



New South Wales

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

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Taxation Administration Act 1996* to enable the Chief Commissioner of State Revenue (the **Chief Commissioner**) to collect, and disclose to the Commissioner of Taxation of the Commonwealth (the **Taxation Commissioner**), information about the transfer of freehold and leasehold interests in real property situated in New South Wales, even if:

- (a) the information is collected only for the purposes of disclosure to the Taxation Commissioner and is not collected under or in relation to the administration of any law of the State (except for the proposed new law), and
- (b) the information is not disclosed in connection with the administration or execution of any law of the State (except for the proposed new law).

The information is proposed to be used by the Australian Taxation Office for the purposes of data-matching and ensuring compliance with the taxation laws of the Commonwealth. In addition, it is proposed that the information (which will include information about the nationality and residency of vendors and purchasers) be used for the purposes of a National Register of Foreign Ownership of Land Titles to be administered by the Australian Taxation Office. The creation of a National Register was agreed to at the Council on Federal Financial Relations held on 16 October 2015.

The Bill also provides for related amendments to the *Conveyancing (Sale of Land) Regulation 2010* to prescribe an implied term of a contract for the sale of land that requires a vendor to serve on the purchaser, before completion, a certificate issued under the *Land Tax Management Act 1956* (a **current land tax certificate**) that shows whether there is any land tax charged on the land. It is intended that the application by the vendor for a current land tax certificate will enable the

Chief Commissioner to collect information about the vendor for disclosure to the Taxation Commissioner.

## Outline of provisions

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

**Clause 2** provides that the proposed Act commences, or is taken to have commenced, on 1 July 2016.

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

**Schedule 1 [2]** inserts proposed Division 2B (proposed sections 80C–80H) into Part 9 of the *Taxation Administration Act 1996*.

**Proposed section 80C** contains definitions for the purposes of the proposed Division, including a definition of **reportable information**, which is information that is reportable by the State to the Taxation Commissioner under the provisions of the *Taxation Administration Act 1953* of the Commonwealth relating to the reporting by third parties of certain transactions. Under those provisions, information about transfers of freehold and leasehold interests in real property is reportable by a State or Territory to the Taxation Commissioner if the real property is situated in the State or Territory. The reportable information will include information relating to the nationality and residency of vendors and purchasers.

**Proposed section 80D** overrides any restrictions on the collection and disclosure of reportable information in accordance with the proposed Division that are imposed by any Act or law, including the *Privacy and Personal Information Protection Act 1998*. The proposed section also makes it clear that information may be collected and disclosed in accordance with the proposed new Division even if:

- (a) the information is collected only for the purposes of disclosure to the Taxation Commissioner and is not collected under or in relation to the administration of any law of the State (except for the proposed new Division), and
- (b) the information is not disclosed in connection with the administration or execution of any law of the State (except for the proposed new Division).

**Proposed section 80E** enables the Chief Commissioner to collect reportable information and disclose it to the Taxation Commissioner, and enables the head of a Public Service agency to collect reportable information and disclose it to the Chief Commissioner.

**Proposed section 80F** enables the Treasurer to direct the head of a Public Service agency to collect reportable information and disclose it to the Chief Commissioner.

**Proposed section 80G** authorises the Chief Commissioner or the head of a Public Service agency to 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. For example, a person may be required by the Chief Commissioner or the head to provide the reportable information in connection with the lodgment of an instrument, or the making of an application, under such a law.

**Proposed section 80H** extends various offences provided for in the *Taxation Administration Act 1996* to persons required by the Chief Commissioner or the head of a Public Service agency to provide reportable information under proposed section 80G.

**Schedule 1 [1]** makes an amendment that is consequent on the amendment made by **Schedule 1 [2]**.

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

**Schedule 2** provides for the amendments to the *Conveyancing (Sale of Land) Regulation 2010* that are described in the Overview. It is proposed that the Chief Commissioner exercise powers under proposed section 80G of the *Taxation Administration Act 1996* (as inserted by **Schedule 1 [2]**) to require a vendor applying for a current land tax certificate to provide reportable information about the vendor (which will include information relating to the nationality and residency of the vendor) for disclosure to the Taxation Commissioner.