

LEGISLATIVE COUNCIL

State Revenue and Fines Legislation Amendment (Miscellaneous) Bill 2022

Second print

Proposed amendments

No. 1 **Excluded transactions**

Page 3, Schedule 1[3], proposed definition of *excluded transaction*. Insert after line 36—

- (ja) a transaction in relation to which—
 - (i) a capital gain may be disregarded or reduced by a concession under the *Income Tax Assessment Act 1997* of the Commonwealth, Division 152, or
 - (ii) a roll-over is available under the *Income Tax Assessment Act 1997* of the Commonwealth, Subdivision 328-G,

No. 2 **Acknowledgment of trust**

Page 4, Schedule 1[4], proposed section 8AA. Insert after line 13—

- (3) To avoid doubt, section 18(1), (6) and (6A) extend to the making of the statement as if the making of the statement were a declaration of trust.

No. 3 **Duty concessions**

Page 4, Schedule 1. Insert after line 33—

[9A] Section 62C

Insert after section 62B—

62C Transfers from self managed superannuation funds

- (1) Duty of \$500 is chargeable on a transfer of, or an agreement to transfer, dutiable property from the trustee or custodian of the trustee of a self managed superannuation fund to a member or members of the self managed superannuation fund but only if—
 - (a) there are no other members of the superannuation fund besides the member or members to whom the property is transferred or agreed to be transferred, or the dutiable property is segregated from other fund property, and
 - (b) each member of the superannuation fund to whom the property is transferred was a member at the time the property first became part of the fund, and
 - (c) the dutiable value of the property does not exceed the value of the member's interest in the fund.

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- (2) Dutiable property is segregated from other fund property if—
 - (a) the property is held specifically for the benefit of the member or members to whom the property is transferred or agreed to be transferred, and
 - (b) the property, or proceeds of sale of the property, cannot be pooled with property held for any other member of the superannuation fund besides the member or members to whom the property is transferred or agreed to be transferred, and
 - (c) no other member of the superannuation fund, besides the member or members to whom the property is transferred or agreed to be transferred, can obtain an interest in the property or the proceeds of sale of the property.
 - (3) If a member would be entitled to an exemption from duty under subsection (1) but for subsection (1)(c), the member is entitled to a concession from duty in relation to so much of the dutiable value of the dutiable property that does not exceed the value of the member's interest in the fund.
 - (4) A reference in this section to dutiable property becoming or first becoming part of a fund includes a reference to property from which that dutiable property was derived, by subdivision or consolidation of titles, becoming or first becoming part of the fund at a time when the transferee was a member of the fund.
 - (5) This section does not apply in relation to a transfer of, or an agreement to transfer, dutiable property if, as a result of the transfer, the superannuation fund will cease to be a complying superannuation fund.
 - (6) A superannuation fund that has not been confirmed as a complying superannuation fund may be treated as a complying superannuation fund for the purposes of this section only if the trustee is satisfied, at the time a liability for duty arises, that the fund will be confirmed as a complying superannuation fund.
 - (7) A superannuation fund is *confirmed* as a complying superannuation fund when the Regulator first gives a notice to the trustee under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, section 40 stating that the fund is a complying superannuation fund.
 - (8) The Chief Commissioner may assess or reassess the duty chargeable in relation to a transfer or agreement to transfer if the Chief Commissioner is not satisfied that the superannuation fund was a complying superannuation fund at the time the liability for duty arose.

No. 4 **Access to information—Fines Act**

Pages 14 and 15, Schedule 2[20]–[23], line 19 on page 14 to line 3 on page 15. Omit all words on those lines.

No. 5 **Access to information—State Debt Recovery Act**

Page 20, Schedule 7[6]–[8], lines 25–36. Omit all words on those lines.