

Passed by both Houses



New South Wales

Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Bill 2016

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2016

Clerk of the Parliaments



New South Wales

Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Bill 2016

Act No , 2016

An Act to amend the *Taxation Administration Act 1996* in relation to the collection and disclosure to the Commonwealth of information relating to property transactions; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Act 2016*.

2 Commencement

This Act commences, or is taken to have commenced, on 1 July 2016.

Schedule 1 **Amendment of Taxation Administration Act 1996 No 97**

[1] Part 9, heading

Insert “, collection of information” after “investigation”.

[2] Part 9, Division 2B

Insert after Division 2A:

Division 2B Collection of information for disclosure to Commonwealth

80C Definitions

In this Division:

head of a Public Service agency and *Public Service agency* have the same meanings as in the *Government Sector Employment Act 2013*.

reportable information means information that is reportable by the State to the Commissioner of Taxation of the Commonwealth under Subdivision 396-B of Division 396 of Part 5-25 of Chapter 5 of Schedule 1 to the *Taxation Administration Act 1953* of the Commonwealth.

80D Relationship with other NSW laws

- (1) Nothing in this Act or any other Act or law (including the *Privacy and Personal Information Protection Act 1998*) prevents the collection or disclosure of reportable information in accordance with this Division.
- (2) Nothing in this Division prevents the collection or disclosure of reportable information in accordance with any other provisions of this Act or any other Act or law (including the *Privacy and Personal Information Protection Act 1998*).
- (3) Information may be collected and disclosed in accordance with this Division even if:
 - (a) the information is collected only for the purposes of disclosure to the Commissioner of Taxation of the Commonwealth and not collected under or in relation to the administration of any law of the State (except for this Division), and
 - (b) the information is not disclosed in connection with the administration or execution of any law of the State (except for this Division).

80E Collection and disclosure of reportable information

- (1) The Chief Commissioner or the head of a Public Service agency may collect reportable information.
- (2) The Chief Commissioner may disclose reportable information to the Commissioner of Taxation of the Commonwealth.
- (3) The head of a Public Service agency may disclose reportable information to the Chief Commissioner.

80F Treasurer may direct collection and disclosure to Chief Commissioner

- (1) The Treasurer may direct the head of a Public Service agency to disclose any reportable information held by the agency to the Chief Commissioner and may

also direct the head of a Public Service agency to collect reportable information for the purposes of that disclosure.

- (2) The head of the Public Service agency is to make such arrangements as are necessary for the collection, and disclosure to the Chief Commissioner, of reportable information, in accordance with the direction of the Treasurer.

80G How reportable information may be collected

- (1) The Chief Commissioner or the head of a Public Service agency may collect reportable information by requiring a person providing information for the purposes of a function carried out under a taxation law, or a law administered by the Minister to whom the Public Service agency is responsible, to provide the reportable information.
- (2) Without limiting subsection (1), the Chief Commissioner or the head of a Public Service agency may require reportable information to be provided in connection with the lodgment of an instrument, or the making of an application, under a taxation law or a law administered by the Minister to whom the Public Service agency is responsible.
- (3) Nothing in this section limits the circumstances in which the Chief Commissioner or the head of a Public Service agency may collect reportable information.

80H Enforcement

Sections 55–59 extend to a person who is required by the Chief Commissioner or the head of a Public Service agency to provide reportable information under section 80G (1) or (2). For that purpose:

- (a) a reference in sections 55 and 56 to a tax officer includes a reference to the head of a Public Service agency or any other person engaged (whether as an employee or otherwise) in the administration or enforcement of the law concerned, and
- (b) a reference in section 57 to a document, statement or return that is required to be lodged by a taxation law includes a reference to the following:
 - (i) any of the reportable information that the Chief Commissioner or head requires the person to provide,
 - (ii) any document, statement or return that the Chief Commissioner or head requires to be lodged in support of that reportable information, and
- (c) a reference in section 58 to a taxpayer includes a reference to the person.

Schedule 2 Amendment of Conveyancing (Sale of Land) Regulation 2010

[1] Clause 8A

Insert after clause 8:

8A Implied term of contract for all contracts on or after 1 July 2016

- (1) For the purposes of section 52A (2) (b) of the Act, the following terms are prescribed for all contracts for the sale of land entered into on or after 1 July 2016:
 - (a) in the case where the date for completion is specified in the contract:
 - (i) if that date is 14 days or less after the day on which the contract is made—the term set out in clause 4 of Schedule 2, or
 - (ii) if that date is more than 14 days after the day on which the contract is made—the term set out in clause 5 of Schedule 2,
 - (b) in the case where the date for completion is not specified in the contract:
 - (i) if the parties to the contract have agreed on a date for completion that is 14 days or less after the day on which the contract is made—the term set out in clause 4 of Schedule 2, or
 - (ii) if the parties to the contract have agreed on a date for completion that is more than 14 days after the day on which the contract is made—the term set out in clause 5 of Schedule 2, or
 - (iii) if the parties to the contract have not agreed on a date for completion—the term set out in clause 5 of Schedule 2.
- (2) In Schedule 2, *current land tax certificate*, in relation to a contract for sale, means a certificate issued under section 47 of the *Land Tax Management Act 1956* (as is relevant to the land the subject of the contract for sale or, in the case of a contract for the sale of land comprising one or more lots in a proposed plan of subdivision, the land from which the lot is to be created), being a certificate applied for by, or on behalf of, the vendor that is issued:
 - (a) in the year in which the contract is to be completed, or
 - (b) no more than 3 months before the date on which service is required under a term set out in Schedule 2.

[2] Schedule 2 Prescribed terms

Insert after clause 3:

4 Land tax certificate—contracts completing in 14 days or less

- (1) The vendor must serve, on the day that the contract is made, a current land tax certificate.
- (2) The purchaser does not have to complete before the date on which the certificate is served.

5 Land tax certificate—contracts completing in more than 14 days and contracts where no completion date agreed

- (1) The vendor must serve, at least 14 days before completion, a current land tax certificate.
- (2) The purchaser does not have to complete earlier than 14 days after service of the certificate.