

FACT SHEET

Duties Amendment Bill 2019

- The Duties Amendment Bill 2019 will amend the definition of a foreign person in the *Duties Act 2001* by providing:
 - that a discretionary trust may be considered non-foreign for the purposes of determining a FIDS liability if the trust's deed is amended such that the trustee is not able to distribute 50 per cent or more of the trust's capital to foreign beneficiaries. The trust amendment must be made within six months of the provision commencing or within six months of a FIDS liable transaction on an ongoing basis;
 - that a transferee may apply to the Commissioner of State Revenue for a refund of the FIDS paid on a transaction if they cease being a foreign natural person within six months of the transaction;
 - providing that under certain conditions, the FIDS is not payable by the foreign spouse of a non-foreign individual for the purchase of their principal residence home, or that the FIDS is to be refunded to such taxpayers that buy land and establish their principal residence on the land; and
 - the Commissioner with the discretion to determine that a transferee, who would otherwise be considered foreign, is not a foreign person and is therefore not subject to the FIDS.
- These amendments will have retrospective effect from 1 July 2018. Where the FIDS has already been paid by a person, who, as a result of the above changes, is no longer considered foreign in relation to a relevant transaction, the taxpayer will have the opportunity to apply to the Commissioner for a refund of the FIDS paid.
- The Duties Amendment Bill 2019 will also increase the FIDS on the proportion of the dutiable value of:
 - residential property directly or indirectly acquired by foreign persons to 8 per cent; and
 - primary production property directly or indirectly acquired by foreign persons to 1.5 per cent.
- The increased surcharge rates will apply to transactions entered into on or after 1 April 2020. However, for transactions that attract the surcharge and are entered into prior to 1 April 2020, the current, lower surcharge rate will apply.