

Legislative Council (2016-05-04)**Classification: Bills****STATE REVENUE LEGISLATION AMENDMENT BILL 2016***Second Reading*

Mr SCOT MacDONALD (15:32): On behalf of the Hon. Niall Blair: 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.

I move that this bill be now read a second time.

The bill amends the provisions of several Acts covering the Office of State Revenue's [OSR's] functions relating to revenue and grants.

The Government is committed to ensuring State taxes and grants apply fairly and equitably.

The main purpose of the revenue reforms is to keep the tax legislation effective and up to date, as part of the routine administration of State taxation.

This will:

improve equity, by ensuring clients in similar circumstances have similar outcomes;

combat actual and potential avoidance practices by ensuring clients are not able to avoid the policy intent of the legislation; and

reduce red tape by removing uncertainty, increasing harmonisation with other States and Territories where possible, and improving administrative simplicity.

There are two Duties Act amendments in this category.

Presently, multiple transfers are required to achieve a corporate reconstruction exemption where a custodian of a trustee of a managed fund is involved.

This can be a breach of the Corporations Act.

The New South Wales Law Society has submitted that this issue should be addressed by legislative amendment.

An amendment to the Duties Act will allow the exemption to apply where a custodian of a trustee of a managed fund is a party to the corporate reconstruction transaction.

Also, the exemption relating to corporate consolidations, currently restricted to transfers, will be extended to apply to agreements to transfer as there are occasions when an agreement is required.

The bill amends the Land Tax Management Act 1956 to remove a restriction which prevents the exemption for land intended to be the owner's principal place of residence from applying until building work commences.

Under the current provisions in clause 6 of schedule 1A of the Act, if the owner of an existing residence which is leased decides to use the house as his or her principal place of residence but needs to refurbish or rebuild the residence the exemption for an intended principal place of residence applies from the date building or other works commence.

In a small number of cases, a tenant may have vacated the property before the commencement of a new tax year, but building work by the owner does not commence until the new tax year.

In other cases there can be significant delays in obtaining local council approvals.

Consequently, the owner may not be eligible for the exemption for the first tax year after the tenant vacates the property.

The bill provides for the exemption to apply as soon as the tenant vacates the property.

However, the owner will still be required to commence building work before the end of the first tax year or take action necessary to permit such building work to commence, such as lodging a development application with the local council.

There is no change to the requirement that the owner must commence use and occupation of the residence by the end of the fourth tax year and maintain such use and occupation for at least six months.

If this requirement is not met the exemption is retrospectively rescinded.

The Payroll Tax Act 2007 currently provides an exemption for a wholly owned subsidiary established by a council to conduct council activities provided the council requires the subsidiary to pay to the council an amount equivalent to the payroll tax that would otherwise be payable if no exemption applied.

The bill extends this exemption to companies whose shares are wholly owned by two or more councils.

The bill amends the Taxation Administration Act 1996 to extend the circumstances in which interest is paid as a result of a successful objection or review.

The amendment will authorise payment of interest at the market rate specified in part 5 of the Act to a member of a payroll tax group where a refund is made as a result of a successful objection by another member of the same group.

The market rate is based on the 90 day bank bill rate published by the Reserve Bank and has varied between 2 per cent and 8 per cent per annum in recent years.

The bill contains amendments to the Unclaimed Money Act 1995 to improve the rights of owners of unclaimed money to obtain refunds of their money and to reduce red tape.

The reforms will treat small amounts paid by businesses to the Office of State Revenue as unclaimed money.

Companies often include amounts of under \$100 in their returns to OSR, and 25,000 small payments were received in 2014-15.

There is currently a six- year time limit within which owners of unclaimed money must lodge applications for return of the money to them.

Currently the OSR makes act of grace payments where a late application is lodged.

In the last three years there have been 422 act of grace payments totalling \$2.4 million for claims lodged after the six – year time limit has expired.

The bill will remove the six- year time limit on applications for refunds.

These amendments will reduce costs to businesses because they will not need to maintain records for these small amounts of unclaimed money once they have been paid to the Chief Commissioner.

The amendment to the First Home Owner Grant (New Homes) Act 2000 ensures that applicants will be eligible for the grant on all "new" homes without the requirement that the sale is subject to GST.

The bill includes a statute law amendment that is consequent upon the enactment of the Government Sector Employment Act 2013, which replaced the Public Sector Employment and Management Act 2002.

1 commend the bill to the House.

The Hon. PETER PRIMROSE (15:33): I speak in debate on the State Revenue Legislation Amendment Bill 2016. The main purpose of the bill is to amend several Acts covering the function of the Office of State Revenue relating to revenue and grants. The Opposition will not oppose the legislation. The proposed amendment to the Duties Act 1997 seeks to make provisions for exemption or reduction in duty payable for corporate reconstruction within a corporate group. Since the introduction of the duties exemption the Commonwealth has introduced legislation that requires the use of a custodian appointed by the "responsible entity". The New South Wales duty exemption does not allow for a custodian as part of a reconstruction. The proposed amendment in this legislation will allow for this to occur.

The proposed amendment to the First Home Owner Grant (New Homes) Act 2000 seeks to extend the availability of the first home owner grant to homes that have been substantially renovated or a home built to replace demolished premises. This will make the scheme consistent with the First Home—New Home duties scheme. The proposed amendment to the Land Tax Management Act 1956 seeks to clarify the four-year exemption on land intended to become the principal place of residence. If the land is tenanted, the four years does not commence until the land is vacated and building commences. This change will require either that the building works commence before the end of the first tax year or that council approvals are sought before the end of the first tax year. In the instance of tenanted land, the exemption will begin from when the land is vacated.

The proposed amendment to the Payroll Tax Act 2007 seeks to extend an exemption from payroll tax that currently applies to wages paid by a wholly owned subsidiary of a single council such that it would also apply to wholly owned subsidiaries of two or more councils in the same way. Other consequences include amendments in the nature of statute law revision to the Government Sector Employment Act 2013 and the now replaced Public Sector Employment and Management Act 2002.