



New South Wales

# State Revenue and Other Legislation Amendment Bill 2019

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.  
This Bill is cognate with the *Appropriation Bill 2019*.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Duties Act 1997* to provide for the indexation of duty thresholds for dutiable transactions, in line with increases in the Consumer Price Index for Sydney,
- (b) to amend the *Duties Act 1997* and the *Land Tax Act 1956* to extend existing exemptions from surcharge purchaser duty and surcharge land tax relating to foreign persons who are permanent residents so that the exemptions apply to the holders of certain retirement visas under the *Migration Act 1958* of the Commonwealth,
- (c) to amend the *Payroll Tax Act 2007* to enable employers who have an annual payroll tax liability of less than \$150,000 to pay monthly payroll tax payments during a financial year on the basis of an estimate of the amount of payroll tax payable for the whole financial year (as an alternative to payments based on actual wages) and to extend the period within which an employer is required to lodge a return and pay an amount of tax in respect of the month of June,
- (d) to reduce extended leave entitlements for public sector employees who are employed on or after 1 July 2019 from 5 months on full pay proportionate to each 10 years of service, after the first 10 years of service, to 3 months on full pay proportionate to each of those additional 10 years of service,
- (e) to dissolve Roads and Maritime Services (**RMS**) and transfer its assets, rights, liabilities and functions to Transport for NSW (**TfNSW**),

- (f) to dissolve the Barangaroo Delivery Authority and transfer its assets, rights, liabilities and functions to Infrastructure NSW,
- (g) to dissolve the UrbanGrowth NSW Development Corporation and transfer its assets, rights, liabilities and functions to Infrastructure NSW.

## 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 Amendments to Duties Act 1997 No 123 relating to indexation

The general rate of duty chargeable under the *Duties Act 1997* on a dutiable transaction of dutiable property is calculated on the basis of the dutiable value of the property, as determined in accordance with that Act. The *Duties Act 1997* provides for incremental increases in the amount of duty payable for each part of the dutiable value of the property that exceeds a specified threshold amount.

In addition to the general rate of duty, a premium rate applies to residential land the dutiable value of which exceeds a threshold amount of \$3,000,000. The premium rate is \$7 for every \$100, or part, by which the dutiable value exceeds that threshold amount. Certain limitations apply in respect of residential land that is not used for residential purposes or that exceeds an area of 2 hectares.

**Schedule 1 [2]** increases the specified threshold amounts of dutiable value for the purposes of determining the general rate of duty. The increases reflect the latest annual increase in the Consumer Price Index for Sydney. The lower amount (the *minimum threshold amount*) and higher amount (the *maximum threshold amount*) specified for each threshold range of dutiable value are adjustable amounts that will be subject to annual indexation in accordance with the provisions inserted by **Schedule 1 [6]**.

**Schedule 1 [3]–[5]** increase, from \$3,000,000 to \$3,040,000, the threshold amount of dutiable value in respect of which the premium rate of duty applies. The threshold amount of \$3,040,000 is an adjustable amount that will be subject to annual indexation (in the same way as the threshold amounts for the general rate of duty).

**Schedule 1 [6]** provides for the adjustment of the minimum threshold amounts, maximum threshold amounts and base amounts at the start of each financial year in line with increases in the Consumer Price Index for Sydney. The first adjustment is to occur on 1 July 2020. Before 1 July in each year, the Chief Commissioner of State Revenue is to publish notice of the adjusted amounts on the NSW legislation website.

**Schedule 1 [1]** provides that the rate of duty that is payable on dutiable transactions that occur within a period of 12 months and are aggregated and treated as a single dutiable transaction is the rate applicable at the time of the earliest of those transactions. **Schedule 1 [7]** makes a consequential amendment.

## Schedule 2 Amendments relating to foreign persons

A person who is not an Australian citizen and who is not ordinarily resident in Australia is generally liable to pay:

- (a) surcharge purchaser duty under the *Duties Act 1997* in relation to the acquisition of certain residential property by the person, at the rate of 8% of the dutiable value of the property, and
- (b) surcharge land tax under the *Land Tax Act 1956* in relation to residential land owned by the person, at the rate of 2% of the taxable value of the land.

Surcharge purchaser duty and surcharge land tax do not apply to any person who has been in Australia lawfully for 200 days during the previous 12 months, and who may remain in Australia without any limitation as to time imposed by law. An exemption from surcharge purchaser duty and surcharge land tax applies in relation to permanent residents who intend to use and occupy the land concerned for at least 200 days during the following 12 months (the *principal place of residence exemption*).

**Schedule 2.1 [2]** extends the principal place of residence exemption from surcharge purchaser duty to the holder of a Subclass 405 (Investor Retirement) visa or a Subclass 410 (Retirement) visa under the *Migration Act 1958* of the Commonwealth, or any equivalent visa of a class or subclass determined by the Chief Commissioner of State Revenue. The exemption is subject to any modifications prescribed by regulations under the *Duties Act 1997*.

**Schedule 2.1 [1] and 2.2 [1]** define the visa holder as a *retirement visa holder*.

**Schedule 2.2 [2]** extends the principal place of residence exemption from surcharge land tax to a retirement visa holder. The retirement visa holder may satisfy the residence requirement for the exemption in respect of a land tax year if the holder used and occupied the residential land for a continuous period of 200 days in the previous land tax year. The exemption is subject to any modifications prescribed by regulations under the *Land Tax Management Act 1956*.

**Schedule 2.1 [3] and 2.3** make amendments of a savings and transitional nature.

### **Schedule 3      Amendment of Payroll Tax Act 2007 No 21**

Payroll tax is payable under the *Payroll Tax Act 2007* by employers who pay wages exceeding the monthly threshold amount of \$850,000. The tax is required to be paid monthly and a return lodged with the Chief Commissioner of State Revenue within 7 days after the end of each month in which wages were paid or payable (except the month of June). The amount that is required to be paid in respect of that month is a proportion of the payroll tax that would be payable for the financial year if the same amount of wages were paid by the employer in each of the remaining months of the year. Within 21 days after the end of the month of June, the employer is required to lodge a return and pay an amount of tax in respect of that month, adjusted to reflect any overpayment or underpayment of tax in respect of the whole financial year.

**Schedule 3 [1]** extends, from 21 to 28 days, the period for payment of payroll tax in relation to wages paid or payable in the month of June.

**Schedule 3 [2]** extends, from 21 to 28 days, the period for lodging a return relating to the month of June in a financial year and the adjustment of tax paid or payable by the employer during that financial year.

**Schedule 3 [5]** enables an employer to make monthly payments of estimated payroll tax in respect of any month (except the month of June) as an alternative to making payments of tax based on wages paid or payable by the employer in the month. An employer who has paid payroll tax in respect of the previous financial year (an *existing taxpayer*) will be eligible to make estimated monthly payments of tax only if the amount of the employer's payroll tax liability for the previous financial year was less than \$150,000. An employer who is not an existing taxpayer will be eligible if the amount of tax that would be payable in respect of the financial year, determined on the basis of at least 3 separate monthly returns, is less than \$150,000. The estimated amount of tax required to be paid is a proportion of the amount of tax previously paid or payable (plus 3%, in the case of an existing taxpayer). **Schedule 3 [3], [4] and [6]** make consequential amendments.

### **Schedule 4      Amendments relating to extended leave**

**Schedule 4** gives effect to the object outlined in paragraph (d) of the Overview above by amending the following Acts and regulations:

- (a) the *Government Sector Employment Regulation 2014*,

- (b) the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*,
- (c) the *Police Regulation 2015*,
- (d) the *Teaching Service Act 1980*,
- (e) the *Transport Administration Act 1988*.

### **Schedule 5      Amendments relating to dissolution of Roads and Maritime Services**

**Schedule 5** makes amendments to give effect to the object outlined in paragraph (e) of the Overview above.

### **Schedule 6      Amendment of Barangaroo Delivery Authority Act 2009 No 2**

**Schedule 6** amends the *Barangaroo Delivery Authority Act 2009* to give effect to the object outlined in paragraph (f) of the Overview above.

### **Schedule 7      Amendment of Growth Centres (Development Corporations) Act 1974 No 49**

**Schedule 7** amends the *Growth Centres (Development Corporations) 1974* to give effect to the object outlined in paragraph (g) of the Overview above.