

## **Explanatory note**

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

### Overview of Bill

The object of this Bill is to extend a duty and land tax concession to first home owners who purchase their first home under a shared equity arrangement with a person who is not a first home owner.

The Bill:

(a) amends the *Duties Act 1997* to extend the First Home Plus scheme to first home owners who purchase their home under a shared equity arrangement (the extended concession, known as “First Home Plus One”, will apply if the first home owner acquires at least a 50% share in the ownership of the property concerned), and

(b) amends the *Land Tax Management Act 1956* to enable the principal place of residence exemption to be claimed by first home owners who purchase their home under a shared equity arrangement and are eligible for a duty concession under First Home Plus One.

### 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 on the date of assent.

**Clause 3** is a formal provision that gives effect to the amendments to the *Duties Act 1997* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Land Tax Management Act 1956* set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

### **Schedule 1 Amendment of Duties Act 1997**

At present, the First Home Plus scheme under the *Duties Act 1997* provides a full exemption from duty for eligible first home owners who purchase a home valued at up to \$500,000 or vacant land valued at up to \$300,000, and a concessional duty for purchases above those amounts that are less than \$600,000 (in the case of a home) or \$450,000 (in the case of vacant land). In order to be eligible under the scheme, each purchaser must be a person who has not, and whose spouse has not, previously owned residential property in Australia or received an exemption or concession under the scheme. In addition, the purchasers must intend to use the property purchased as a principal place of residence.

**Schedule 1 [14]** allows a duty concession to be claimed by a first home owner who purchases his or her first residential property under a shared equity arrangement with another person who is not a first home owner (such as a family member or a financial institution). A first home owner who purchases residential property will be eligible for a concession under the scheme if the first home owner acquires at least a 50% share in the residential property the subject of the purchase and the purchase would be eligible under the scheme if the first home owner had been the sole purchaser of the property.

Under First Home Plus One, the purchase will be eligible for a proportion of the duty exemption or concession that would have applied if the first home owner had been the sole purchaser of the property. The proportion of the exemption or concession that applies to the purchase will be based on the ownership share acquired by the first home owner under the purchase.

Any mortgage entered into in connection with the purchase will receive a full exemption from duty (in the same way as other mortgages that are eligible under the First Home Plus scheme). See **Schedule 1 [12]**.

**Schedule 1 [1], [4]–[11], [13] and [15]** make consequential amendments to the First

Home Plus scheme. The amendments make it clear that certain eligibility requirements (such as the requirement that the home be occupied by the purchaser as a principal place of residence) apply only to the first home owner, and not to other purchasers under the transaction.

The existing eligibility requirements for the First Home Plus scheme allow the Chief Commissioner of State Revenue to disregard the fact that a purchaser has previously owned residential property if satisfied that the purchaser concerned is acquiring an interest in the property solely for the purpose of assisting another purchaser, who is an eligible first home owner, to finance the purchase of a home. Those requirements are changed so that they will now allow the full duty exemption or concession to be claimed by a first home owner who is given such assistance in the purchase of his or her first home only if the ownership share in the property acquired by the person giving the assistance does not exceed 5%. (However, if the ownership share of the person assisting exceeds 5%, the new concession for shared equity arrangements may be available.) See **Schedule 1 [2] and [3]**.

**Schedule 1 [16]** enables savings and transitional regulations to be made as a consequence of the proposed amendments.

**Schedule 1 [17]** provides that the shared equity concession will apply to agreements for sale or transfer entered into on or after 1 May 2007, transfers occurring on or after 1 May 2007 (except where made in conformity with an agreement entered into before that date) and mortgages the subject of those agreements or transfers.

#### **Schedule 2 Amendment of Land Tax Management Act 1956**

**Schedule 2 [1]** allows the principal place of residence exemption in relation to land tax to be claimed by a first home owner who occupies, as a principal place of residence, land purchased under a shared equity arrangement, even if the land is jointly owned by a company or person acting in the person's capacity as trustee of a special trust. The amendment allows the principal place of residence exemption to be claimed by the first home owner in respect of the land if an application was made in respect of the purchase of the land under the First Home Plus One concession and the application was approved by the Chief Commissioner of State Revenue.

The principal place of residence exemption will extend to a first home owner but will not extend to a joint owner of the land which is a company or a trustee of a special trust and which is not currently entitled to claim the principal place of residence exemption. The company or trustee will remain liable to be assessed for land tax in respect of the land, but only in respect of its interest in the land (that is, excluding the interest of the first home owner in the land).

**Schedule 2 [2]** enables savings and transitional regulations to be made as a consequence of the amendments.

**Schedule 2 [3]** applies the changes to a land tax year commencing on or after 1 January 2008.