

Queensland



REVENUE LAWS AMENDMENT ACT 1999

Act No. 78 of 1999

Queensland



**REVENUE LAWS AMENDMENT
ACT 1999**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	4
2	Commencement	4
PART 2—AMENDMENT OF LAND TAX ACT 1915		
3	Act amended in pt 2	4
4	Amendment of s 13 (Land exempted from tax)	4
5	Amendment of s 16 (Taxpayer to furnish returns)	5
PART 3—AMENDMENT OF PAY-ROLL TAX ACT 1971		
6	Act amended in pt 3	6
7	Amendment of s 3 (Interpretation)	6
8	Insertion of new ss 3A and 3B	6
	3A Meaning of “superannuation contribution”	6
9	Replacement of s 7 (Imposition of pay-roll tax on taxable wages)	8
10	Amendment of s 8A (Value of taxable wages)	8
PART 4—AMENDMENT OF STAMP ACT 1894		
11	Act amended in pt 4	9
12	Amendment of s 31G (Transfers of marketable securities not to be registered unless duly stamped)	9
13	Amendment of s 31H (Duty on transactions on registers of Queensland incorporated companies)	9
14	Amendment of s 49C (Relief from conveyance and transfer duty upon company reconstruction or amalgamation)	10
15	Insertion of new s 80A	11
	80A General provision about refunding stamp duty	11

16	Amendment of sch 1 (Stamp duties on instruments)	12
	PART 5—AMENDMENT OF PAY-ROLL TAX REGULATION	
	1999	
17	Regulation amended in pt 5	14
18	Amendment of s 24 (Rates for allowances—Act, s 3)	15

Queensland



Revenue Laws Amendment Act 1999

Act No. 78 of 1999

An Act to amend certain legislation administered by the Treasurer

[Assented to 14 December 1999]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Revenue Laws Amendment Act 1999*.

Commencement

2. Part 2 is taken to have commenced on 30 June 1999.

PART 2—AMENDMENT OF LAND TAX ACT 1915

Act amended in pt 2

3. This part amends the *Land Tax Act 1915*.

Amendment of s 13 (Land exempted from tax)

- 4.(1) Section 13(1)—

insert—

‘(n) land owned by a port authority and used by it as a commercial airport, to the extent the land is—

- (i) used for a runway, taxiway, apron, road, vacant land, buffer zone or grass verge; or
- (ii) identified in a land use plan approved under the *Transport Infrastructure Act 1994*, section 171¹ as land designated for a purpose mentioned in subparagraph (i); or

¹ *Transport Infrastructure Act 1994*, section 171 (Approval of land use plans)

- (iii) occupied by the Commonwealth or the State or an exempt Commonwealth authority or exempt State authority, other than a port authority.’.

(2) Section 13(5)—

insert—

‘ **“exempt Commonwealth authority”** means an authority established under a Commonwealth law and exempted, under that or another Commonwealth law or a law of the State, from paying land tax.

“exempt State authority” means an authority established under a law of the State and exempted, under that or another law of the State or a law of the Commonwealth, from paying land tax.

“port authority” see *Transport Infrastructure Act 1994*, schedule 3.²’.

Amendment of s 16 (Taxpayer to furnish returns)

5. Section 16(1)(b)—

omit, insert—

‘(b) for another owner—

- (i) for a financial year before the financial year beginning on 1 July 1999—\$219 895 or more; or
- (ii) for the financial year beginning on 1 July 1999 and each subsequent financial year—\$221 665;’.

² *Transport Infrastructure Act 1994*, schedule 3—

“port authority” means—

- (a) the Ports Corporation of Queensland; or
 - (b) the Port of Brisbane Corporation; or
 - (c) the Gladstone Port Authority; or
 - (d) a harbour board continued in existence by section 154 (Continuation of port authorities); or
 - (e) a port authority established under section 155 (Establishment of new port authority); or
 - (f) another body established under the *Government Owned Corporations Act 1993* and declared by regulation to be a port authority;
- but does not include a port authority that has been abolished under section 156 (Abolition of port authority).

PART 3—AMENDMENT OF PAY-ROLL TAX ACT 1971

Act amended in pt 3

6. This part amends the *Pay-roll Tax Act 1971*.

Amendment of s 3 (Interpretation)

7.(1) Section 3(1)—

insert—

‘**“superannuation contribution”** see section 3A.’.

(2) Section 3(1), definition **“wages”**—

insert—

‘(h) a superannuation contribution, other than a superannuation contribution for the employee’s services performed or rendered before 1 January 2000.’.

(3) Section 3(2A)—

relocate and renumber as section 3B(5).

(4) Section 3(3) and (6)—

renumber as section 3(2) and (3).

Insertion of new ss 3A and 3B

8. After section 3—

insert—

‘Meaning of **“superannuation contribution”**’

3A.(1) A **“superannuation contribution”** is a monetary or non-monetary contribution paid or payable by an employer for an employee—

- (a) as a superannuation guarantee charge under the Superannuation Guarantee Act; or

- (b) to a superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cwlth); or
- (c) to another form of superannuation, provident or retirement fund or scheme, including, for example, the following—
 - (i) a superannuation holding accounts reserve under the *Small Superannuation Accounts Act 1995* (Cwlth);
 - (ii) a retirement savings account under the *Retirement Savings Accounts Act 1997* (Cwlth);
 - (iii) a wholly or partly unfunded fund or scheme.

Examples of ‘non-monetary contribution’—

1. Marketable securities.
2. Real property.

‘(2) In this section—

“**Superannuation Guarantee Act**” means the *Superannuation Guarantee (Administration) Act 1992* (Cwlth).

“**superannuation guarantee charge**” does not include the following—

- (a) an additional superannuation guarantee charge under section 49 or part 7³ of the *Superannuation Guarantee Act*;
- (b) the part of a superannuation guarantee charge equal to a superannuation contribution mentioned in subsection (1)(b) or (c) that is payable, and for which pay-roll tax has been paid to the commissioner, to the extent the contribution would have resulted in a reduction in the charge percentage under section 23⁴ of the *Superannuation Guarantee Act* if the contribution had been paid.

“**unfunded**”, for a superannuation, provident or retirement fund or scheme, means the extent that an amount paid or payable by an employer for an employee covered by the fund or scheme is not paid or payable while the employee is employed by the employer.

³ *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 49 (Unpaid superannuation guarantee charge) or part 7 (Penalty charge)

⁴ *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 23 (Reduction of charge percentage if contribution made to RSA or to a fund other than defined benefit superannuation scheme)

‘Other provisions about meaning of “wages”

‘3B.(1) This section applies for the definition of “wages” in section 3(1).

‘(2) For subsection (1)(h) of the definition, a superannuation contribution paid or payable on or after 1 January 2000 is taken to be for an employee’s services performed or rendered on or after 1 January 2000.

‘(3) However, if the commissioner is satisfied any part of a superannuation contribution mentioned in subsection (2) is for an employee’s services performed or rendered before 1 January 2000, the part is not wages.

‘(4) Also, for subsection (1)(h) of the definition—

- (a) a superannuation contribution paid or payable by an employer to a superannuation, provident or retirement fund or scheme and not attributed by the employer as paid or payable for a particular employee or particular employees is taken to be paid or payable for the employee or employees decided by the commissioner; and
- (b) a superannuation contribution paid on or after 14 September 1999 and before 1 January 2000 for an employee’s services to be performed or rendered on or after 1 January 2000 is taken to be paid on 1 January 2000.’.

Replacement of s 7 (Imposition of pay-roll tax on taxable wages)

9. Section 7, ‘the rate of 5% of those wages.’—

omit, insert—

‘the following rate of the wages—

- ‘(a) for wages paid or payable before 1 July 2000—5%;
- (b) for wages paid or payable on and from 1 July 2000 to 30 June 2001—4.9%;
- (c) for wages paid or payable on and from 1 July 2001—4.8%.’.

Amendment of s 8A (Value of taxable wages)

10. Section 8A—

insert—

‘(1A) The employer must give evidence of the value of the taxable wages to the commissioner if asked by the commissioner.

‘(1B) If the commissioner is not satisfied with the evidence given by the employer, the commissioner may appoint a person to value the taxable wages.

‘(1C) If the value stated by the person appointed under subsection (1B) is more than the value stated by the employer, the commissioner may claim all or part of the valuation costs from the employer.

‘(1D) The amount of costs claimed is a debt payable to the State.’.

PART 4—AMENDMENT OF STAMP ACT 1894

Act amended in pt 4

11. This part amends the *Stamp Act 1894*.

Amendment of s 31G (Transfers of marketable securities not to be registered unless duly stamped)

12. Section 31G—

insert—

‘(1A) Subsection (1) does not apply to a transfer if, under section 31H(3A), section 31H does not apply to the transfer.’.

Amendment of s 31H (Duty on transactions on registers of Queensland incorporated companies)

13.(1) Section 31H—

insert—

‘(3A) Also, subject to subsection (3B), this section, other than subsections (10) and (11), does not apply to an entry for a transfer of a

share, or right in respect of a share, if—

- (a) the share or right is listed on an approved stock exchange; and
- (b) the transfer relates to a sale and purchase of the share or right effected on the approved stock exchange; and
- (c) the share or right is recorded on an overseas register of legal or beneficial title; and
- (d) the transfer is to be recorded on the overseas register.

‘**(3B)** Subsection (3A) does not apply if the company knows the transfer mentioned in subsection (3A) is to a person who is an Australian resident.

(2) Section 31H—

insert—

‘**(12)** In this section—

“**approved stock exchange**” see schedule 1, heading ‘Conveyance or transfer’, exemption 20(2).

“**Australian resident**” means a person who is not a foreign resident under schedule 1, heading ‘Conveyance or transfer’, exemption 20(2).’.

Amendment of s 49C (Relief from conveyance and transfer duty upon company reconstruction or amalgamation)

14.(1) Section 49C(2)(a)—

omit, insert—

‘(a) either of the following circumstances exist—

- (i) the effect of an instrument produced to the commissioner is to convey, transfer or assign a beneficial interest in property from a company (the “**transferor**”) to another company (the “**transferee**”); or
- (ii) an instrument has been executed in connection with a conveyance, transfer or assignment of a beneficial interest in property from a company (also the “**transferor**”) to another company (also the “**transferee**”); and’.

(2) Section 49C(2)(c)(ii), from ‘first’ to ‘is’—

omit, insert—

‘a company whose issued share capital has been, from its incorporation to the time of the conveyance, transfer or assignment,’.

(3) Section 49C(2)(d)(iii), ‘the liquidation’—

omit, insert—

‘an eligible liquidation’.

(4) Section 49C(2)—

insert—

‘(e) the instrument is made in connection with a scheme for the reconstruction of a company or amalgamation of companies;’.

(5) Section 49C(4)(b), ‘the liquidation’—

omit, insert—

‘an eligible liquidation’.

(6) Section 49C(6AA), definition “**company**”, from ‘or’ to ‘statute’—

omit.

(7) Section 49C(6AA)—

insert—

‘**“eligible liquidation”** means a liquidation, other than a liquidation under an arrangement a significant purpose of which was to avoid the requirement that the transferor and transferee remain associated for the 5 years mentioned in subsection (4)(b).’.

Insertion of new s 80A

15. After section 80—

insert—

‘General provision about refunding stamp duty

‘80A.(1) This section applies to a stamp duty refund that is required to be, or may be, made to a person by the commissioner under this Act or otherwise.

‘(2) The commissioner must not make the refund unless satisfied—

- (a) the person has not received, and will not receive, an amount from another person for all or part of the stamp duty paid; or
- (b) if the person has received an amount (the “**amount received**”) from the other person for all or part of the stamp duty—the person will reimburse the other person for the amount received.

‘(3) If subsection (2)(b) applies, the person must—

- (a) within 90 days after receiving the refund (the “**relevant period**”), reimburse the other person for the amount received; and
- (b) within 7 days after the relevant period, give the commissioner written notice that the other person has been reimbursed for the amount received.

‘(4) Also, if subsection (2)(b) applies and the person does not, within the relevant period, reimburse the other person for the amount received, the person must, within 7 days after the relevant period—

- (a) give the commissioner written notice that the other person was not reimbursed for the amount received; and
- (b) pay the commissioner the amount received plus interest at the rate of 10% a year calculated from the day the refund was made until the amount received is paid to the commissioner.

Maximum penalty—50 penalty units.

‘(5) An amount payable under subsection (4)(b) is a debt payable by the person to the State.

‘(6) In this section—

“**stamp duty**” means stamp duty paid, or purportedly paid, under this Act, whether or not the duty is paid under a mistake of law or fact.’.

Amendment of sch 1 (Stamp duties on instruments)

16. Schedule 1, under the heading ‘Conveyance or transfer’, ‘Exemptions’—

insert—

‘**20.(1)** A transfer of a share, or right in respect of a share, in a Queensland company to a foreign resident if—

- (a) the share or right is listed on an approved stock exchange; and
- (b) the transfer relates to a sale and purchase of the share or right effected on the approved stock exchange; and
- (c) the share or right is recorded on an overseas register of legal or beneficial title; and
- (d) the transfer is to be recorded on the overseas register.

‘(2) In this exemption—

“approved stock exchange” means—

- (a) the NASDAQ Stock Market, Inc.; or
- (b) another stock exchange located outside Australia—
 - (i) with similar listing requirements as the Australian Stock Exchange Limited ACN 008 624 691; and
 - (ii) on which shares or rights in respect of shares in a Queensland company are listed; and
 - (iii) approved under a regulation for this exemption.

“foreign resident” means—

- (a) an individual, other than a trustee of a share or right in respect of a share mentioned in paragraph (1), who normally resides outside Australia; or
- (b) a person, other than a trustee of a share or right in respect of a share mentioned in paragraph (1)—
 - (i) incorporated or established under a law of a country other than Australia; and
 - (ii) whose central management and control is situated outside Australia; and
 - (iii) whose voting power is controlled by shareholders or members who are foreign residents; and
 - (iv) who, in relation to the share or right, is not accustomed, or under an obligation, or reasonably expected, to act in accordance with the directions, instructions or wishes of a person who is not a foreign resident; or

- (c) a trustee of a share or right in respect of a share mentioned in paragraph (1) who—
 - (i) would be a foreign resident under subparagraph (a) or (b) if the person were not a trustee; and
 - (ii) holds the share or right in a trust in which at least 95% of the beneficial interest is held by foreign residents; or
- (d) a beneficiary of a trust mentioned in subparagraph (c) who—
 - (i) holds the beneficial interest in the trust as trustee of another trust in which at least 95% of the beneficial interest is held by foreign residents; and
 - (ii) would be a foreign resident under subparagraph (a) or (b) if the person were not a trustee.

“Queensland company” means a body incorporated, or taken to be incorporated, in Queensland as a company under the Corporations Law.’.

PART 5—AMENDMENT OF PAY-ROLL TAX REGULATION 1999

Regulation amended in pt 5

17. This part amends the *Pay-roll Tax Regulation 1999*.

Amendment of s 24 (Rates for allowances—Act, s 3)

18.(1) Section 24, heading, ‘s 3’—

omit, insert—

‘s 3B(5)’.

(2) Section 24, ‘3(2A)’—

omit, insert—

‘3B(5)’.