

State Revenue Legislation Amendment (Budget Measures) Bill 2005

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Appropriation Bill 2005*.

Overview of Bill

The objects of this Bill are as follows:

(a) to amend the *Duties Act 1997* so as:

- (i) to impose a limit on the concession on mortgage duty that currently applies when a mortgage is entered into for refinancing purposes, and
- (ii) to increase the duty payable on certain types of insurance policies, and
- (iii) to prevent the misuse of a concession that applies to vendor duty and duty on the disposal of interests in land-rich entities, and

(b) to amend the *Land Tax Act 1956* and the *Land Tax Management Act 1956* to re-introduce a tax-free threshold in respect of land tax and to provide for a new rate of tax on land that has a value that exceeds that tax-free threshold.

The Bill also provides for savings, transitional and consequential matters.

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, with some exceptions (explained below).

Clause 3 is a formal provision that gives effect to the amendments to the Acts set out in Schedules 1–3.

Schedule 1 Amendment of Duties Act 1997 No 123

Refinancing concession

At present, mortgage duty is not payable on a mortgage where the mortgage is created for refinancing purposes, that is, if the mortgage secures an amount borrowed under an earlier mortgage in respect of which mortgage duty has already been paid.

The amendments impose a limit on this concession, so that mortgage duty is not payable on the first \$1,000,000 of the amount secured by the earlier mortgage.

Mortgage duty will be payable at the rate of \$4 per \$1,000 above that maximum. See

Schedule 1 [5]–[7].

The changes will not apply to refinancing mortgages where the property secured is land used for primary production or aquaculture. See **Schedule 1 [4] and [5]**.

A provision is also introduced to prevent persons from transferring mortgages in order to avoid liability for mortgage duty. See **Schedule 1 [8]**.

The amendments have effect from 1 August 2005.

Insurance duty

At present, for the purpose of charging insurance duty, general insurance is divided into 2 types. Duty is chargeable at the rate of 5% of the premium on type A insurance, and at 2.5% of the premium on type B insurance. Type B insurance includes crop insurance and livestock insurance. Type A insurance is all general insurance other than type B insurance.

The amendments divide general insurance into 3 types, and provide for a levy of 9% on type A insurance, 5% on type B insurance and 2.5% on type C insurance. Type C insurance includes crop insurance and livestock insurance. Type B insurance includes motor vehicle insurance, aviation insurance, disability income insurance, occupational indemnity insurance and hospital and ancillary health benefits insurance. Type A insurance is all general insurance other than type B or C insurance. See **Schedule 1 [9]–[12]**.

The amendments have effect from 1 September 2005. See **Schedule 1 [14]**.

Concessions for vendor duty and land-rich disposal duty

At present, a vendor duty concession applies to a transfer of land-related property if

the dutiable value of the land-related property at the time of transfer does not exceed the dutiable value of the land-related property at the time of its acquisition by the vendor by more than 15%. An exemption applies if the increase in dutiable value does not exceed 12%, and a discount applies if the increase in dutiable value exceeds 12% but not 15%. A similar concession applies to the duty payable on disposals of interests in land-rich entities.

The amendments make special provision for the application of the concession in cases where the land or interest disposed of is held subject to a trust. The object of the amendments is to make it clear that a mere change in the legal ownership of land-related property or an interest that is held in trust does not necessarily result in a new acquisition being made for the purpose of the concession.

In the case of a vendor duty transaction, if the vendor acquired the land-related property concerned by means of a dutiable transaction that was not chargeable with ad valorem duty, the amendments deem the vendor to have acquired the land-related property when the last dutiable transaction relating to that land-related property, being a dutiable transaction that was chargeable with ad valorem duty as a transfer of the land-related property, occurred. This is to prevent a situation where a new trustee is appointed to a trust, resulting in a change to the legal ownership of land-related property, and the acquisition by the trustee of that legal interest is treated as a new acquisition of the land-related property for the purposes of the vendor duty concession, even though ad valorem duty may not have been paid on that transfer of legal ownership. Under the amendments, an ad valorem duty transaction is required in order to obtain the benefit of the concession. See **Schedule 1 [1] and [2]**.

A similar amendment is made to the corresponding provisions relating to the duty payable on the disposal of an interest in a land-rich entity. If an interest in a land-rich entity is acquired on trust, it is the date on which the beneficial owner of the interest acquired the interest, rather than the date on which the person disposing of the interest acquired the interest, that is treated as the date on which the person making the disposal first acquired an interest in the land-rich entity. See **Schedule 1 [3]**.

The amendments also make it clear that, for the purposes of the concession, an acquisition of land by a linked entity of a land-rich entity is treated as an acquisition by that land-rich entity. See **Schedule 1 [3]**.

The amendments will have effect as if they had commenced on the date on which the Bill for the proposed Act was introduced in the Legislative Assembly. See **Schedule 1 [14]**.

Savings and transitional

Schedule 1 [13] and [14] contain savings and transitional matters.

Schedule 2 Amendment of Land Tax Act 1956 No 27

Schedule 2 re-introduces a tax-free threshold for land tax. The new threshold will be \$330,000 for the 2006 land tax year and will be indexed thereafter. If a land owner's aggregate taxable land value is more than \$330,000, the land will be taxed at a rate of \$100 plus 1.7 cents for each \$1 in excess of the threshold.

Schedule 3 Amendment of Land Tax Management Act 1956 No 26

Schedule 3 provides for the determination of the tax threshold for land tax in connection with the amendments made by Schedule 2. It provides for the indexation of that threshold by the Valuer-General to account for movements in land values, and for other consequential (including savings and transitional) matters.