

3 10/11/93

LAY UPON THE TABLE OF THE HOUSE
NOT ORDERED TO BE PRINTED.
THE CLERK OF THE PARLIAMENT



1

Offshore Banking Units and Regional Headquarters

OFFSHORE BANKING UNITS AND REGIONAL HEADQUARTERS BILL 1993

EXPLANATORY NOTE

GENERAL OUTLINE

Objectives of the Legislation

The objective of this Bill is to provide concessions and exemptions in relation to debits tax, land tax, pay-roll tax and stamp duty to offshore banking units ("OBUs") conducting offshore banking business in Queensland and to regional headquarters ("RHQs") located in Queensland and servicing other parts of its multinational corporate group outside Queensland.

The Bill also provides for the issue of licences to qualifying OBUs and RHQs to ensure that only reputable firms with a stable financial background can avail themselves of the taxation concessions and exemptions.

The Commonwealth has, since 1 July 1992, provided a concessional rate of income tax of 10% to qualifying OBUs conducting offshore banking business in Australia.

Reasons for the Bill

In the "Leading State" economic statement of April 1992, the Premier announced that a Working Group would be formed to explore the opportunities for the establishment of OBUs and RHQs in Queensland. The Working Group considered that attracting OBUs and RHQs to Queensland would provide economic benefits to Queensland and recommended that the 1992-93 Budget create a tax environment conducive to the establishment of OBUs and RHQs.

Subsequently, the 1992-93 Budget included a commitment by the Government to abolish State taxes for a period of ten years on the activities of qualifying OBUs and RHQs which locate in Queensland.

Estimated Cost for Government Implementation

It is anticipated that administrative costs will be able to be absorbed within current budgets.

Consultation

The matter has been discussed with the Department of the Premier, Economic and Trade Development, the Office of the Co-ordinator General, Office of State Revenue, Department of Justice and Attorney-General and the Department of Business, Industry and Regional Development. Consultation has also been undertaken with the Litigation Reform Commission.

There has also been extensive consultation with industry.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Bill.

Clause 2 provides for the commencement of the Act.

Clause 3 clarifies the Bill's application by defining a number of terms used in the Bill.

Clause 4 applies, where appropriate, definitions given in the Debits Tax Act, the Land Tax Act, the Pay-roll Tax Act and the Stamp Act to the Bill.

PART 2—ADMINISTRATION

Clause 5 provides that offshore banking units as defined in the Income Tax Assessment Act and regional headquarters which supply services to parts of the multinational corporate group offshore, and which satisfy criteria to be provided for by regulation, may apply for an offshore banking units licence (“QOBU licence”) or a regional headquarters licence (“QRHQ licence”) respectively.

Clause 6 outlines the procedure for applying for a licence.

Clause 7 outlines a number of basic criteria that the Minister must take into account in deciding whether to issue a licence to ensure that the licence holder is reputable and has a sound financial background.

Clause 8 provides that the Minister must consider and determine each application and in doing so determine whether the granting of the licence is likely to give an economic benefit to Queensland.

Clause 9 provides that a licence becomes effective when notice is given in the Government Gazette.

Clause 10 requires that a register of licences be kept which will be available for inspection by the public.

Clause 11 specifies that a licence remains effective until it is cancelled or surrendered.

Clause 12 provides that if a licence holder ceases to satisfy the criteria for obtaining a licence, the licence holder must give notice to this effect to the Minister.

A licence holder that fails to give such a notice is liable to a penalty of a maximum of \$300 and twice the tax not paid by the licence holder claiming the concession when it was not satisfying the criteria.

Clause 13 allows a licence holder to surrender a licence by returning it to the Minister.

Clause 14 authorises the Minister to cancel a licence.

The grounds for cancellation are if a licence holder ceases to satisfy the criteria for the issue of a licence, fails to advise of a change in satisfying the criteria for the issue of a licence, fails to provide returns required to be provided under the legislation or fails to provide information on the returns

when requested.

A licence may also be cancelled if the Minister considers there is no economic benefit to Queensland from the licence holder holding the licence.

A QOBU licence is automatically cancelled if the QOBU ceases to be an OBU under the Income Tax Assessment Act.

Clause 15 provides that each licence holder must provide financial returns to the Minister each year.

The Minister may also request additional returns to be filed at other times.

Clause 16 provides that the Minister may obtain further information about details in the returns lodged by each licence holder.

PART 3—TAX CONCESSIONS

Clause 17 provides for a concession in relation to the payment of debits tax to a holder of a QOBU licence conducting offshore banking business, and for the holder of a QRHQ licence in undertaking RHQ activity, on the conditions prescribed by regulation.

Clause 18 provides for a concession in relation to the payment of land tax on land owned and used by the holder of a QOBU licence in carrying on offshore banking business and the holder of a QRHQ licence in undertaking RHQ activity, to the extent and on the conditions prescribed by regulation.

Clause 19 provides for a concession in relation to the payment of pay-roll tax to the holder of a QOBU licence in carrying on offshore banking business and the holder of a QRHQ licence in undertaking RHQ activity, to the extent and on the conditions prescribed by regulation.

Clause 20 provides that transactions entered into by the holder of a QOBU licence in carrying on offshore banking business and to the holder of a QRHQ licence in undertaking RHQ activity will only be liable to stamp duty, to the extent and on the conditions prescribed by regulation.

This concession will not be available for transfers of property in Queensland, the acquisition of an interest in a land rich entity, a transfer of

shares or for such other transactions prescribed by regulation.

Clause 21 provides that concessions do not operate to reduce the threshold amount or value on which the tax is calculated.

The concessions reduce the liability for the payment of tax on a percentage basis calculated as the amount that the concessional part bears to the total amount or value.

If a licence holder ceases to satisfy the criteria for holding a licence, the concessions cease to apply.

If a licence holder fails to satisfy a prescribed condition, the concessions are taken to have never applied.

The tax concessions will not apply if the only or a significant reason for the transaction is to avoid tax.

PART 4—GENERAL

Clause 22 provides for recovery of unpaid taxes under certain circumstances.

Clause 23 provides for the Minister to review the Act at the end of 5 years.

Clause 24 provides for the Governor in Council to make regulations.

Clause 25 provides that the Act will expire on 31 December 2003.