

REVENUE LAWS AMENDMENT BILL (No.2) 1995

EXPLANATORY NOTES

GENERAL OUTLINE

Policy Objectives

The objectives of the Bill are—

- (a) to amend the *Stamp Act 1894* to ensure equitable taxation treatment of a new share derivative product,
- (b) to increase the stamp duty rebates for “first home buyers”,
- (c) to reduce the penalty for failure to notify the Commissioner of subsequent ineligibility for the principal place of residence concession,
- (d) to exempt from stamp duty the registration of heavy commercial vehicles converting from the Federal Interstate Registration Scheme (FIRS),
- (e) to exclude sales tax from the “list price” of a new vehicle on which the stamp duty on an application for registration is calculated—if the applicant is exempt from sales tax,
- (f) to require that the Notification of Change of Ownership Form (combined form) be completed in all respects prior to stamping,
- (g) to expand the meaning of “lease” in the *Stamp Act 1894* to counter avoidance,
- (h) to counter avoidance of duty on transfers of statutory licences,
- (i) to remove the requirement of a declaration under the *Oaths Act 1867* as to the value of livestock and chattels included in a property conveyance or transfer,
- (j) to amend the *Pay-roll Tax Act 1971* to exclude from liability those wages paid to a person in Queensland for services performed overseas and to exclude from liability certain wages paid by the Queensland Country Women’s Association.

Reasons for the Bill

The amendments will ensure that there is a statutory basis for a number of concessions such as the increased stamp duty rebate for first home buyers, exclusion of sales tax from the list price of motor vehicles where an applicant seeking registration of a vehicle is exempt from sales tax, relief from stamp duty on transfers of registration from the Federal Interstate Registration Scheme, exclusion from liability to pay-roll tax of wages paid to long term employees overseas and certain wages paid by the Queensland Country Women's Association.

Legislative amendment is also required to provide an efficient means for payment of stamp duty on new products traded on the Australian Stock Exchange.

The amendments relating to leases and transfers of statutory licences will close off existing avenues for the avoidance of stamp duty.

Achievement of Objectives

Amendment of the *Stamp Act* is required to ensure that, where securities are acquired pursuant to the exercise of options traded on the Australian Stock Exchange, the duty payable is consistent with normal share transactions, and can be remitted by brokers in the same way as duty on other on-market trades. The amendment will apply retrospectively from 7 April 1995 to give legislative effect to an administrative arrangement previously implemented in consultation with the Australian Stock Exchange.

An amendment is required to put into effect a recent election initiative to increase the first principal place of residence rebate by \$100 where the home is valued above \$80 000 up to an including \$160 000.

Amendment of the Act is required to ensure consistency of the Queensland stamp duty treatment of the registration of heavy commercial vehicles with other states.

It is proposed that the *Stamp Act* will exclude sales tax from the list price of a new vehicle if the applicant is exempt from sales tax, and clarify that the list price is the recommended retail price at Brisbane.

To address difficulties currently being experienced by the Office of State Revenue in identifying land in common ownership for land tax purposes,

particularly where land owners have the same name, it is proposed that the *Land Tax Regulation* be amended to provide for a new form to notify a change of land ownership for stamp duty, land tax, valuation, and rating purposes.

This new form will accompany a revised transfer form, and its truth and correctness will be declared on the transfer. That declaration is not a declaration under the Oaths Act and solicitors may simply sign for either of the transferor or transferee. It is proposed to amend section 49(3) of the Stamp Act to delete the requirement for the declaration to be in the form of a statutory declaration.

The *Pay-roll Tax Act 1971* will be amended to exclude from liability those wages paid or payable in Queensland for services performed or rendered overseas once the period of continuous overseas service exceeds 6 months, and to exclude from liability certain wages paid by the Queensland Country Women's Association.

Alternatives to the Bill

The policy objectives can only be achieved by statutory amendment.

Estimated Cost for Government Implementation

The measures involve a one-off cost of \$1.5M and an ongoing estimated annual cost of less than \$2.3M. This will be offset by additional annual revenue estimated at \$3.2M.

Consistency with Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles. While clause 4 will apply retrospectively from 7 April 1995, such retrospective operation gives effect to an administrative arrangement previously implemented in consultation with the Australian Stock Exchange. Under the arrangement, stamp duty on acquisitions of securities pursuant to the exercise of an exchange traded option is remitted by brokers in the same way as other on-market trades.

Consultation

Ongoing consultation has been undertaken with the Australian Stock Exchange and the Department of Transport who support the proposed amendments.

NOTES ON PROVISIONS

Clause 1 cites the short title of this Act.

Clause 2 sets out the date for commencement.

Clause 3 states that Part 2 amends the *Stamp Act 1894*.

Clause 4 amends the *Stamp Act* to ensure equitable taxation treatment of a new share derivative product known as low exercise price options (LEPOS).

Clause 5 amends the *Stamp Act* to require that the new combined form (Form 24) be completed in all respects prior to stamping.

Clause 6 amends the *Stamp Act* by insertion of a new section directed toward preventing avoidance of stamp duty on transfers of statutory business licences.

Clause 7 amends the *Stamp Act* to reduce the stamp duty paid by first home buyers where this home is to be used as a principal place of residence. The stamp duty rebate is to be increased by \$100 for homes valued above \$80,000 up to and including \$160,000 and amends the *Stamp Act* to reduce the maximum administrative penalty for a person's failure to notify the Commissioner of Stamp Duties that he/she did not meet the conditions subsequent for a principal place of residence stamp duty concession.

Clause 8 amends the *Stamp Act* to exclude sales tax from the "list price" of a new vehicle on which the stamp duty on an application for registration is calculated if the applicant is exempt from sales tax.

Clause 9 amends the *Stamp Act* by insertion of a new section which extends the definition of "lease" to preventing avoidance of stamp duty on leases of real property. The term will extend to an agreement under which a person is given the right to occupy premises and those premises are predominantly used by the occupier. Arrangements involving annual rent of

\$10,000 or less, occupation for less than one month, or occasional occupation will be exempt from duty.

Clause 10 amends the *Stamp Act* to provide an exemption from stamp duty in respect of heavy commercial vehicles (those over 4.5 tonnes gross mass) registered under the Federal Interstate Registration Scheme (FIRS) and converting to the State scheme, subject to satisfying the following criteria:

- (i) the vehicle to be registered in Queensland must have been registered under FIRS on 30 June 1995;
- (ii) the Queensland registration must be the first registration of the vehicle since the lapsing/cancellation of the vehicle's federal interstate registration; and
- (iii) the Queensland registration must be in the same name(s) as it was registered at 30 June 1995 under the federal interstate registration scheme.

Clause 11 states that Part 3 amends the *Pay-roll Tax Act 1971*.

Clause 12 amends the *Pay-roll Tax Act* to exclude from liability for pay-roll tax those wages paid or payable in Queensland for services performed or rendered overseas once the period of continuous overseas service exceeds 6 months.

Clause 13 amends the *Pay-roll Tax Act* to exclude from liability for pay-roll tax those wages paid or payable by the Queensland Country Women's Association for services performed or rendered by employees for non-commercial purposes.