First print

New South Wales

Treasury and Revenue Legislation Amendment Bill 2023

Explanatory note

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

This Bill is cognate with the *Appropriation Bill 2023*.

Overview of Bill

The objects of this Bill are as follows—

(a) to increase the duty payable on certain transactions attracting fixed or nominal duty,

(b) to reduce the threshold for the acquisition of a significant interest in a landholder belonging to a class of private unit trust scheme,

(c) to provide for the registration of private unit trust schemes that meet certain criteria,

(d) to reduce the value of the property of an entity that a principal entity would need to be entitled to receive in the event of a distribution of all the property of the other entity in order for the other entity to be a linked entity of the principal entity for the purposes of duty,

(e) to remove an exemption from duty in relation to certain electric vehicles,

(f) to remove exemptions from duty for corporate reconstruction transactions and corporate consolidation transactions and to replace the exemptions with a 90% reduction in duty otherwise chargeable,

(g) to provide for the road user charges payable for electric vehicle from 1 January 2024,

(h) to set out the method for calculating the tax threshold and premium rate threshold for land tax and to set out and validate previous amounts for the thresholds,

(i) to remove the ability to claim a principal place of residence exemption in relation to land unless the persons who use and occupy the land as a principal place of residence together own at least a 25% interest in the land,

(j) to re-enact a power of the Chief Commissioner of State Revenue to remit interest and include a new power for the Chief Commissioner to issue guidelines about how interest must be remitted,

(k) to transfer unspent money from 3 funds in the Special Deposits Account to the Consolidated Fund,

(l) to make minor statute-law type amendments.

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.

Schedule 1 Amendment of Duties Act 1997 No 123

Schedule 1[1]–[4] increase the duty payable on certain transactions attracting fixed or nominal duty. **Schedule 1[10]** makes a consequential amendment.

Schedule 1[6] A person has a significant interest in a landholder for the purposes of the *Duties Act 1997* if the person is entitled to a specified percentage of the property distributed. Currently, the percentage is 50% or more for a private landholder and 90% or more for a public landholder. The proposed amendment brings in a new category specifying that for a private landholder that is a private unit trust scheme, a person has a significant interest if the person is entitled to 20% or more of the property distributed. **Schedule 1[7]** provides that a private unit trust scheme is a unit trust scheme other than a public unit trust scheme or a scheme registered by the Chief Commissioner of State Revenue (the ***Chief Commissioner***).

Schedule 1[8] inserts a new division that provides for the registration of unit trust schemes by the Chief Commissioner. **Schedule 1[5]** makes a consequential amendment. The proposed division comprises proposed sections 157AA–157AH.

Proposed section 157AA defines a number of terms used in the proposed division. **Schedule 1[20]** makes a consequential amendment.

Proposed section 157AB sets out what is meant by a qualified investor, which is generally a larger investor that invests for other persons, for example, a superannuation fund with 300 or more members.

Proposed section 157AC sets out what is meant by a wholesale unit trust scheme. A unit trust scheme is a ***wholesale unit trust scheme*** if—

(a) the scheme was not established for a particular investor, and

(b) not less than 80% of the units in the scheme are held by qualified investors, and

(c) no qualified investor, either alone or together with associated persons, holds 50% or more of the units in the scheme, and

(d) the scheme satisfies additional requirements specified by the Chief Commissioner under the proposed section.

Proposed section 157AD enables the Chief Commissioner to register a unit trust scheme if the Chief Commissioner is satisfied that the unit trust scheme is a wholesale unit trust scheme or will be a wholesale unit trust scheme within 12 months after the day on which the first units in the scheme are issued to a qualified investor (an ***imminent wholesale unit trust scheme***).

Proposed section 157AE provides for the length of registration, which is 3 years for a wholesale unit trust scheme and 1 year for an imminent wholesale unit trust scheme.

Proposed section 157AF permits the Chief Commissioner to cancel the registration of a unit trust scheme if a disqualifying circumstance occurs in relation to the scheme.

Proposed section 157AG sets out when a disqualifying circumstance occurs and requires the responsible entity for the unit trust scheme to give the Chief Commissioner notice of a disqualifying circumstance within 28 days after it occurs. Failure to do so is an offence with a maximum penalty of 500 penalty units. In addition, if the responsible entity fails to give the notice and duty becomes chargeable under proposed section 157AH, the responsible entity must pay a penalty amount to the Chief Commissioner equal to twice the amount of duty chargeable.

Proposed section 157AH sets out the consequences of a disqualifying circumstance occurring in relation to a unit trust scheme that is registered. The scheme is taken to be a private unit trust scheme and a subsequent acquisition of a significant interest in the unit trust scheme is a relevant acquisition for the purposes of duty.

Schedule 1[9] reduces from at least 50% to at least 20% of the value of the property of an entity that a principal entity would need to be entitled to receive in the event of a distribution of all the property of the other entity in order for the other entity to be a linked entity of the principal entity.

Schedule 1[11] removes an exemption for certain electric vehicles from the payment of duty effective from 1 January 2024.

Schedule 1[14] removes exemptions from duty for corporate reconstruction and corporate consolidation transactions and replaces them with a 90% reduction in duty otherwise chargeable for the transactions. **Schedule 1[12], [13] and [16]–[18]** make consequential amendments.

Schedule 1[15] omits a redundant provision.

Schedule 1[19] inserts a number of savings and transitional provisions consequent on the amendments made by the proposed Act, Schedule 1, including—

(a) not applying the proposed amendments to certain transactions and acquisitions, and

(b) providing for transitional arrangements in relation to the removal of the exemption for certain electric vehicles from the payment of duty.

Schedule 2 Amendment of Electric Vehicles (Revenue Arrangements) Act 2021 No 25

Schedule 2 amends the *Electric Vehicles (Revenue Arrangements) Act 2021*, section 9, consequent on the amendments in the proposed Act, Schedule 1. The proposed amendment provides for the road user charges payable for electric vehicles, including plug-in hybrids, from 1 January 2024.

Schedule 3 Amendment of Land Tax Management Act 1956 No 26

Schedule 3[1] repeals the *Land Tax Management Act 1956*, Part 7, Division 4A and inserts proposed Division 4, which comprises proposed sections 62O–62U.

Proposed section 62O provides definitions of ***land value*** and ***previous land tax year*** for the purposes of the proposed division.

Proposed section 62P sets out the tax threshold for the land tax years of 2006–2023.

Proposed section 62Q provides for the calculation of a tax threshold for a land tax year after the 2023 land tax year.

Proposed section 62R requires the Valuer-General to calculate the percentage change in land values each calendar year.

Proposed section 62S sets out the premium rate threshold for the land tax years of 2009–2023.

Proposed section 62T provides for the calculation of a premium rate threshold for a land tax year after the 2023 land tax year.

Proposed section 62U requires the Valuer-General to publish in the Gazette on or before the first Friday in December certain amounts relating to the proposed division.

Schedule 3[2] renumbers and relocates a provision.

Schedule 3[3] makes a consequential amendment.

Schedule 3[4] removes a part heading to improve clarity.

Schedule 3[5] removes the ability to claim a principal place of residence exemption in relation to land unless the persons who use and occupy the land as a principal place of residence together own at least a 25% interest in the land.

Schedule 3[6] inserts a proposed part in the savings and transitional schedule in the *Land Tax Management Act 1956*, that—

(a) provides that the repeal of Part 7, Division 4A of the Act does not affect an amount of a tax threshold or a premium rate threshold determined under the division except as otherwise provided by the proposed part, and

(b) validates the amounts set out in proposed sections 62P and 62S, and

(c) provides that a person who is currently entitled to a principal place of residence exemption in relation to land continues to be entitled until 31 December 2025, even if the interest of persons using and occupying the land is less than 25%.

Schedule 4 Amendment of Payroll Tax Act 2007 No 21

Schedule 4 corrects an incorrect reference to an entity and a typographical error.

Schedule 5 Amendment of Taxation Administration Act 1996 No 97

Schedule 5[1] re-enacts a power of the Chief Commissioner to remit interest and includes a new power for the Chief Commissioner to issue guidelines about how interest must be remitted. If guidelines are issued, interest must be remitted only in accordance with the guidelines.

Schedule 5[1] and [2] also make it clear that the imposition or remission of penalty tax and the imposition or remission of interest are not relevant to each other.

Schedule 5[3] corrects an incorrect reference to Public Service agencies.

Schedule 6 Amendments transferring funds

Schedule 6 transfers unspent money from 3 funds in the Special Deposits Account to the Consolidated Fund.