

# TASMANIA

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## TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2024

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# **TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2024**

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.

LAURA ROSS, *Clerk of the House*  
18 June 2024

*(Brought in by the Treasurer, the Honourable Michael Darrel  
Joseph Ferguson)*

## **A BILL FOR**

**An Act to amend the *Duties Act 2001* and the *Land Tax 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 Legislation (Miscellaneous Amendments) Act 2024*.

### **2. Commencement**

This Act is taken to have commenced on 1 July 2024.

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Part 2 – Duties Act 2001 Amended

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**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 19 amended (What is the consideration for the transfer of dutiable property?)**

Section 19 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “If,” and substituting “Subject to the grant of an application under subsection (5), if,”;
- (b) by inserting the following subsections after subsection (3):
  - (4) A transferee in respect of a dutiable transaction may apply, in the approved form, to the Commissioner to determine that consideration for the dutiable transaction does not include the consideration relating to the relevant improvements performed on the dutiable property after the relevant agreement but before the dutiable transaction.

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\*No. 15 of 2001

*Taxation Legislation (Miscellaneous Amendments) Act 2024*  
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- (5) If the Commissioner is satisfied that the requirements of subsection (2)(a), (b) and (c) have been met in relation to the dutiable property that is the subject of the dutiable transaction, the Commissioner may grant the application made under subsection (4) in relation to that transaction.
- (6) Despite the Commissioner granting an application under subsection (5), the transferee in relation to the application may apply to the Commissioner to have the grant of the application revoked.

**5. Chapter 2, Part 5, Division 2C inserted**

After section 46R of the Principal Act, the following Division is inserted in Part 5:

***Division 2C – Pre-completion duty concession***

**46S. Interpretation of Division 2C**

In this Division –

***eligible buyer*** – see section 46U;

***eligible dwelling*** –see section 46V;

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*eligible period* means the period commencing on 1 July 2024 and ending on 30 June 2026;

*eligible transaction* – see section 46W.

**46T. Extension of eligible period**

- (1) The Minister, by order and on one or more occasions, may extend the eligible period by omitting the date on which the period ends and substituting a new date.
- (2) Sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subsection (1) as if the order were regulations within the meaning of that Act.
- (3) An order under subsection (1) –
  - (a) is a statutory rule for the purposes of the *Rules Publication Act 1953*; and
  - (b) is not an instrument of a legislative character for the purposes of the *Subordinate Legislation Act 1992*.

**46U. Eligible buyer**

- (1) For the purposes of this Division, a person is an eligible buyer if the

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Commissioner is satisfied that the person –

- (a) is a natural person; and
  - (b) has attained the age of 18 years; and
  - (c) subject to subsection (3), is an Australian citizen or permanent resident.
- (2) The Commissioner may exempt a person from the requirement in subsection (1)(b), in respect of a transfer of land on which an eligible dwelling is situated, if the Commissioner is satisfied that the transfer of land to the person does not form part of a scheme to circumvent requirements affecting eligibility for a duty concession under section 46X.
- (3) If, in respect of an eligible transaction, there is more than one transferee and at least one of the transferees is an Australian citizen or permanent resident, it is not necessary for the other transferees to be Australian citizens or permanent residents.

**46V. Eligible dwelling**

- (1) In this section –

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***conjoined***, in respect of a dwelling,  
means a dwelling that shares,  
with another dwelling, a wall  
that –

- (a) forms part of both  
dwellings; and
- (b) separates the dwellings;

***Register*** has the same meaning as in  
the *Land Titles Act 1980*;

***strata scheme*** has the same meaning  
as in the *Strata Titles Act 1998*.

(2) For the purposes of this Division, the  
following dwellings are eligible  
dwellings –

- (a) a dwelling that is situated on land  
that comprises a lot in a strata  
scheme;
- (b) a dwelling which is situated on  
land described in a folio of the  
Register that is conjoined with  
one or more other dwellings that  
are all situated on land described  
in one or more other folios of the  
Register;
- (c) a dwelling in relation to which  
the Commissioner has made a  
determination under  
subsection (3) that the dwelling is  
an eligible dwelling.



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- (3) Despite subsection (2)(a) and (b), the Commissioner may determine, for the purposes of this Division –
- (a) that a dwelling is an eligible dwelling; or
  - (b) that a dwelling is not an eligible dwelling.
- (4) A decision of the Commissioner under subsection (3) is a non-reviewable decision within the meaning of the *Taxation Administration Act 1997*.

**46W. Eligible transaction**

- (1) In this section –
- occupancy permit*** means an occupancy permit, within the meaning of the *Building Act 2016*, for the purposes of residential occupancy of a dwelling.
- (2) For the purposes of this Division, an ***eligible transaction*** means a transfer of land on which an eligible dwelling is situated if that transfer meets the following requirements:
- (a) each transferee is an eligible buyer;
  - (b) the transfer is in relation to an eligible dwelling in respect of

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which an application for an occupancy permit has not been granted at the time at which the agreement for sale is executed in relation to the eligible dwelling;

- (c) the agreement for sale of the eligible dwelling is executed during the eligible period;
- (d) the dutiable value of the transfer does not exceed the prescribed amount or, if no amount is prescribed, \$750 000;
- (e) the transfer of the land on which the eligible dwelling is situated occurs before the fifth anniversary of the end of the eligible period;
- (f) the transfer is not a transfer to which section 19(2) has been applied in determining the dutiable value of the transfer of the dutiable property;
- (g) the transfer has not attracted another duty concession, or duty exemption, under this Chapter;
- (h) a grant authorised under the *First Home Owner Grant Act 2000* has not been paid in relation to the agreement for sale in respect of the transfer.

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**46X. Pre-completion duty concession**

- (1) The duty chargeable on an eligible transaction is 50% of the duty that would be chargeable, at the rate specified in section 29, on a transfer of the dutiable property.
- (2) If a duty concession is applied in respect of a transfer under this Division, a grant under the *First Home Owner Grant Act 2000* is not payable in relation to the agreement for sale in respect of the transfer.

**46Y. Reassessment of duty**

If the Commissioner becomes aware that a dutiable transaction, in respect of which duty was charged in accordance with section 46X, did not satisfy the requirements of section 46W in relation to that dutiable transaction, the Commissioner may reassess the duty that would otherwise be payable in respect of that transaction, having regard to the amount of duty that may already have been paid.

**46Z. Refund provisions**

If the Commissioner is satisfied that an eligible transaction attracts a duty concession under section 46X, the Commissioner is to refund any amount of

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Part 2 – Duties Act 2001 Amended

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duty paid in relation to the relevant dutiable transaction that exceeds the amount of the duty payable taking into account that duty concession.

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**PART 3 – LAND TAX ACT 2000 AMENDED**

**6. Principal Act**

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

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

Section 38 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) from subsection (2) 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 more than the exempt amount and zero cents for every dollar of so much of the assessed land value of the land as is equal to, or less than, the exempt amount; or

- (b) by inserting the following subsection after subsection (2):

- (2A) In subsection (2)(a) –

*exempt amount* means the assessed land value for which no land tax is payable, as specified in

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\*No. 74 of 2000

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Part 3 – Land Tax Act 2000 Amended

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Schedule 1 to the *Land*  
*Tax Rating Act 2000.*

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**PART 4 – MISCELLANEOUS**

**8. Repeal of Act**

This Act is repealed on the first anniversary of the day on which it commenced.