

SECOND READING SPEECH

Taxation Legislation (Miscellaneous Amendments) Bill 2014 and the Land Tax Rating Amendment Bill 2014

Madam Speaker,

The Taxation Legislation (Miscellaneous Amendments) Bill 2014 amends the *Duties Act 2001*, the *Land Tax Act 2000*, and the *Taxation Administration Act 1997*.

Cognate to this Bill, the Land Tax Rating Amendment Bill 2014 amends the *Land Tax Rating Act 2000*.

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 amendments contained in these Bills clarify existing provisions, improve equity of application, and provide certainty for taxpayers. Being largely administrative in nature, it is expected there will be negligible impact on revenue.

Duties Act

Madam Speaker,

The Duties Act currently provides a duty exemption for transfers made in full accordance with a Will. However, if any element of the transfer is not in accordance with the Will, the transfer would be dutiable at the full amount of the transfer.

This amendment provides a pro rata exemption where a transfer is made in partial conformity with the terms of a Will. The amendment will remove red tape

by replacing the current two-step process for a partially conforming transfer of property from deceased estates, with one step.

Two further minor amendments are being made to the Duties Act to remedy previous drafting shortfalls. One clarifies that premiums paid for or in connection with the grant, transfer or surrender of a lease will only be dutiable where a premium exceeding a fixed sum is paid.

The other minor amendment to the Duties Act will ensure that a relative of the transferor includes their spouse or caring partner for the purposes of the intergenerational rural transfer exemption. Both of these amendments will commence retrospectively, as was intended when first contemplated.

Land Tax Act

Joint tenancies versus tenants in common

Madam Speaker,

Under the Land Tax Act, a Principal Residence Land classification is applied to land that is the principal residence of an owner (or a related person of the owner) of at least a 50 per cent interest in the land.

The State Revenue Office has historically treated joint tenancy and tenants in common in the same way for the purposes of applying a Principal Residence Land classification; however the Solicitor-General has recently advised that the legislation as currently worded does not allow this.

As such, the Land Tax Act is being amended to reflect the policy intent, which is, to ensure that the “50 per cent or more” eligibility test is applied to land held by joint tenants in the same way as it is applied to land held by tenants in common.

Notifying the Commissioner of a partial land use change

The Land Tax Act currently requires an owner to notify the Commissioner where the use of land changes, for example, where it ceases to be Principal Residence Land.

However, it does not require an owner to notify the Commissioner when only part of the land changes use, for example, when part of a Principal Residence Land classified property is rented out.

This Bill amends the Land Tax Act to make it clear that an owner must, within 30 days, notify the Commissioner where there is a partial change in land use.

Apportionment of exempt, zero rated, and general land

The Land Tax Act currently describes the methodology for apportioning exempt or zero rated land and general land for various classifications and exemptions.

For example, where a parcel of land is partly used as a park or garden for public recreation (exempt from land tax) and the remainder of the land is not a park or garden used for public recreational use (not exempt and therefore classified as general), the Act provides for the Commissioner to apportion the value of the land between exempt land and general land to determine the land tax owing.

The Land Tax Act, as currently worded, only contemplates one exemption per parcel of land. However, there may be instances where a parcel of land has multiple types of exemptions or zero rated classifications. For example, council land that contains a park and a flood prevention structure would both be exempt land.

This amendment will provide the Commissioner with discretion to determine an apportionment between land classifications and uses. It will ensure that taxpayers, primarily councils, receive the maximum entitlement to relief from land tax for land used for exempt or zero rated purposes.

Paying outstanding Land Tax upon the sale of property

Madam Speaker,

In 2013, the Land Tax Act was amended to require that an owner, upon the sale of a property, must pay any land tax owing on the sold land as well as any land tax in default on other land (including any interest and penalty tax). However this amendment did not provide a time frame for payment to be made.

Due to this omission, it is likely that the Commissioner would be unable to enforce payment under the provisions of the Act on the basis that a payment period is not specified in the Land Tax Act.

This Bill inserts a new section into the Land Tax Act that requires a vendor to pay any land tax owing on a property being sold, together with land tax in default on any other properties owned, before the end of the day on which a sale or transfer of property owned by the vendor settles.

Apportioning Primary Production Land

The Land Tax Act identifies several different categories of activity that are eligible for a Primary Production Land classification, including land used substantially for the business of primary production, land declared a private timber reserve or land subject to a certified forest practices plan under the *Forest Practices Act 1985*.

The Land Tax Act currently allows the apportionment of the land value between land used for the business of primary production and general land, but there is no apportionment mechanism for the other types of eligible Primary Production Land uses. For example, it does not provide for an apportionment between general land and land used for a private timber reserve.

There is no policy reason why the other categories of Primary Production Land are excluded, and their omission appears to be an oversight.

This amendment will provide for the apportionment between general land and all types of eligible Primary Production Land classified land.

Flood levees

Madam Speaker,

In 2013, an amendment was made to the Land Tax Act to provide a land tax exemption for land or part of land owned by councils where that land contains a flood levee.

The current definition of “flood levee” has been queried as to whether it could include infrastructure such as storm water pipes that run under buildings, which were not intended to be exempt.

This amendment provides a new and tighter definition of “flood prevention structure” to exclude structures if an unrelated capital improvement is situated on, above or below the structure. This amendment will commence retrospectively.

Taxation Administration Act

Information Collection

Madam Speaker,

The State Revenue Office currently sources certain information regarding land use from the Land Titles Office, specifically from Notice of Sale. The State Revenue Office pays the Land Titles Office to collect this information on its behalf.

Historically, the State Revenue Office, Lands Titles Office and the Office of the Valuer-General, have all used information obtained on these forms, and it was a practical solution for all three agencies to collect the required information from the one form. However, system and process changes now mean that the Lands Titles Office and the Office of the Valuer-General can obtain the information they require from other sources, and no longer require the Notice of Sale form.

It is therefore proposed that the State Revenue Office collects the information it requires directly from taxpayers at the time they lodge dutiable documents for stamping. This measure will reduce the administrative burden on the Lands Titles Office, reduce the double handling of information, and provide a direct saving to the State Revenue Office.

This amendment will enable the Commissioner to require a person obtaining an interest in land to provide, at the time documents are lodged for stamping, specified information that is relevant to the administration of the taxation laws. It also enables the Commissioner to refuse to stamp or endorse an instrument in the absence of the specified information being provided.

Land Tax Rating Act

Setting tax rates on non-partially exempt land

Madam Speaker,

As a consequence of introducing a new section 30A into the Land Tax Act (which provides the Commissioner with discretion to apportion the value of land between multiple exempt and zero rated land tax classifications), the Land Tax Rating Act 2000 needs to be amended.

This amendment will ensure that any such proportion of the land that is general, which is not exempt land under sections 19A, 19B, 19C or 30A, is subject to Schedule I of the Land Tax Rating Act.

Conclusion

Madam Speaker,

Several of these amendments will streamline processes for taxpayers and, more generally, provide greater fairness and equity in the application of our state taxation legislation. A number of the changes clarify the policy intent which will provide certainty to both the Commissioner of State Revenue and the taxpayer.

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