Revenue Legislation Amendment Bill 2006

Explanatory Notes

General Outline

Policy Objectives

To amend the *Duties Act 2001,* the *Land Tax Act 1915* and the *Pay-roll Tax Act 1971* to implement measures announced in the 2006-2007 State Budget.

Reasons for the Bill

The Bill implements the following measures announced in the 2006-2007 State Budget:

- changes to certain threshold tests for determining duty on acquisitions of interests in land rich corporations and land holding trusts;
- an increase in the land tax threshold for natural residents from $450,000 to $500,000; and
- an increase in the pay-roll tax threshold from $850,000 to $1,000,000.

Achievement of Objectives

Duties Act 2001

Land rich corporations and land holding trusts

Direct transfers of property are generally liable for transfer duty at progressive rates that increase with the dutiable value of the dutiable property transferred. However, a lower flat rate of transfer duty (0.6%) applies to transfers of shares in an unlisted company and units in an unlisted public unit trust. Transfers of shares and units in listed entities do not attract any duty.

The *Duties Act 2001* contains specific provisions dealing with acquisitions of majority interests in land rich corporations and land holding trusts. Under these provisions, duty is imposed at the progressive rates where an acquisition of shares or units in a relevant entity effectively amounts to the acquisition of the entity's underlying land. This is a revenue protection measure designed to prevent valuable dutiable property being taken over for nominal duty by acquiring a majority of shares or units in the entity holding the property rather than acquiring the property directly at the higher progressive transfer duty rates.

Land rich duty is imposed where a person (alone or with related parties) acquires a majority interest in a land rich corporation, or where a majority interest is already held, increases that interest. A majority interest is an interest of more than 50% in the corporation. The *Duties Act 2001* is to be amended so that an interest of 50% or more constitutes a majority interest.

A corporation is land rich if it is unlisted, holds land in Queensland worth at least $1 million and all its land-holdings comprise 80% or more of the unencumbered value of its total property. The *Duties Act 2001* is to be amended to reduce this threshold percentage from 80% or more to 60% or more.

Acquisitions of interests of more than 50% in land holding trusts (that is, wholesale unit trusts and pooled public investment unit trusts holding any land in Queensland) are also subject to the higher progressive transfer duty rates. The *Duties Act 2001* is to be amended to change the threshold percentage for these acquisitions from more than 50% to 50% or more, which is consistent with the change for acquisitions in land rich corporations.

Land Tax Act 1915

Increase in land tax threshold

Land tax is payable by the owner of any interest in freehold land in Queensland if the taxable value of all such interests exceeds the relevant threshold.

Land tax is calculated by applying the relevant land tax rate to the taxable value of the owner's relevant land after taking into account any exemptions or deductions that may apply.

There are two land tax rate scales – one for natural residents and another for companies, trustees and absentees.

Currently, an exemption threshold of $450,000 applies to natural residents. If the taxable value of land owned by a natural resident is less than $450,000, no land tax is payable. Once the taxable value reaches $450,000 or more, the minimum land tax payable is $400, with this amount increasing as the taxable value of the land increases.

As announced in the 2006-2007 State Budget, the exemption threshold for natural residents will be raised from $450,000 to $500,000 for the 2006-2007 and later financial years. The minimum land tax payable will be $500 once the taxable value of the land reaches $500,000 or more. A minor adjustment will also be made to the tax rate in the last marginal tax bracket in schedule 1, from 1.65% to 1.675%, to allow for the threshold change. The *Land Tax Act 1915* is to be amended to reflect these changes.

Pay-roll Tax Act 1971

Increase in pay-roll tax threshold

Pay-roll tax is a tax based on the annual pay-roll of employers. Pay-roll tax is chargeable on Queensland taxable wages when the total annual Australian taxable wages of an employer (or those of a group of related employers) exceeds the threshold amount. The current threshold is $850,000.

This threshold amount is relevant for determining whether an employer is required to register for pay-roll tax. If the employer employs in Queensland and is liable to pay wages of more than $16,346 per week in any month ($849,992 per annum), this triggers an obligation to register and, consequently, lodge pay-roll tax returns and pay any pay-roll tax liability that arises.

The threshold amount is also relevant for determining the amount of any deduction the employer may claim from its Queensland taxable wages. The maximum deduction amount is $850,000. This deduction reduces by $1 for every $3 of Australian taxable wages over the threshold. Once these wages reach four times the threshold ($3.4 million), the deduction is zero and pay-roll tax is chargeable on the full amount of Queensland taxable wages.

As announced in the 2006-2007 State Budget, the pay-roll tax threshold is to be increased from $850,000 to $1,000,000 for the 2006-2007 and later financial years. The *Pay-roll Tax Act 1971* is to be amended to reflect this increase.

Alternatives to the Bill

The policy objectives can only be achieved by legislative enactment.

Estimated Cost for Government Implementation

Implementation costs are not expected to be significant.

Consistency with Fundamental Legislative Principles

This Bill raises no fundamental legislative principle issues.

Consultation

Consultation on the amendments was not appropriate as the measures are a Budget initiative. Further, the land tax and pay-roll tax measures are beneficial for taxpayers.

Notes on Provisions

Clause 1 cites the short title of the Bill.

Clause 2 states the date on which Parts 3 and 4 of the Bill are taken to commence.

Clause 3 states that Part 2 amends the *Duties Act 2001*.

Clause 4 amends section 63(7)(a) of the *Duties Act 2001*, relating to calculation of the value of a majority trust acquisition where a beneficiary's trust interest has increased in certain circumstances, by changing the reference to an interest of more than 50% to an interest of 50% or more.

Clause 5 amends section 80 of the *Duties Act 2001*, which sets out when a person makes a majority trust acquisition in a land holding trust, by changing the references to an interest of more than 50% to an interest of 50% or more.

Clause 6 amends section 159(2) of the *Duties Act 2001*, which sets out what is a majority interest in a corporation, by changing the reference to an interest of more than 50% to an interest of 50% or more.

Clause 7 amends section 165(1)(b) of the *Duties Act 2001*, which sets out the second limb of the definition of land rich corporation, by changing the ratio percentage of a corporation's land-holdings to the unencumbered value of all its property from 80% or more to 60% or more.

Clause 8 states that Part 3 amends the *Land Tax Act 1915*.

Clause 9 amends section 16(1)(b) of the *Land Tax Act 1915* to reflect the effect of the change in the tax threshold for individuals (otherwise than in the capacity of a trustee) who are not absentees on the obligation of these landowners to lodge returns.

Clause 10 replaces section 62 of the *Land Tax Act 1915* with a new section 62 which provides that the amendments made by this Bill apply to land tax levied for the financial year beginning on 1 July 2006 and each later financial year.

Clause 11 replaces schedule 1 of the *Land Tax Act 1915* with a new schedule 1 which increases the tax threshold for individuals (otherwise than in the capacity of a trustee) who are not absentees from $450,000 to $500,000 together with a minor adjustment to the top marginal tax rate.

Clause 12 states that Part 4 amends the *Pay-roll Tax Act 1971*.

Clause 13 amends section 17 of the *Pay-roll Tax Act 1971*, which provides the formulae for calculating the periodic deduction for an employer who is not a designated group employer, by changing the references to 70,833 to 83,333 to reflect the increase in the tax threshold.

Clause 14 amends section 23 of the *Pay-roll Tax Act 1971*, which provides the formula for calculating the periodic deduction for an employer who is a designated group employer, by changing the reference to 70,833 to 83,333 to reflect the increase in the tax threshold.

Clause 15 amends section 29 of the *Pay-roll Tax Act 1971*, which provides the formula for calculating the annual deduction for an employer who is not a designated group employer, by increasing the maximum deduction amount from 850,000 to 1,000,000.

Clause 16 amends section 33 of the *Pay-roll Tax Act 1971*, which provides the formula for calculating the annual deduction for an employer who is a designated group employer, by increasing the maximum deduction amount from 850,000 to 1,000,000.

Clause 17 amends section 37 of the *Pay-roll Tax Act 1971*, which provides the formula for calculating the final deduction for an employer who is not a designated group employer, by increasing the maximum deduction amount from 850,000 to 1,000,000.

Clause 18 amends section 41 of the *Pay-roll Tax Act 1971*, which provides the formula for calculating the final deduction for an employer who is a designated group employer, by increasing the maximum deduction amount from 850,000 to 1,000,000.

Clause 19 amends section 52(a) of the *Pay-roll Tax Act 1971* by changing the reference to 16,346 to 19,230, to reflect the effect of the increased tax threshold on an employer's obligation to register for pay-roll tax.

Clause 20 amends section 87(1)(b) of the *Pay-roll Tax Act 1971* by changing the reference to 70,833 to 83,333, to reflect the effect of the increased tax threshold on an employer's notification obligations where they are exempt from lodging periodic returns.

Clause 21 inserts a new section 97A in the *Pay-roll Tax Act 1971* to provide that the amendments made by this Bill apply for pay-roll tax levied on taxable wages paid or payable in the financial year beginning on 1 July 2006 and each later financial year.