



New South Wales

State Revenue Legislation Further Amendment (No 2) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Duties Act 1997* as follows:
 - (i) to make it clear that quoted interests in unquoted marketable securities are not dutiable property,
 - (ii) to provide for the charging of duty on transfers of shares in share management fisheries at a concessional rate,
 - (iii) to make further provision with respect to exemptions and concessions that apply when marriages and domestic and de facto relationships break-up,
 - (iv) to provide for the stamping of instruments by means of an endorsement on the instrument of a number or other information issued by the Chief Commissioner,
 - (v) to abolish the use of adhesive stamps,

Explanatory note

- (vi) to exempt from payment of duty certain transfers of marketable securities to specified index trusts,
 - (vii) to make other amendments by way of law revision,
 - (viii) to make ancillary and consequential amendments,
- (b) to amend the *Land Tax Management Act 1956* as follows:
- (i) to simplify the method of assessing liability for land tax on land that is the subject of an unutilised value allowance,
 - (ii) to extend the exemption for land used as an owner's principal place of residence to land used and occupied by a beneficiary under a will,
 - (iii) to clarify a concession that applies on the death of the owner of land,
 - (iv) to make further provision with respect to the concession that applies when land is intended to be used and occupied as the owner's principal place of residence,
 - (v) to make further provision for the liability of trustees and trust beneficiaries for land tax on land that is the subject of a fixed trust, and to amend the *Land Tax Act 1956* consequentially,
 - (vi) to simplify the arrangements relating to liability for land tax when land is the subject of an agreement for sale,
 - (vii) to make other amendments by way of law revision,
 - (viii) to make ancillary and consequential amendments,
- (c) to amend the *Taxation Administration Act 1996* as follows:
- (i) to permit the disclosure of taxation information to the Director-General of the Department of Transport, for the purposes of the administration of the *Parking Space Levy Act 1992*,
 - (ii) to give the Chief Commissioner power to refund tax in order to give effect to a decision of the Hardship Review Board,
 - (iii) to make ancillary and consequential amendments,
- (d) to amend the *Unclaimed Money Act 1995* as follows:
- (i) to require an enterprise that holds any unclaimed money to make reasonable efforts to identify and locate the owner of the money, and to ensure the money is paid to the owner, before the money is paid to the Chief Commissioner,
 - (ii) to exempt amounts not exceeding \$20 from the unclaimed money provisions,
 - (iii) to authorise the Chief Commissioner to recover money wrongfully paid to a person,
 - (iv) to make ancillary and consequential amendments,

- (e) to repeal the *Petroleum Products Subsidy Act 1965* and the *Petroleum Products Subsidy Regulation 1998*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision giving effect to the amendments to legislation set out in Schedules 1 to 4.

Clause 4 repeals the *Petroleum Products Subsidy Act 1965* and the *Petroleum Products Subsidy Regulation 1998*. The legislation relates to a Commonwealth subsidy scheme that has been discontinued.

Schedule 1 Amendment of Duties Act 1997

Quoted interests in marketable securities

Shares, or units in a unit trust scheme, that are quoted on the Australian Stock Exchange or a recognised stock exchange are not considered to be dutiable property under the *Duties Act 1997*. Interests in such shares or units are also not considered to be dutiable property. This means that transfers of such shares, units or interests are not dutiable under the Act.

The amendments extend that exemption to interests in shares or units, if the interest (rather than the share or unit) is quoted on the Australian Stock Exchange or a recognised stock exchange. Accordingly, transfers of such interests will not be dutiable. See Schedule 1 [1].

Duty on transfers of shares in share management fisheries

The amendments provide that duty on dutiable transactions in shares in a share management fishery (established under the *Fisheries Management Act 1994*) is to be charged at a rate of 60 cents per \$100, or part, of the dutiable value of the shares. This is the same rate as the rate that applies to dutiable transactions in marketable securities. See Schedule 1 [2].

Exemptions and concessions—break-up of marriage or domestic or de facto relationship

At present, the *Duties Act 1997* exempts from duty a transfer or an agreement for sale or transfer of matrimonial property or relationship property in certain circumstances if it is made as a consequence of the annulment or dissolution of a marriage, or the termination of a domestic relationship. A similar exemption applies to acquisitions in private corporations and to applications for motor vehicle registration.

The amendments extend the exemption to cases where the Chief Commissioner is of the opinion that a marriage has broken down irretrievably. It will no longer be necessary to establish that the marriage has been, or will be, annulled or dissolved. See Schedule 1 [4], [6], [8], [9] and [15].

The Chief Commissioner will be required to have regard to evidence of the dissolution, annulment or break down of a marriage, or termination of a domestic relationship, that is provided to the Chief Commissioner in support of an exemption claim. See Schedule 1 [8], [12] and [16].

Similar amendments are made to the provisions of the Act that provide for the charging of duty at a concessional rate on refinancing mortgages. See Schedule 1 [14].

Amendments are also made for the purpose of recognising financial agreements that are made between parties to a marriage under new provisions of the *Family Law Act 1975* of the Commonwealth, and for the purpose of ensuring that they are exempt from duty. See Schedule 1 [3], [5], [9] and [15].

Schedule 1 [7], [10], [11] and [13] are ancillary and consequential amendments. Schedule 1 [23] includes a transitional provision.

Stamping of instrument by means of endorsement

At present, the *Duties Act 1997* provides for the stamping of a dutiable instrument by means of an impressed stamp or by some other method authorised by the Chief Commissioner or the Act.

The amendments allow the Chief Commissioner to make arrangements for the assessment of instruments for duty purposes without the instruments actually being lodged with the Chief Commissioner. Instead, information about the instrument will be given to the Chief Commissioner and an assessment made on the basis of that information. The Chief Commissioner will then issue a number, or other

information, as evidence of the assessment for endorsement on the instrument concerned. The amendments will allow an instrument to be stamped by means of the endorsement on the instrument of that number or other information, in accordance with the arrangements approved by the Chief Commissioner.

The amendments also allow the Chief Commissioner to issue a notice of assessment or statement of confirmation in respect of the assessment that includes the information provided to the Chief Commissioner on the basis of which the assessment was made.

See Schedule 1 [17] and [18].

Abolition of use of adhesive stamps

The amendments abolish the use of adhesive stamps to stamp instruments from 1 January 2002. Adhesive stamps may still be used in respect of instruments executed before that date. Applications for a refund in respect of unused adhesive stamps may be made up to 1 January 2003. See Schedule 1 [19], [20] and [21]. Schedule 1 [23] includes a transitional provision.

Exemption for transfers to index trusts

Before 1 July 2001, when transfers of quoted marketable securities were dutiable under the *Duties Act 1997*, certain transfers of marketable securities made to named index trusts were exempt from duty.

The amendments validate arrangements for the extension of that exemption to the following index trusts, on and from the date specified below in relation to the trust:

- (a) Index Shares Fund—2 March 2001,
- (b) streetTRACKS50 exchange traded fund—1 April 2001,
- (c) Barclays Australian Listed Property Index Fund—3 May 2001.

See Schedule 1 [23].

Other amendments

Other amendments are made for the purpose of updating and revising the definitions of *complying superannuation fund* and *related body corporate*. The amendments are made for law revision purposes, as a result of changes to Commonwealth legislation. See Schedule 1 [24] and [25].

The amendments also allow the making of savings and transitional regulations. See Schedule 1 [22].

Schedule 2 Amendment of land tax legislation

Amendments relating to land subject to an unutilised value allowance

Amendments to the *Land Tax Management Act 1956* change the method of assessing liability for land tax in respect of land that has an unutilised value allowance.

At present, if an unutilised value allowance is entered in the Register of Land Values in respect of land, the Act allows the land owner to postpone part of his or her liability for land tax. This is because the land has a higher value than its use reflects (for example, it may be zoned for multi-level development but used only for a single storey dwelling). The postponed amounts become payable if the land is sold or disposed of. Amounts postponed for more than 5 years are written off.

The amendments remove the provisions about postponement and writing off of tax, in order to simplify accounting arrangements. The amendments provide that liability for land tax on the land that is the subject of an unutilised value allowance is to be assessed as if the land value of the land were reduced by the unutilised value allowance. However, if the land is sold or disposed of, liability for land tax for the year in which the land is sold or disposed of, and for up to 4 preceding land tax years, is to be re-assessed as if there were no unutilised value allowance. The amendments should not result in any change to the net amount of tax payable by a land owner.

See Schedule 2.2 [1] and [13]. Schedule 2.2 [15] includes a transitional provision.

Exemption for owner's principal place of residence

At present, section 10 (1) (r) of the *Land Tax Management Act 1956* exempts from liability for land tax certain land that is used and occupied as the owner's principal place of residence.

The amendments extend this exemption to land that is used and occupied as the principal place of residence of a person other than the owner of the land, after the owner dies, under the terms of the will of the owner of the land. See Schedule 2.2 [2].

Concession on death of owner

Section 10A of the *Land Tax Management Act 1956* makes provision for the determination of liability for land tax when the owner of the land dies. It provides that liability is to be assessed as if the owner were still alive, until the land vests in another person.

The amendments make it clear that land under the provisions of the *Real Property Act 1900* is taken to vest in another person when the other person is registered as proprietor of that land under that Act. See Schedule 2.2 [3].

Concession for unoccupied land intended to be owner's principal place of residence

At present, the *Land Tax Management Act 1956* allows the Chief Commissioner to treat land that is intended to be used and occupied as the owner's principal place of residence as land that is actually used and occupied as the owner's principal place of residence for the purposes of assessment of land tax.

However, the Act provides that the Chief Commissioner cannot exercise that power unless the land is within a residential zone under a planning instrument or, if not within a zone under a planning instrument, unless the Chief Commissioner is satisfied that the land is to be used for residential purposes.

The amendments remove that restriction. However, it will remain a requirement that the Chief Commissioner be satisfied that the intended use and occupation of the land is not unlawful. See Schedule 2.2 [9].

Liability for land tax in respect of land that is subject to a trust

At present, the *Land Tax Management Act 1956* provides that the owner of any equitable estate or interest in land is liable for land tax in respect of the land as if he or she were the owner of that land. The owner of the legal estate is taken to be the primary taxpayer and the owner of the equitable estate is taken to be the secondary taxpayer in respect of the land.

The amendments make special provision in respect of land that is the subject of a fixed trust (that is, a trust that is not a special trust (as defined in the Act)). Under the new provisions, the trustee will be able to apply for the trust to be classified as a non-concessional trust for land tax purposes. Under amendments to the *Land Tax Act 1956*, trusts that are classified as non-concessional trusts will be taxed in the same way as special trusts—that is, the tax-free threshold will not apply. However, if a trust is classified as a non-concessional trust, the beneficiaries of the trust will not be liable to pay land tax in respect of the land that is the subject of the trust.

Land that is the subject of a trust that is not classified as a non-concessional trust will continue to be taxed under the current arrangements.

See Schedule 2.1 and 2.2 [10].

Liability for land tax when land is subject to an agreement for sale

At present, liability for land tax on land that is the subject of an agreement for sale is determined on the basis of who has possession of the land and the percentage of the purchase price that has been paid.

Under the new arrangements, if land that is subject to the provisions of the *Real Property Act 1900* is subject to an agreement for sale that has not been completed, the registered proprietor of the land will be taken to be the owner of the land for land tax purposes, and will be liable for land tax in respect of the land, to the exclusion of the liability of the purchaser. However, the purchaser will be taken to be the owner of the land, and liable for land tax, if the purchaser obtains the right to exclusive possession of the land and takes possession of the land. Similar arrangements will apply to land that is not subject to the provisions of the *Real Property Act 1900*. See Schedule 2.2 [11].

Other amendments

The amendments also:

- (a) remove redundant provisions in the *Land Tax Management Act 1956* relating to a rental-purchase scheme and other provisions that have fallen into disuse (certain provisions that deem persons to be owners of land for land tax purposes), and
- (b) make further provision for the exemption from land tax of land that is used and occupied as a retirement village or an aged care establishment, following the commencement of the *Retirement Villages Act 1999*, and
- (c) provide for the making of savings and transitional regulations and other transitional matters.

See Schedule 2.2 [4]–[8], [12], [14] and [15].

Schedule 3 Amendment of Taxation Administration Act 1996

The amendments to the *Taxation Administration Act 1996*:

- (a) permit the disclosure of information obtained under or in relation to the administration of a taxation law to the Director-General of the Department of Transport, for the purposes of administration of the *Parking Space Levy Act 1992* (see Schedule 3 [1]), and
- (b) allow the Chief Commissioner to make refunds of tax already paid in order to give effect to a decision of the Hardship Review Board under that Act (see Schedule 3 [2]), and
- (c) provide for the making of savings and transitional regulations (see Schedule 3 [3]).

Schedule 4 Amendment of Unclaimed Money Act 1995

Enterprise required to make reasonable efforts to identify owner of money

The amendments will require an enterprise that holds any money in an account that has not been operated on for at least 6 years to make reasonable efforts to identify and locate the owner of the money and to pay the money to the owner. Similar requirements apply in relation to unclaimed superannuation benefits under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth. See Schedule 4 [1].

The amendments also allow an enterprise to pay unclaimed money to the owner of the money, rather than to the Chief Commissioner, if inquiries in relation to the owner of the money are successful. See Schedule 4 [3] and [4].

Exemption of amounts not exceeding \$20

The amendments provide that if the amount of money held in an account does not exceed \$20, it is not unclaimed money and does not have to be paid to the Chief Commissioner. See Schedule 4 [2].

Authority to recover money wrongfully paid

At present, if the Chief Commissioner pays unclaimed money to a person who is determined to be the owner of the money, the Chief Commissioner is relieved from further liability with respect to the unclaimed money. However, if the person to whom it was paid is not the owner of the money, the owner is entitled to recover it from the person to whom it was paid.

Explanatory note

The amendments will change those provisions so as to allow the Chief Commissioner to recover any money wrongfully paid from the person to whom it was paid. See Schedule 4 [5] and [6].

Savings and transitional

The amendments also provide for the making of savings and transitional regulations. See Schedule 4 [7].



New South Wales

State Revenue Legislation Further Amendment (No 2) Bill 2001

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New South Wales

State Revenue Legislation Further Amendment (No 2) Bill 2001

No , 2001

A Bill for

An Act to make miscellaneous amendments to certain State revenue legislation;
and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> .	3 4
2 Commencement	5
(1) This Act commences on the date of assent, except as provided by this section.	6 7
(2) The following provisions commence, or are taken to have commenced, on the dates indicated:	8 9
Schedule 1 [1] on 1 July 2001	10
Schedule 1 [2] on 1 July 1998	11
Schedule 1 [19], [20] and [21] on 1 January 2002	12
Schedule 1 [24] on 8 October 1999	13
Schedule 3 [2] on 13 December 2000	14
Schedule 4 on 1 January 2002	15
(3) Schedule 2 commences on a day or days to be appointed by proclamation.	16 17
3 Amendment of Acts	18
The Acts specified in Schedules 1 to 4 are amended as set out in those Schedules.	19 20
4 Repeals	21
(1) The <i>Petroleum Products Subsidy Act 1965</i> is repealed.	22
(2) The <i>Petroleum Products Subsidy Regulation 1998</i> is repealed.	23

Schedule 1	Amendment of Duties Act 1997	1
	(Section 3)	2
[1]	Section 11 What is “dutiable property”?	3
	Omit section 11 (2) (b). Insert instead:	4
	(b) an interest in shares, or an interest in units in a unit trust scheme, if:	5
	(i) the shares or units are quoted on the Australian Stock Exchange or a recognised stock exchange,	6
	or	7
	(ii) the interest is quoted on the Australian Stock Exchange or a recognised stock exchange.	8
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[2]	Section 33A	12
	Insert after section 33:	13
	33A Shares in share management fisheries	14
	The rate of duty chargeable on dutiable transactions in respect of shares in a share management fishery (within the meaning of the <i>Fisheries Management Act 1994</i>) is 60 cents per \$100, or part, of the dutiable value of the shares.	15
		16
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		18
[3]	Section 65 Exemptions from duty	19
	Insert after section 65 (10):	20
	(11) Financial agreements	21
	No duty is chargeable under this Chapter on a financial agreement made under section 90B, 90C or 90D of the <i>Family Law Act 1975</i> of the Commonwealth.	22
		23
		24

[4] Section 68 Exemptions—break-up of marriages and domestic relationships	1 2
Omit section 68 (1) (a). Insert instead:	3
(a) the property is transferred, or agreed to be sold or transferred, to the parties to a marriage that is dissolved or annulled, or in the opinion of the Chief Commissioner has broken down irretrievably, or to either of them, or to a child or children of either of them, and	4 5 6 7 8 9
[5] Section 68 (1) (b) (i)	10
Omit the subparagraph. Insert instead:	11
(i) a financial agreement made under section 90B, 90C or 90D of the <i>Family Law Act 1975</i> of the Commonwealth that, under that Act, is binding on the parties to the agreement, or	12 13 14 15
[6] Section 68 (1) (b) (iia)	16
Omit the subparagraph. Insert instead:	17
(iia) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing matrimonial property as a consequence of the dissolution, annulment or breakdown of the marriage, or	18 19 20 21 22
[7] Section 68 (1) (b) (iii)	23
Omit “such document or order”. Insert instead “such agreement or order”.	24
[8] Section 68 (4)–(4B)	25
Omit section 68 (4). Insert instead:	26
(4) Refunds—break-up of marriage	27
If:	28
(a) ad valorem duty was paid on a transfer, or an agreement for the sale or transfer, of matrimonial property to the parties to a marriage or to either of them, or to a child or children of either of them, and	29 30 31 32

(b)	the transfer or agreement was effected as referred to in section 68 (1) (b), and	1 2
(c)	the marriage has been dissolved or annulled or has broken down irretrievably,	3 4
	the Chief Commissioner must reassess the transfer or agreement and refund the duty paid.	5 6
(4A)	Refunds—break-up of domestic relationship	7
	If:	8
(a)	ad valorem duty was paid on a transfer, or an agreement for the sale or transfer, of relationship property to the parties to a domestic relationship or to either of them, or to a child or children of either of them, and	9 10 11 12
(b)	the transfer or agreement was effected as referred to in section 68 (2) (b), and	13 14
(c)	the domestic relationship has been terminated,	15
	the Chief Commissioner must reassess the transfer or agreement and refund the duty paid.	16 17
(4B)	Evidence of exemption	18
	A party to a marriage or domestic relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:	19 20 21
(a)	in the case of a marriage:	22
(i)	the party intends to apply for a dissolution or annulment of the marriage, or	23 24
(ii)	the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or	25 26 27
(b)	in the case of a domestic relationship, the domestic relationship has been terminated.	28 29
	The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under this section.	30 31
(4C)	Power to require other evidence	32
	Subsection (4B) does not limit the functions of the Chief Commissioner under section 72 of the <i>Taxation Administration Act 1996</i> .	33 34 35

[9] Section 119 Exemptions	1
Omit section 119 (1) (e). Insert instead:	2
(e) if the interest was acquired by the parties to a marriage that is dissolved or annulled, or in the opinion of the Chief Commissioner has broken down irretrievably, or by either of them, or by a child or children of them, as a result of a transfer made in accordance with:	3
(i) a financial agreement made under section 90B, 90C or 90D of the <i>Family Law Act 1975</i> of the Commonwealth that, under that Act, is binding on the parties to the agreement, or	4
(ii) an order of a court under that Act, or	5
(iii) an agreement that the Chief Commissioner is satisfied has been made for the purpose of dividing matrimonial property as a consequence of the dissolution, annulment or breakdown of the marriage, or	6
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[10] Section 119 (1) (f)	18
Omit “in accordance with”.	19
Insert instead “as a result of a transfer made in accordance with”.	20
[11] Section 119 (2)	21
Omit the subsection. Insert instead:	22
(2) If:	23
(a) duty was paid on the acquisition of matrimonial property by the parties to a marriage or by either of them, or by a child or children of either of them, and	24
(b) the interest acquired was acquired as a result of a transfer made in accordance with an agreement or order referred to in section 119 (1) (e) (i), (ii) or (iii), and	25
(c) the marriage has been dissolved or annulled or has broken down irretrievably,	26
the person who paid the duty is entitled to a refund of it.	27
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(2A) If:	1
(a) duty was paid on the acquisition of relationship property by the parties to a domestic relationship or by either of them, or by a child or children of either of them, and	2 3 4
(b) the interest acquired was acquired as a result of a transfer made in accordance with an order or agreement referred to in section 119 (1) (f) (i) or (ii), and	5 6 7
(c) the domestic relationship has been terminated,	8
the person who paid the duty is entitled to a refund of it.	9
[12] Section 119 (4)	10
Insert after section 119 (3):	11
(4) A party to a marriage or domestic relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:	12 13 14
(a) in the case of a marriage:	15
(i) the party intends to apply for a dissolution or an annulment of the marriage, or	16 17
(ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or	18 19 20
(b) in the case of a domestic relationship, the domestic relationship has been terminated.	21 22
The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under subsection (1) (e) or (f).	23 24 25
(4A) Subsection (4) does not limit the functions of the Chief Commissioner under section 72 of the <i>Taxation Administration Act 1996</i> .	26 27 28
[13] Section 119 (5)	29
Omit the definition of <i>Family Law Act</i> .	30

[14] Section 220 Refinancing of loans	1
Omit section 220 (9). Insert instead:	2
(9) If an original borrower dies, or is a party to a marriage that has been dissolved or annulled or, in the opinion of the Chief Commissioner, has broken down irretrievably or is party to a de facto relationship that, in the opinion of the Chief Commissioner, has been terminated, the remaining borrower is, or the remaining borrowers are, taken to be the same borrower or the same person for the purposes of subsection (1) or (2).	3 4 5 6 7 8 9
(10) A party to a marriage or de facto relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:	10 11 12
(a) in the case of a marriage:	13
(i) the party intends to apply for a dissolution or an annulment of the marriage, or	14 15
(ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or	16 17 18
(b) in the case of a de facto relationship, the de facto relationship has been terminated.	19 20
The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under subsection (9).	21 22 23
(11) Subsection (10) does not limit the functions of the Chief Commissioner under section 72 of the <i>Taxation Administration Act 1996</i> .	24 25 26
[15] Section 267 Exemptions	27
Omit section 267 (6). Insert instead:	28
(6) Vehicles transferred by certain court orders—parties to a marriage	29 30
Duty under this Chapter is not chargeable in respect of an application to transfer the registration of a motor vehicle registered in the names of the parties to a marriage that has been dissolved or annulled, or is proved to the satisfaction of the Chief Commissioner to have broken down irretrievably, or in the name of either of them to the extent that the vehicle was,	31 32 33 34 35 36

at the time the application was made, matrimonial property, if
the application was made as a result of or in accordance with:

- (a) a financial agreement made under section 90B, 90C or
90D of the *Family Law Act 1975* of the
Commonwealth that, under that Act, is binding on the
parties to the agreement, or
- (b) an order of a court under that Act, or
- (c) an agreement that the Chief Commissioner is satisfied
has been made for the purpose of dividing matrimonial
property as a consequence of the dissolution, annulment
or breakdown of the marriage.

[16] Section 267 (9) and (10)

Insert after section 267 (8):

(9) Evidence of exemption—break-up of marriage or domestic relationship

A party to a marriage or domestic relationship may provide a statement to the Chief Commissioner, in the form of a statutory declaration, to the effect that:

- (a) in the case of a marriage:
 - (i) the party intends to apply for a dissolution or an annulment of the marriage, or
 - (ii) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or
- (b) in the case of a domestic relationship, the domestic relationship has ceased.

The Chief Commissioner is required to have regard to any such statement in exercising his or her functions under subsection (6) or (7).

(10) Power to require other evidence of exemption

Subsection (9) does not limit the functions of the Chief Commissioner under section 72 of the *Taxation Administration Act 1996*.

[17] Section 287 Form of stamps to be used	1
Insert after section 287 (2):	2
(3) Without limiting subsection (2), the Chief Commissioner may approve arrangements for the stamping of an instrument by means of the endorsement on the instrument of a number, or other information, issued by the Chief Commissioner in respect of the instrument (as referred to in section 289A).	3 4 5 6 7
[18] Section 289A	8
Insert after section 289:	9
289A Stamping by means of endorsement	10
(1) An instrument is duly stamped if it is endorsed in accordance with an arrangement, approved by the Chief Commissioner under Division 2 of Part 6 of the <i>Taxation Administration Act 1996</i> , under which:	11 12 13 14
(a) information concerning an instrument (rather than the instrument itself) is lodged with the Chief Commissioner, and	15 16 17
(b) the information is used by the Chief Commissioner to assess the duty payable on the instrument, and	18 19
(c) a number, or other information, is issued by the Chief Commissioner, in respect of the instrument, for endorsement on the instrument.	20 21 22
(2) Section 297 applies in respect of an instrument endorsed in accordance with an arrangement referred to in this section as if the instrument had been stamped by the Chief Commissioner, and section 42 (3) of the <i>Taxation Administration Act 1996</i> does not apply.	23 24 25 26 27
(3) However, the endorsement of an instrument in accordance with an arrangement referred to in this section does not affect any liability for payment of the duty in relation to the instrument under this Act.	28 29 30 31

(4)	A notice of assessment or statement of confirmation issued by the Chief Commissioner in relation to the assessment of an instrument as referred to in this section may include any of the information provided to the Chief Commissioner on which the assessment of the instrument was based.	1 2 3 4 5
[19]	Section 290 Adhesive stamps	6
	Insert “, but only if they were first executed before 1 January 2002” after “the following instruments” in section 290 (1).	7 8
[20]	Section 291 Licences to deal in stamps	9
	Omit the section.	10
[21]	Section 292 Refunds—spoiled and unused stamps	11
	Insert after section 292 (3):	12
(4)	An application under this section must be made before 1 January 2003.	13 14
(5)	A refund under this section is not available in respect of any application made on or after that date.	15 16
[22]	Schedule 1 Savings, transitional and other provisions	17
	Insert at the end of clause 1 (1):	18
	<i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> (to the extent that it amends this Act)	19 20
[23]	Schedule 1	21
	Insert at the end of Schedule 1, with appropriate Part and clause numbering:	22
Part	Provisions consequent on enactment of State Revenue Legislation Further Amendment (No 2) Act 2001	23 24 25
	Financial agreements	26
	A reference in section 65 (11), 68 (1) (b) (i), 119 (1) (e) (i) or 267 (6) (a) to a financial agreement made under section 90B,	27 28

90C or 90D of the *Family Law Act 1975* of the Commonwealth extends to a financial agreement made under any of those provisions of the *Family Law Act 1975* of the Commonwealth before the date of assent to the *State Revenue Legislation Further Amendment Act (No 2) 2001*.

Transfers to index trusts

(1) For the purposes of section 66 (9) of this Act, as in force immediately before its repeal by the *Intergovernmental Agreement Implementation (GST) Act 2000* on 1 July 2001, the definition of **index trust**, as set out in the Dictionary to this Act immediately before 1 July 2001, is taken to have included the following bodies, on and from the date specified below in relation to the body concerned:

- (a) Index Shares Fund—2 March 2001,
- (b) streetTRACKS50 exchange traded fund—1 April 2001,
- (c) Barclays Australian Listed Property Index Fund—3 May 2001.

(2) Accordingly, the exemption formerly provided for by section 66 (9) is taken to have extended to those bodies on and from the date specified in relation to the body concerned in subclause (1).

Note. The exemption related to transfers of marketable securities to an index trust in exchange for units in the trust. The exemption was repealed as a consequence of the abolition of duty on transfers of quoted marketable securities.

(3) Anything done by or on behalf of the Chief Commissioner before the commencement of this clause, that would have been validly done had this clause been in force at the time that it was done, is validated.

Abolition of use of adhesive stamps

(1) A licence issued under section 291, before its repeal by the *State Revenue Legislation Further Amendment (No 2) Act 2001*, is taken to be cancelled on the repeal of that section, unless sooner cancelled by the Chief Commissioner.

(2) A person must not sell or deal in adhesive stamps issued by or on behalf of the Chief Commissioner for use under section 290.	1
Maximum penalty: 100 penalty units.	2
(3) Subclause (2) takes effect on 1 January 2002.	3
[24] Dictionary	4
Insert “or section 42A” after “section 42” in the definition of <i>complying superannuation fund</i> .	5
[25] Dictionary, definition of “related body corporate”	6
Omit “ <i>Corporations Law</i> ”.	7
Insert instead “ <i>Corporations Act 2001</i> of the Commonwealth”.	8
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Schedule 2	Amendment of land tax legislation	1
	(Section 3)	2
2.1	Amendment of Land Tax Act 1956 No 27	3
[1]	Section 3AH Levy of land tax after 31 December 1999	4
	Omit “subsection (2)” from section 3AH (1).	5
	Insert instead “subsections (2) and (2A)”.	6
[2]	Section 3AH (2A)	7
	Insert after section 3AH (2):	8
	(2A) In respect of the taxable value of all the land owned by a person at midnight on 31 December in any year (commencing with the year in which section 25A of the Principal Act commences) where:	9
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		11
		12
	(a) the land is subject to a fixed trust within the meaning of section 25A of the Principal Act, and	13
		14
	(b) the trust is classified as a non-concessional trust for land tax purposes under that section,	15
		16
	land tax for the period of 12 months commencing on 1 January in the next succeeding year is to be charged, levied, collected and paid as referred to in subsection (1) at the rate of 1.7 cents for each \$1 of the taxable value.	17
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		19
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2.2	Amendment of Land Tax Management Act 1956 No 26	1
[1]	Section 9A	2
	Omit the section. Insert instead:	3
	9A Concession for unutilised land value	4
	(1) This section applies to land if an unutilised value allowance (as ascertained under Division 3 of Part 7) is entered in the Register in respect of the land.	5 6 7
	(2) For the purpose of assessing land tax, the land value of the land is to be reduced by the unutilised value allowance.	8 9
	(3) However, if the land is sold or otherwise disposed of or it ceases to be used or occupied solely as the site of a single dwelling-house, a person whose liability to pay land tax in respect of the land has been assessed in accordance with this section must, within 1 month, inform the Chief Commissioner of the date on which the land was sold or otherwise disposed of or ceased to be so used or occupied.	10 11 12 13 14 15 16
	(4) Liability for land tax in respect of the year in which the land is sold, disposed of, or ceases to be used or occupied solely as the site of a single dwelling-house, and in each of the preceding years (up to a maximum of 4 preceding years) in which the person's liability to pay land tax was assessed in accordance with this section is to be reassessed as if subsection (2) had not applied to the land.	17 18 19 20 21 22 23
	(5) For the purposes of section 9 (3) (c) of the <i>Taxation Administration Act 1996</i> , any such reassessment is authorised to be made more than 5 years after the initial assessment.	24 25 26
	(6) Any such re-assessment is not a relevant land tax assessment for the purposes of section 35 (1) (b) of the <i>Valuation of Land Act 1916</i> if it is based on the same land value on which the original land tax assessment was based (before the reduction was made under subsection (2) of this section).	27 28 29 30 31
	(7) In this section, <i>single dwelling-house</i> has the same meaning as in Division 2 of Part 8 of Chapter 15 of the <i>Local Government Act 1993</i> .	32 33 34

[2] Section 10 Land exempted from tax	1
Insert after section 10 (1F):	2
(1FA) For the purposes of subsection (1) (r), if the owner of land dies and the land is used and occupied as the principal place of residence of:	3
(a) a person using and occupying the land under a right of occupancy created by the will of that owner, or	4
(b) a person (other than a tenant) who resided with that owner immediately before his or her death and who continues to use and occupy the land with the permission of the deceased person's personal representative, or of any other person, granted under a power or right conferred by the will of that owner,	5
then the person who so uses and occupies the land is taken to be the owner of the land, but only while that use and occupation continues.	6
[3] Section 10A Residential use and occupation—concession on death of owner	7
Insert after section 10A (4):	8
(5) For the purposes of this section, if the deceased is a registered proprietor under the <i>Real Property Act 1900</i> in respect of his or her interest in the land, the deceased's interest in the land is taken to vest in another person when that other person is registered as the proprietor of that interest under that Act.	9
[4] Sections 10M–10O	10
Omit the sections.	11
[5] Section 10R Retirement villages and nursing homes—exemption/reduction	12
Insert before the definition of <i>nursing home</i> in section 10R (1):	13
<i>aged care establishment</i> means:	14
(a) any building or any part of a building used or intended to be used for the provision of residential care, within the meaning of the <i>Aged Care Act 1997</i> of the	15

	Commonwealth, by an approved provider under that Act, or	1 2
	(b) any building or any part of a building used or intended to be used for the provision of respite care, within the meaning of the <i>Aged Care Act 1997</i> of the Commonwealth, by an approved provider under that Act.	3 4 5 6 7
[6]	Section 10R (1)	8
	Omit the definition of <i>retirement village</i> from section 10R (1). Insert instead:	9 10
	<i>retirement village</i> has the same meaning as in the <i>Retirement Villages Act 1999</i> .	11 12
[7]	Section 10R (2)	13
	Omit the subsection. Insert instead:	14
	(2) Land is exempt from taxation under this Act if the land is used and occupied as any of the following, or any combination of the following, and for no other purpose:	15 16 17
	(a) an aged care establishment,	18
	(b) a retirement village,	19
	(c) a nursing home.	20
[8]	Section 10R (4)	21
	Omit “a retirement village, or a retirement village and a nursing home”. Insert instead “an aged care establishment, a retirement village or a nursing home”.	22 23 24
[9]	Section 10T Concession for unoccupied land intended to be owner’s principal place of residence	25 26
	Omit section 10T (2) (a).	27

[10] Section 25	1
Omit the section. Insert instead:	2
25 Equitable owner	3
(1) The owner of any equitable estate or interest in land is liable in respect of land tax as if he or she were the legal owner of the estate or interest and land tax is to be assessed accordingly.	4 5 6
(2) For that purpose:	7
(a) the owner of the legal estate is taken to be the primary taxpayer and the owner of the equitable estate is taken to be the secondary taxpayer, and	8 9 10
(b) there is to be deducted from the land tax payable by the secondary taxpayer in respect of the land such amount (if any) as is necessary to prevent double taxation.	11 12 13
(3) This section does not apply in respect of land that is subject to a trust if the trust is a fixed trust (within the meaning of section 25A) that is classified under that section as a non-concessional trust for land tax purposes.	14 15 16 17
(4) This section is subject to the other provisions of this Act, in particular sections 25A and 26.	18 19
25A Classification of trust as a non-concessional trust	20
(1) The Chief Commissioner must classify a fixed trust as a non-concessional trust for land tax purposes if an application for that classification is duly made by the trustee of the fixed trust.	21 22 23
(2) The Chief Commissioner may also classify a fixed trust as a non-concessional trust for land tax purposes on the Chief Commissioner's own motion.	24 25 26
(3) A classification of a fixed trust as a non-concessional trust has effect in respect of any assessment of land tax liability (being an initial assessment of land tax liability) that is made on or after the date on which the trust is classified as a non-concessional trust, and does not affect any assessment of land tax liability made before that classification.	27 28 29 30 31 32

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- (4) However, if an application for classification is duly made by the trustee within the period allowed for the lodging of an objection to a notice of assessment of land tax liability (being a notice that relates to an initial assessment of land tax liability):
- (a) the classification of the trust as a non-concessional trust is taken to extend to the land tax year in respect of which that notice of assessment was issued, and
 - (b) liability for that land tax is to be re-assessed accordingly.
- (5) The Chief Commissioner must revoke the classification of a fixed trust as a non-concessional trust if an application for revocation is duly made by the trustee of the fixed trust.
- (6) The Chief Commissioner may also revoke the classification on the Chief Commissioner's own motion.
- (7) The revocation has effect in respect of any assessment of land tax liability (being an initial assessment of land tax liability) that is made on or after the date on which the classification is revoked, and does not affect any assessment of land tax liability that was made before that revocation.
- (8) However, if an application for revocation is duly made by the trustee within the period allowed for the lodging of an objection to a notice of assessment of land tax liability (being an initial assessment of land tax liability):
- (a) the revocation of the classification by the Chief Commissioner is taken to extend to the land tax year in respect of which that notice of assessment was issued, and
 - (b) liability for land tax is to be re-assessed accordingly.
- (9) An application under this section is to be made in a form approved by the Chief Commissioner, and is to include such supporting information as the form requires.
- (10) The Chief Commissioner may, despite anything to the contrary in this section, reject an application under this section if it is made in contravention of the trust deed or other document that declares the trust concerned.

(11) In this section:	1
<i>fixed trust</i> means any trust (other than a special trust) where	2
the whole or any part of the trust property comprises land.	3
[11] Section 26	4
Omit the section. Insert instead:	5
26 Purchaser and vendor	6
(1) If land under the provisions of the <i>Real Property Act 1900</i> is	7
the subject of an agreement for sale that has not been	8
completed by transfer of the land, the person who is registered	9
as the proprietor of the land under the <i>Real Property Act 1900</i>	10
is taken, for the purposes of this Act, to be the owner of the	11
land, to the exclusion of the liability of the purchaser.	12
(2) If land, not being land under the provisions of the <i>Real</i>	13
<i>Property Act 1900</i> , is the subject of an agreement for sale that	14
has not been completed by conveyance of the land, the vendor	15
of the land is taken, for the purposes of this Act, to be the	16
owner of the land, to the exclusion of the liability of the	17
purchaser.	18
(3) Despite subsections (1) and (2), the purchaser under the	19
agreement for sale is taken, for the purposes of this Act, to be	20
the owner of the land (to the exclusion of the liability of the	21
registered proprietor or vendor) if:	22
(a) under the terms of the agreement for sale the purchaser	23
is entitled to exclusive possession of the land and is	24
entitled to receive, if the land is let to a tenant, any rents	25
and profits derived from the tenancy, and	26
(b) the purchaser has taken possession of the land.	27
(4) In this section:	28
<i>agreement for sale</i> means an agreement for sale of land that is	29
in force.	30
[12] Sections 30, 31 and 32	31
Omit the sections.	32

[13] Section 62I Purpose and interpretation of Division	1
Omit “Postponement of part of land tax attributable to unutilised value” from section 62I (1).	2 3
Insert instead “Concession for unutilised land value”.	4
[14] Schedule 2 Savings and transitional provisions	5
Insert at the end of clause 1A (1):	6
<i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> (to the extent that it amends this Act)	7 8
[15] Schedule 2	9
Insert at the end of the Schedule (with appropriate Part and clause numbering):	10 11
 Part Provisions consequent on enactment of State Revenue Legislation Further Amendment (No 2) Act 2001	 12 13 14
Postponement of land tax attributable to unutilised value	15
(1) The former section 9A continues to apply in respect of land tax payable for a tax year commencing on or before 1 January 2001, subject to this clause.	16 17 18
(2) The new section 9A extends to a tax year commencing on or before 1 January 2001 if:	19 20
(a) a person postponed the payment of land tax under former section 9A in any assessment made in respect of such a tax year, and	21 22 23
(b) the person did not cease to be entitled to the postponement of land tax under former section 9A before that date.	24 25 26
(3) For the purpose of applying the new section 9A to such a person, the person is taken to have had their liability for land tax in that year, and in the previous year or years in which payment of the land tax was postponed, assessed in accordance with the new section 9A.	27 28 29 30 31

(4) In this clause:	1
<i>former section 9A</i> means section 9A as in force immediately before its substitution by the <i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> .	2 3 4
<i>new section 9A</i> means section 9A as substituted by the <i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> .	5 6
Repeal of certain provisions	7
The repeal of sections 10M–10O, and sections 30, 31 and 32, by the <i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> does not affect the application of those sections to or in respect of a tax year commencing before the repeal of those sections and does not affect any existing liability for land tax.	8 9 10 11 12
Amendments to section 10R	13
The amendments made to section 10R by the <i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> apply in respect of a land tax year commencing on or after the commencement of those amendments, despite section 10R (5).	14 15 16 17 18

Schedule 3	Amendment of Taxation Administration Act 1996	1
		2
	(Section 3)	3
[1]	Section 82 Permitted disclosures—to particular persons	4
	Insert after section 82 (e) (viiiif):	5
	(viiiig) the Director-General of the Department of Transport, for the purposes of administration of the <i>Parking Space Levy Act 1992</i> , or	6 7 8
[2]	Section 106CA	9
	Insert after section 106C:	10
	106CA Refunds of tax	11
	The Chief Commissioner is to make such refund of tax already paid as is necessary to give effect to a decision of the Hardship Review Board under this Division.	12 13 14
[3]	Schedule 1 Savings, transitional and other provisions	15
	Insert at the end of clause 1 (1):	16
	<i>State Revenue Legislation Further Amendment (No 2) Act 2001</i> (to the extent that it amends this Act)	17 18

Schedule 4 Amendment of Unclaimed Money Act 1995	1
(Section 3)	2
[1] Section 8A	3
Insert after section 8:	4
8A Enterprise must first make reasonable efforts to ensure owner is paid money	5
	6
(1) An enterprise that holds any money of a kind referred to in section 8 in an account referred to in section 7 (1) must make reasonable efforts:	7
	8
	9
(a) to identify and locate the owner of the money, and	10
	11
(b) to ensure that the money is paid to the owner of the money.	12
Maximum penalty: 50 penalty units.	13
(2) Money held by an enterprise in an account is not unclaimed money (despite section 7) unless, after making reasonable efforts and after a reasonable period has passed, the enterprise is unable to ensure that the money is paid to the owner of the money.	14
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	18
(3) This section does not apply in respect of any money that is not unclaimed money because of section 9.	19
	20
[2] Section 9 Certain money not unclaimed money	21
Omit section 9 (3). Insert instead:	22
(3) For the purposes of this Act, money is not unclaimed money if:	23
(a) the money is, or is of a class, prescribed by the regulations as exempt from the operation of this Act, or	24
	25
(b) the money is held by an enterprise that is, or is of a class, prescribed by the regulations as exempt from the operation of this Act, or	26
	27
	28
(c) the amount of money in the account concerned does not exceed \$20.	29
	30

[3] Section 10 Return and payment of unclaimed money to Chief Commissioner	1 2
Omit section 10 (1). Insert instead:	3
(1) An enterprise that holds unclaimed money on 30 June in any year must, within 4 months after that date (or such longer period as the Chief Commissioner may in a particular case allow), lodge with the Chief Commissioner a return relating to that money in a form approved by the Chief Commissioner.	4 5 6 7 8
(1A) If, after 30 June and before the enterprise lodges the return with the Chief Commissioner, the enterprise pays any unclaimed money to the owner of the unclaimed money, the return must contain such particulars relating to the amounts so paid as are required by the form.	9 10 11 12 13
(1B) The enterprise, when lodging the return, must pay to the Chief Commissioner an amount equal to the sum of the unclaimed money specified in the return less the sum of amounts paid by the enterprise and specified in accordance with subsection (1A).	14 15 16 17 18
[4] Section 10 (3)	19
Insert “, (1A) or (1B)” after “subsection (1)”.	20
[5] Section 24 Chief Commissioner may repay unclaimed money to owner	21
Omit section 24 (3) and (4).	22
[6] Section 26A	23
Insert after section 26:	24
26A Recovery of money wrongly paid	25
(1) If money is paid under this Part to a person who is not the owner of the money, the Chief Commissioner is entitled to recover the money from the person to whom it was paid (unless prevented from doing so by operation of the <i>Limitation Act 1969</i> .)	26 27 28 29 30
(2) The Chief Commissioner is to pay money recovered under this section into the Consolidated Fund.	31 32

State Revenue Legislation Further Amendment (No 2) Bill 2001

Schedule 4 Amendment of Unclaimed Money Act 1995

[7] Schedule 2 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>State Revenue Legislation Further Amendment (No 2) Act 2001</i>	3
(to the extent that it amends this Act)	4