Act – lodged with the Commissioner within 4 years after the most recent payment in relation to those amounts was made.

**25. Section 29 amended (Refund)**

Section 29 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) A person who has lodged an application under section 28 in relation to an amount is not entitled to a refund of the amount, or to have the amount applied against any liability referred to in subsection (1)(b), unless the application is –
- (a) lodged with the Commissioner within 5 years after the date on which the amount was paid; or
  - (b) if the amount is one of 2 or more amounts, to which the application relates, that were instalments paid

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Part 7 – Taxation Administration Act 1997 Amended

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under section 13 of the *Land Tax Act 2000* in the same financial year and were not paid under an arrangement under section 59 of this Act – lodged with the Commissioner within 4 years after the most recent payment in relation to those amounts was made.

**26. Section 29A amended (Payment of interest)**

Section 29A of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) Despite subsection (1), the Commissioner may apply, against any liability of a person under a taxation law, or another Act of which the Commissioner has the general administration, an amount of interest that the Commissioner would otherwise be required under that subsection to pay to the person.

**27. Section 59A inserted**

After section 59 of the Principal Act, the following section is inserted in Part 7:

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Part 7 – Taxation Administration Act 1997 Amended

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**59A. Payment of amount of tax to liquidators, &c.**

The Commissioner may, in satisfaction of a demand by a liquidator, pay to the liquidator an amount of tax, received by the Commissioner, that constitutes all or part of a voidable transaction under the Corporations Act.

**28. Section 94 amended (Refund of amount)**

Section 94 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “upheld, the Commissioner must refund any amount paid in excess of a requirement for payment under the relevant taxation law.” and substituting “upheld, the Commissioner must –”;
- (b) by inserting the following paragraphs after subsection (1):
  - (a) refund any amount paid in excess of a requirement for payment; or
  - (b) apply the amount paid in excess of a requirement for payment against any liability of the person under a taxation law, or another Act of which the Commissioner has the general administration, and refund any part of the amount

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Part 7 – Taxation Administration Act 1997 Amended

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paid in excess that is not so applied.

- (c) by omitting from subsection (2) “must refund any amount paid in the relevant period in excess of a requirement for payment under the relevant taxation law.” and substituting “must –”;
- (d) by inserting the following paragraphs after subsection (2):
  - (a) refund any amount paid in the relevant period in excess of a requirement for payment; or
  - (b) apply the amount paid in the relevant period in excess of a requirement for payment against any liability of the person under a taxation law, or another Act of which the Commissioner has the general administration, and refund any part of the amount paid in excess that is not so applied.
- (e) by omitting from subsection (3) “3 years” and substituting “5 years”.

**29. Section 95 amended (Payment of interest)**

Section 95 of the Principal Act is amended by inserting after subsection (1) the following subsection:



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(1A) Despite subsection (1), the Commissioner –

- (a) may apply so much of any interest calculated in accordance with that subsection against any liability of the relevant person under a taxation law, or another Act of which the Commissioner has the general administration; and
- (b) is not required to pay under that subsection so much of an amount of interest as is applied under paragraph (a).

**30. Schedule 1 amended (Savings and transitional)**

Schedule 1 to the Principal Act is amended by inserting after clause 11 the following clause:

**12. Refunds where period altered by *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016***

The amendments to sections 28 and 29 made by the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* do not apply in relation to a payment, or purported payment, under a taxation law if an application for a refund was, before the day on which those provisions were so amended, made under

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Part 7 – Taxation Administration Act 1997 Amended

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section 29 in relation to the payment or  
purported payment.

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*Act 2016*  
*Act No. of*

Part 8 – Concluding Provision

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**PART 8 – CONCLUDING PROVISION**

**31. Repeal of Act**

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