

REVENUE LEGISLATION AMENDMENT BILL 2004

EXPLANATORY NOTES

FOR

AMENDMENTS TO BE MOVED IN COMMITTEE BY THE HONOURABLE TERRY MACKENROTH MP

Title of the Bill

Revenue Legislation Amendment Bill 2004

Objectives of the Amendments

The objective of the proposed amendment is to amend the *Duties Act 2001* to provide that a transaction involving intellectual or personal property of a business will be a dutiable transaction for transfer duty purposes where it is aggregated with either a dutiable transaction for a Queensland business asset, other than intellectual or personal property, or a dutiable transaction for land in Queensland.

Achievement of the Objectives

Under the repealed *Stamp Act 1894*, transfers of intellectual property or personal property were dutiable if other property was transferred also. However, conveyance duty did not apply where the transfer was solely of chattels.

Under the *Duties Act 2001*, transfer duty applies to a dutiable transaction involving dutiable property. Dutiable property is defined to include a “Queensland business asset”. A “business asset” is defined to include “personal property in Queensland of a business” and “intellectual property used for carrying on a business”. If a business asset is of a Queensland business, it is a “Queensland business asset”.

Generally, if a “Queensland business asset” is the subject of a dutiable transaction, transfer duty applies. However, in the case of intellectual property and personal property, section 37(3) of the Act provides that the transaction involving intellectual or personal property is not a dutiable transaction unless it is aggregated with a dutiable transaction for a “Queensland business asset”, other than intellectual or personal property.

Unlike the position under the *Stamp Act 1894*, doubt exists as to whether, under the *Duties Act 2001*, transfer duty applies in a transaction involving personal property or intellectual property which is aggregated with a dutiable transaction for land in Queensland. Land in Queensland is dutiable property but is not a “Queensland business asset”.

The *Duties Act 2001* is therefore to be amended to provide that a transaction involving intellectual or personal property of a business will be a dutiable transaction where it is aggregated with either a dutiable transaction for a Queensland business asset, other than intellectual or personal property, or a dutiable transaction for land in Queensland. This will ensure the same duty treatment for these transactions as under the *Stamp Act 1894*.

Alternative Ways of Achieving Policy Objectives

The policy objective can only be achieved by way of legislative amendment.

Estimated Cost for Government Implementation

There should not be any cost to Government associated with the implementation of the amendment.

Consistency with Fundamental Legislative Principles

The proposed amendment does not infringe fundamental legislative principles.

Consultation

Consultation on this amendment was considered unnecessary.

NOTES ON PROVISIONS

Clause 4A amends section 37(3) of the *Duties Act 2001* to include a further circumstance when a transaction involving intellectual or personal property of a business will be a dutiable transaction. New paragraph 37(3)(b) provides that a transaction involving intellectual or personal property of a business is not a dutiable transaction unless, under section 30 of the Act, it is aggregated with a dutiable transaction for land in Queensland.