



State Revenue Legislation Further Amendment Bill.

Second Reading

The Hon. HENRY TSANG [Parliamentary Secretary] [6.09 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The main purpose of this Bill is to make amendments to the *Duties Act 1997*, *Fines Act 1996*, *First Home Owner Grant Act 2000*, *Land Tax Management Act 1956*, *Pay-roll Tax Act 1971*, *Taxation Administration Act 1996* and the *Unclaimed Money Act 1995*.

I will deal with the amendments to each Act in turn.

Duties Act 1997

The Bill makes amendments to the *Duties Act 1997* in respect of duty on the transfer of dutiable property, lease duty and mortgage duty.

Transfers of Dutiable Property

Statutory Vesting

One significant purpose of the Bill is to impose duty on the statutory vesting of land to overcome the current situation where a change of ownership occurs but duty is not currently payable. Mergers of entities and statutory vesting are increasingly being used as mechanisms for changing ownership of land. The Bill will ensure that such transactions will become liable to duty. Exemptions have been included for those vestings where it is inappropriate to tax, such as to an executor on death.

This amendment is consistent with the approach taken by Queensland and soon to be taken by Western Australia.

Arrangements which reduce the dutiable value

The Bill clarifies anti-avoidance provisions relating to arrangements that prevent the value of property being artificially reduced for duty purposes.

Sale of Business - Goods and Goodwill

Generally, a transfer of goods alone is not subject to duty. Goods are only dutiable property if they form part of a transaction that includes other dutiable property. The current Act provides a discretion for the Chief Commissioner to disregard the value of goods if satisfied that it would not be "just and reasonable" to charge duty. The provisions have potential for abuse where goodwill of little or no value is being transferred. The Bill removes this discretion in cases where goods are used in connection with a business and goodwill forms either the whole or part of the other dutiable property in the transfer.

Lease Duty

Lease Splitting

A practice has emerged whereby splitting of leases by term or parties has resulted in a reduction in the duty payable, because no duty is payable on leases where the total rent is less than \$20,000. The Bill introduces provisions to aggregate leases between the same or associated parties for consecutive terms over the same property. In these situations the combined leases will be subject to duty.

Lease Premiums

The Duties Act was amended last year to strengthen an anti-avoidance provision dealing with the use of long term leases, which avoid or minimise transfer duty. These anti-avoidance provisions have been effective and will be retained. However, the other States have addressed these practices by also charging the transfer rate of duty on lease premiums and it is appropriate that NSW imposes transfer duty on lease premiums.

General Exemption

The Bill provides an exemption from stamp duties for the joint government enterprise being established to allocate funds from the New South Wales, Victorian and Commonwealth Governments for water savings projects, to facilitate environmental flows for the Murray and Snowy Rivers.

The Bill also makes a number of minor statute law amendments to replace references to repealed Acts and to clarify the mechanism by which forms are approved by the Chief Commissioner.

Fines Act 1996

Current contractual arrangements made by the Infringement Processing Bureau (IPB) with its 400 or more clients extend beyond 1 October 2003, when the IPB was transferred from the NSW Police Service to the Office of State Revenue (OSR). The IPB became a unit within the State Debt Recovery Office (SDRO), a Division of OSR. The Bill authorises the State Debt Recovery Office to enter into such arrangements with new clients.

The Bill also makes consequential amendments to references which describe the IPB as being part of the NSW Police Service.

First Home Owner Grant Act 2000

The Bill provides that in the case of dual occupancy or multiple occupancy residences constructed under a single contract, eligibility for a grant will be considered on each residence separately. The Bill also removes an unintended opportunity for a person to apply for a grant in relation to a further interest in their current residence. This is consistent with amendments proposed in other jurisdictions.

The Bill also clarifies the residency test for the grant by requiring the applicant to reside in the home for a continuous six-month period.

The Bill amends the Act to remove provisions which can require applicants who are paid the grant in respect of terms contracts to return the grant solely because the transaction is not completed by registration of the transfer.

The Bill confirms eligibility for the grant for a shared ownership scheme with the Department of Housing, where tenants buy a 75% interest in the home with an opportunity to purchase the remainder some time in the future.

Land Tax Management Act 1956

The Bill amends the provisions relating to the land tax concession for an owner's principal place or residence. The amendments will allow an owner to claim the concession for two residences where the owner has bought a new residence, is in the process of selling the existing residence, but has not been able to complete the sale by the taxing date.

The Bill will also remove certain restrictions on the current exemption on land where a new family residence is being built or an existing one is being refurbished, provided that they take up residence in the completed house within two years and remain in residence for at least six months.

The Bill will allow a principal residence to be used for incidental business purposes such as the use of one room as a home office or workshop without losing the principal place of residence exemption from land tax.

The Bill clarifies an existing concession where the owner is absent from the home for extended periods, but resumes occupation within six years. Under the amendments owners will be allowed to rent the home for a period of up to six months in any tax year before the concession ceases to apply. The amendments also impose a condition that the owners must occupy the home for at least six months after resuming occupation or forfeit the concession for the entire period of their absence from the home.

The Bill allows each family, including dependents under 18, a concession for only one property, except when buying a new principal place of residence.

This amendment restricts tax minimisation practices such as transferring small interests in land to tenants, particularly family members. It also removes uncertainty by denying the exemption for two properties where a couple claim exemptions for different principal places of residence. This restriction will not apply to couples who are permanently separated or to family members over 18 years of age.

The Bill provides an exemption from land tax for the joint government enterprise being established to allocate funds from the New South Wales, Victorian and Commonwealth Governments for water savings projects, to facilitate environmental flows for the Murray and Snowy Rivers.

Pay-roll Tax Act 1971

The Bill closes a loophole, which allows an employer to avoid pay-roll tax on wages paid outside Australia in relation to services provided by an employee in two or more States.

The Bill provides an exemption from pay-roll tax for the joint government enterprise being established to allocate funds from the New South Wales, Victorian and Commonwealth Governments for water savings projects, to facilitate environmental flows for the Murray and Snowy Rivers.

Taxation Administration Act

Following the success of the 'Phoenix' company provisions inserted into the Pay-roll Tax Act in November 1999, the Government will introduce general provisions into the Taxation Administration Act that will enable recovery of taxes payable under State revenue laws, from directors and former directors of corporations in certain circumstances.

The Bill also applies the definition of "decision" contained in the Administrative Decisions Tribunal Act to the Taxation Administration Act to provide certainty for taxpayers applying for a review of decisions made by the Chief Commissioner.

The Bill makes a number of minor amendments to the Taxation Administration Act and deletes an obsolete provision in relation to "reciprocal taxation law", following the insertion of the Revenue Laws (Reciprocal Powers) Act 1987 provisions into the Taxation Administration Act 1996 and the consequential repeal of that Act.

Unclaimed Money Act 1995

The Bill increases the minimum amount required to be returned under the Unclaimed Money Act, from \$20 to \$100. This means that small amounts up to \$100 will no longer be given to the Government if unclaimed after 6 years. About 2 per cent of the small amounts paid to the Government in 2002-03 were reclaimed by the owners, that is, 400 amounts totalling \$20,000, or an average of \$50 per claim, out of a total of 20,000 small amounts totalling \$800,000 lodged with the Government. This amendment brings New South Wales into line with the Commonwealth, Victoria and South Australia.

I draw the attention of Honourable Members to the summary of the Bill that was tabled in the other place.

I commend the Bill to the House.

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