

New South Wales

# State Revenue Legislation Amendment Bill 2006

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Duties Act 1997*:
  - (i) to include certain improvements made to land in the calculation of the unencumbered value of the land for duty purposes, and
  - (ii) to extend a concession relating to cancelled transfers, and
  - (iii) to extend a concession for transfers made between an apparent purchaser and a real purchaser, and
  - (iv) to change the eligibility criteria for the First Home Plus scheme, and
  - (v) to confirm that decisions made by the Chief Commissioner of State Revenue under the Act are reviewable, and
  - (vi) to change reporting requirements with respect to transactions relating to certain land rich entities, and
  - (vii) to clarify the method for charging mortgage duty on debenture issues that were previously the subject of a duty concession, and
  - (viii) to make further provision with respect to insurance duty, and

- (b) to amend the *Land Tax Management Act 1956*:
  - (i) to extend various land tax exemptions and concessions, and
  - (ii) to clarify the application of the principal place of residence exemption in respect of land owned or partly owned by companies, and
- (c) to amend the *Pay-roll Tax Act 1971* to make further provision with respect to the tax payable on grants of shares or options to employees, and
- (d) to repeal the *Petroleum Products Subsidy Act 1965* and the regulations under that Act, and
- (e) to amend the *Taxation Administration Act 1996* with respect to permitted disclosures of taxation information.

## 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.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts specified in Schedules 1–4.

**Clause 4** repeals the *Petroleum Products Subsidy Act 1965* and *Petroleum Products Subsidy Regulation 1998* with effect on 30 June 2006.

**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

### Calculation of unencumbered value of dutiable property

Duty under the *Duties Act 1997* is charged on the unencumbered value of dutiable property. If the dutiable property is land and, before the land is transferred to the transferee, the transferee makes improvements to the land, the value of those improvements is disregarded for the purpose of charging duty. **Schedule 1 [1]** limits that concession, so that improvements that are made by the transferor for or on behalf of the transferee are included in the unencumbered value of the land for duty purposes.

### Cancelled transfers

The *Duties Act 1997* provides that a transfer of dutiable property is not liable to duty in certain circumstances if the transfer is cancelled. At present, the concession does not apply if the transferee has claimed an equitable interest in the dutiable property concerned (for example, by lodging a caveat). **Schedule 1 [2]** removes that limitation on the concession.

### **Transfers between apparent purchaser and real purchaser**

The *Duties Act 1997* provides that duty of \$10 (rather than ad valorem duty) is payable on a transfer of dutiable property from an apparent purchaser to the real purchaser of the property if the dutiable property is vested in the apparent purchaser upon trust for the real purchaser, who provided the money for the purchase of the dutiable property. **Schedule 1 [3] and [4]** modify that concession so that the concession:

- (a) applies if only part of the property held upon trust for the real purchaser by the apparent purchaser is transferred to the real purchaser, and
- (b) extends to dutiable property that has been improved following the purchase by the apparent purchaser, if the real purchaser provided the money for the improvements, and
- (c) extends to cases where the purchase money was provided as a loan and is to be repaid by the real purchaser, and
- (d) applies whether or not there has been a change in the legal description of the dutiable property between the purchase by the apparent purchaser and the transfer to the real purchaser (for example, a change in the description of land resulting from the subdivision of the land).

### **Eligibility for First Home Plus**

**Schedule 1 [5]** amends the provisions relating to duty concessions provided to first home buyers under the First Home Plus scheme to ensure that the ownership at any time of other property does not prevent a person from being eligible under the scheme, if the other property is or was previously held as trustee or executor under a will. The amendment also makes it clear that the relevant concession continues to apply even if the other property is still owned by the applicant at the time of making an application under the scheme.

### **Review of decisions of Chief Commissioner**

**Schedule 1 [6] and [9]** repeal provisions of the *Duties Act 1997* that provide that decisions of the Chief Commissioner in relation to applications under the First Home Plus scheme, and in relation to another duty concession, are determined solely at his or her discretion and are final. This confirms that those decisions are reviewable by the Administrative Decisions Tribunal under the *Taxation Administration Act 1996*.

**Schedule 1 [7] and [8]** are consequential amendments.

### **Land rich duty**

The *Duties Act 1997* imposes duty on an acquisition of a significant interest in a land rich landholder (a private company or unit trust scheme that has substantial land holdings) as if the acquisition were a transfer of land. When a relevant acquisition in a land rich landholder occurs, the person who made the acquisition is required to lodge with the Chief Commissioner of State Revenue a statement setting out certain information in relation to the acquisition. This requirement applies even if the

acquisition is an exempt transaction (and not chargeable with duty). The information required to be provided includes a valuation of the land holdings of the landholder concerned and of all property of the landholder. **Schedule 1 [10] and [11]** remove the requirement that the valuation information be provided in all acquisition statements. Instead the information is to be provided only if the acquisition is not an exempt transaction (see **Schedule 1 [12]**).

The threshold at which duty under the land rich provisions of the *Duties Act 1997* is payable is lower for an acquisition in a private unit trust scheme than it is for an acquisition in any other landholder. Certain unit trust schemes (namely imminent public unit trust schemes, wholesale unit trust schemes and imminent wholesale unit trust schemes) must be registered with the Chief Commissioner of State Revenue in order to obtain the benefit of the higher threshold (that is, in order to ensure that they are not treated as private unit trust schemes under the provisions). **Schedule 1 [13]** makes it a condition of registration of a wholesale unit trust scheme that the responsible entity of the scheme report to the Chief Commissioner about certain acquisitions in the unit trust scheme, whether or not the acquisition is chargeable with duty under the Act.

### **Mortgage duty on debenture issues**

The *State Revenue Legislation Further Amendment Act 2005* provided for the closure of a mortgage duty concession that applied to advances made in respect of old debenture issues. **Schedule 1 [14] and [15]** clarify that the closure does not operate to impose duty (that would not otherwise be payable) on advances made before the closure date and prevent the use of collateral mortgages to avoid liability to duty. **Schedule 1 [16]** makes it clear that the removal of the concession extends to advances made (after the closure date) in respect of debentures executed on or after 1 January 1975. **Schedule 1 [24]** is a consequential amendment. The amendments have effect as if they had commenced on 15 November 2005 (when the relevant provisions of the *State Revenue Legislation Further Amendment Act 2005* commenced) (see **clause 2 (2)**).

### **Insurance duty**

Under the *Duties Act 1997* a person who takes out general insurance with a person who is not a registered insurer is required to pay any insurance duty charged on the insurance policy. **Schedule 1 [17]** corrects a reference to such unregistered persons as insurers. **Schedule 1 [18]** clarifies what is meant by the expression “premium”.

**Schedule 1 [20]** provides for the rate at which insurance duty is chargeable on a group term insurance policy (a term insurance policy that applies to a group of persons). Duty is charged at 5% of the first year’s premium and then 5% of the amount of the premium payable in each succeeding year in respect of each additional life covered by the policy (that was not covered in the previous year). **Schedule 1 [21]** defines group term insurance policy for the purposes of the new provisions. **Schedule 1 [19]** is a consequential amendment. **Schedule 1 [22]** makes a consequential amendment to reporting provisions. **Schedule 1 [19]–[22]** will commence on 1 July 2006 (see **clause 2 (2)**).

### **Savings and transitional**

**Schedule 1 [23]** provides for the making of savings and transitional regulations as a consequence of the amendments.

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

### **Land tax exemptions and concessions**

**Schedule 2 [2]** amends section 10S of the *Land Tax Management Act 1956* to exempt from land tax certain land that is the subject of a rent-buy scheme. **Schedule 2 [1]** is a consequential amendment.

At present, the *Land Tax Management Act 1956* allows the principal place of residence exemption to continue to be claimed by a person in respect of his or her former principal place of residence for a period of absence from the residence of up to 6 years (subject to certain conditions). **Schedule 2 [4] and [5]** allow that concession to be extended indefinitely during any period in which the former resident is in full time care in a hospital, mental hospital or aged care establishment or living with a permanent carer. These amendments will have effect on 31 December 2006 (for the 2007 land tax year).

**Schedule 2 [6]** extends an existing concession that allows land that was the principal place of residence of a person who has died to continue to be treated as land tax exempt for a limited period after the death. The purpose of the extension is to allow a beneficiary of the deceased person's estate to whom the land is transferred for up to 12 months after the death while the beneficiary makes arrangements to sell the land. The 12 month period may be extended by the Chief Commissioner of State Revenue. The amendment will have effect on 31 December 2006 (for the 2007 land tax year).

**Schedule 2 [7]** allows the principal place of residence exemption to continue to be claimed in respect of land used as the principal place of residence of a deceased person before his or her death if the land is used and occupied by a person other than the owner who resided with the owner before his or her death and continues to do so after the death with the permission of a beneficiary of the estate to whom the land is transferred. The amendment will have effect on 31 December 2006 (for the 2007 land tax year).

### **Application of principal place of residence exemption to companies**

**Schedule 2 [3] and [8]** make it clear that the principal place of residence exemption cannot be claimed in relation to land partly owned by a company (as well as land that is wholly owned by a company). The exemption can be claimed by natural persons only.

**Schedule 2 [9]** makes it clear that the restriction does not prevent the principal place of residence exemption applying in respect of land owned by a company if the *Land Tax Management Act 1956* deems a natural person to be the owner of the land for

land tax purposes to the exclusion of the company owner (as it does, for example, in the case of company title units).

### **Transitional**

**Schedule 2 [10]** allows savings and transitional regulations to be made as a consequence of the amendments.

**Schedule 2 [11]** contains transitional provisions in relation to the application of some of the amendments.

## **Schedule 3      Amendment of Pay-roll Tax Act 1971**

The *Pay-roll Tax Act 1971* provides for the charging of pay-roll tax on grants of shares or options by employers to employees (or by companies to directors or members of the board). **Schedule 3 [1]** allows employers to elect to treat the wages constituted by the grant of a share as having been paid or payable (for pay-roll tax purposes) on the date the share is granted to the employee, or the date on which the share vests in the employee (that is, when any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded). This is similar to the treatment of options under the scheme. At present the pay-roll tax liability arises when the share is granted. The provisions adopt provisions of the *Income Tax Assessment Act 1936* of the Commonwealth for the purpose of determining when a share or option is granted.

**Schedule 3 [2]** provides that pay-roll tax is payable when an option vests in an employee only when the employee exercises his or her right under the option to have a share transferred to, allotted to or vested in him or her.

**Schedule 3 [4]** ensures that pay-roll tax will continue to be payable in respect of a grant of a share or option that is later withdrawn, cancelled or exchanged, if it is withdrawn, cancelled or exchanged for valuable consideration.

**Schedule 3 [6]** extends a refund provision to cases where the grant of a share or option to an employee is rescinded by someone other than the employer.

**Schedule 3 [7]** makes it clear that consideration paid by an employee for the vesting (or the grant) of a share is to be excluded from the value of the share or option for pay-roll tax purposes.

**Schedule 3 [8]** makes it clear that shares or options are to be valued in accordance with the specific provisions in the *Pay-roll Tax Act 1971* relating to their valuation, and not the general provisions relating to fringe benefits.

**Schedule 3 [3] and [5]** are consequential amendments.

**Schedule 3 [9] and [10]** provide for savings and transitional matters. The amendments have effect as if they had commenced on 1 July 2005. Employers may also elect to apply the amendments in respect of their pay-roll tax liability for the years commencing 1 July 2003 and 1 July 2004.

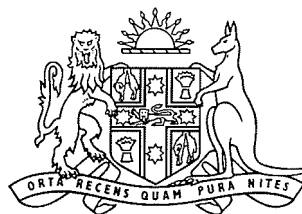
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## **Schedule 4      Amendment of Taxation Administration Act 1996**

**Schedule 4** permits taxation information to be disclosed to the Director-General of the Department of State and Regional Development or a person authorised by the Director-General.







New South Wales

# State Revenue Legislation Amendment Bill 2006

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New South Wales

# State Revenue Legislation Amendment Bill 2006

No. , 2006

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## A Bill for

An Act to make miscellaneous amendments to certain State revenue legislation; and  
for other purposes.

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *State Revenue Legislation Amendment Act 2006*.

**2 Commencement**

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) The following provisions commence, or are taken to have commenced, on the dates indicated:  
Section 4—30 June 2006,  
Schedule 1 [14]–[16] and [24]—15 November 2005,  
Schedule 1 [19]–[22]—1 July 2006,  
Schedule 2 [1], [2] and [4]–[7]—31 December 2006.

**3 Amendment of Acts**

The Acts specified in Schedules 1–4 are amended as set out in those Schedules.

**4 Repeals**

- (1) The *Petroleum Products Subsidy Act 1965* is repealed.
- (2) The *Petroleum Products Subsidy Regulation 1998* is repealed.

**5 Repeal of Act**

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1      Amendment of Duties Act 1997 No 123

	(Section 3)	1
<b>[1] Section 23 What is the “unencumbered value” of dutiable property?</b>		2
Insert after section 23 (3):		3
(4) Subsection (3) does not apply to improvements made to the land for or on behalf of the transferee by the transferor.		4
<b>[2] Section 50A Cancelled transfers of dutiable property</b>		5
Omit section 50A (1) (b) and (c). Insert instead:		6
(b) the transfer was not cancelled to give effect to a subsale.		7
<b>[3] Section 55 Property vested in an apparent purchaser</b>		8
Omit section 55 (1) (b). Insert instead:		9
(b) a transfer of dutiable property from an apparent purchaser to the real purchaser if:		10
(i) the dutiable property is property, or part of property, vested in the apparent purchaser upon trust for the real purchaser, and		11
(ii) the real purchaser provided the money for the purchase of the dutiable property and for any improvements made to the dutiable property after the purchase.		12
<b>[4] Section 55 (1A) and (1B)</b>		13
Insert after section 55 (1):		14
(1A) For the purposes of subsection (1), money provided by a person other than the real purchaser is taken to have been provided by the real purchaser if the Chief Commissioner is satisfied that the money was provided as a loan and has been or will be repaid by the real purchaser.		15
(1B) This section applies whether or not there has been a change in the legal description of the dutiable property between the purchase of the property by the apparent purchaser and the transfer to the real purchaser.		16
<b>Note.</b> For example, if the dutiable property is land, this section continues to apply if there is a change in the legal description of the dutiable property as a consequence of the subdivision of the land.		17

<b>[5] Section 71 Restrictions on eligibility—previous ownership of residential property or first home concession</b>	1
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Omit section 71 (6). Insert instead:	3
(6) Despite the other provisions of this section, the ownership at any time of another residential property, or a previous application under the scheme, may be disregarded if the Chief Commissioner is satisfied that:	4
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(a) the other residential property owned by the purchaser or transferee is or was vested in the purchaser or transferee on trust, or as an executor under a will, or the application was made by the purchaser or transferee in his or her capacity as trustee or executor, or	8
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(b) the purchaser or transferee who owns or owned the other residential property, or who has previously been a party to an application, is acquiring an interest in the property that is the subject of the application solely for the purpose of assisting the eligible persons under the scheme in financing the acquisition.	13
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<b>[6] Section 79 Determination of applications</b>	19
Omit the section.	20
<b>[7] Section 92 Other provisions</b>	21
Omit “Sections 76 and 79 apply to this scheme in the same way as they apply” from section 92 (1).	22
	23
Insert instead “Section 76 applies to this scheme in the same way as it applies”.	24
<b>[8] Section 93 The nature of the scheme</b>	25
Omit “, at the discretion of the Chief Commissioner,”.	26
<b>[9] Section 102 Determination of applications</b>	27
Omit section 102 (1).	28
<b>[10] Section 163H Acquisition statements</b>	29
Omit “and whether it is an exempt transaction” from section 163H (2) (b).	30
<b>[11] Section 163H (2) (e)–(h)</b>	31
Omit the paragraphs.	32

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<b>[12] Section 163H (3)</b>	1
Insert at the end of section 163H (before the note):	2
(3) If the acquisition is not an exempt transaction under Part 5, the acquisition statement must also contain the following information:	3
(a) the unencumbered value of all land holdings in New South Wales of the landholder as at the date of the relevant acquisition and as at the date of acquisition of each interest acquired in the landholder during the 3 years prior to the date of the relevant acquisition,	4
(b) the unencumbered value of the property of the landholder at the date of the relevant acquisition,	5
(c) the amount of duty paid under this Act or under a law of another Australian jurisdiction in respect of each earlier acquisition of an interest referred to in paragraph (a),	6
(d) such other information as the Chief Commissioner may require.	7
<b>[13] Section 163ZY</b>	18
Omit the section. Insert instead:	19
<b>163ZY Reporting requirements</b>	20
(1) It is a condition of registration of a wholesale unit trust scheme under this Part that the responsible entity of the unit trust scheme provides to the Chief Commissioner, within 1 month after 30 June in each year (commencing with 30 June 2007), a report in an approved form containing particulars of the following in relation to the period of 12 months ending on that 30 June:	21
(a) any acquisition by a person of any interest in the wholesale unit trust scheme that would entitle the person, in the event of an immediate distribution of all the property of the unit trust scheme, to no less than 20% of the property distributed,	22
(b) any acquisition by a person of any interest in the wholesale unit trust scheme that, when aggregated with other interests the person has in the unit trust scheme, would entitle the person, in the event of an immediate distribution of all the property of the unit trust scheme, to no less than 20% of the property distributed.	23
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	(2)	The Chief Commissioner may, as a condition of registration, impose other reporting requirements on the responsible entity of a registered unit trust scheme (whether or not a wholesale unit trust scheme).	1 2 3 4
	(3)	Requirements may be imposed under subsection (2) at the time of registration or at any subsequent time by notice in writing to the responsible entity.	5 6 7
<b>[14]</b>	<b>Section 226</b>	<b>Payment of duty on mortgages associated with debenture issues</b>	8 9
		Insert “or a collateral mortgage that secures the same money as is secured by a mortgage referred to in subsection (2),” after “subsection (2),” in section 226 (3B).	10 11 12
<b>[15]</b>	<b>Section 226</b>	<b>(3C) and (3CA)</b>	13
		Omit section 226 (3C). Insert instead:	14
	(3C)	For the purposes of the application of section 213 (2) to such a mortgage (and the application of section 218B to any collateral mortgage that secures the same money as the mortgage):	15 16 17
	(a)	the excess amount mentioned in section 213 (2) (c) is taken to be limited to the amount of the advance or further advance, and	18 19 20
	(b)	the mortgage is taken to have been duly stamped for the total of:	21 22
	(i)	the disclosed debenture amount, and	23
	(ii)	any advances or further advances made on or after the cut-off date in respect of which duty has been paid under this Chapter.	24 25 26
	(3CA)	A mortgage executed before the cut-off date that is not liable to duty under subsection (2) and in respect of which no further advances have been made on or after the debenture concession closure date is taken, for the purposes of the application of section 218B to any collateral mortgage, to have been duly stamped.	27 28 29 30 31 32
<b>[16]</b>	<b>Section 226</b>	<b>(4A)</b>	33
		Insert “on or after 1 January 1975 and” after “executed”.	34



<b>[17] Section 236 Circumstances in which duty is payable by the insured person</b>	1 2
Omit “an insurer (not being a registered insurer) or insurance intermediary” from section 236 (2).	3 4
Insert instead “the person who is not a registered insurer”.	5
<b>[18] Section 236 (5)</b>	6
Insert after section 236 (4) (before the note):	7
(5) In this section:	8
<i>premium</i> means any amount paid in connection with insurance to a person who is not a registered insurer that would be a premium under this Part if the person to whom it was paid was a registered insurer.	9 10 11 12
<b>[19] Section 243 What duty is payable?</b>	13
Insert “, other than a group term insurance policy,” after “term insurance policy” in section 243 (2).	14 15
<b>[20] Section 243 (2A)</b>	16
Insert after section 243 (2):	17
(2A) <b>Group term insurance policies</b>	18
The amount of duty chargeable on a group term insurance policy is:	19 20
(a) 5% of the first year’s premium on the policy, and	21
(b) 5% of the amount of the premium (if any) payable in any succeeding year in respect of each additional life covered by the insurance policy (that is, each life that was not covered during the previous year).	22 23 24 25
<b>[21] Section 243 (5)</b>	26
Insert after section 243 (4):	27
(5) In this section:	28
<i>group term insurance policy</i> means a term insurance policy that applies in respect of the lives of a specified group of persons, being a group the membership of which may change during the term of the policy.	29 30 31 32

State Revenue Legislation Amendment Bill 2006

Schedule 1      Amendment of Duties Act 1997 No 123

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<b>[22]    Section 253 Monthly returns and payment of duty</b>	1
Omit section 253 (a) (v). Insert instead:	2
(v)    the total amount of all first year's premiums for temporary	3
or term life insurance received by or on behalf of the	4
registered insurer in the preceding month, and all	5
additional premiums referred to in section 243 (2A) (b)	6
(other than premiums for insurance that is exempt from	7
duty by Part 5), and	8
<b>[23]    Schedule 1 Savings, transitional and other provisions</b>	9
Insert at the end of clause 1 (1):	10
<i>State Revenue Legislation Amendment Act 2006</i>	11
<b>[24]    Schedule 1, clause 57</b>	12
Insert "Accordingly, section 226, as in force immediately before the debenture	13
concession closure date, continues to have effect in relation to those advances	14
or further advances." after "closure date." in clause 57 (1).	15

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## Schedule 2      Amendment of Land Tax Management Act 1956 No 26

(Section 3)

**[1] Section 10S Tax liability in respect of certain housing schemes**Omit the definition of *eligible owner* from section 10S (1).**[2] Section 10S (2) and (3)**

Omit section 10S (2)–(4). Insert instead:

- (2) Land is exempt from taxation under this Act if the land is eligible land.
- (3) This section applies in respect of the year commencing 1 January 2006 and any succeeding year.

**[3] Schedule 1A Principal place of residence exemption**

Insert after clause 2 (4):

- (5) The principal place of residence exemption is subject to the restrictions set out in Part 4.

**[4] Schedule 1A, clause 8**

Insert after clause 8 (3):

- (4) Any period during which a person is in full time care is not to be counted toward the maximum period referred to in subclause (2). Accordingly, a person who is in full time care may continue to be taken to use and occupy his or her former residence as his or her principal place of residence during any period in which he or she is in full time care.
- (5) For the purposes of this clause, a person is in *full time care* during any period in which the person:
  - (a) resides at a hospital or mental hospital as a patient of the hospital, or
  - (b) resides at an aged care establishment (within the meaning of section 10R) while being provided with residential care, or respite care, or
  - (c) resides with another person (a *carer*) who is eligible for a carer payment under the *Social Security Act 1991* of the Commonwealth because the carer provides care to the person.

<b>[5]    Schedule 1A, clause 8 (9)</b>	1
Insert after clause 8 (8):	2
(9)    In this clause:	3
<i>hospital</i> means an institution at which relief is given to sick or	4
injured people through the provision of care or treatment.	5
<i>mental hospital</i> means an institution conducted principally for	6
the treatment of mentally ill persons, and includes a hospital	7
within the meaning of the <i>Mental Health Act 1990</i> .	8
<b>[6]    Schedule 1A, clause 9</b>	9
Omit clause 9 (2) and (3). Insert instead:	10
(2)    Subclause (1) operates only until whichever of the following	11
happens first:	12
(a)    a period of 12 months expires after the date of the deceased	13
person's death,	14
(b)    the land is transferred to any person (other than the	15
deceased person's personal representative, or a beneficiary	16
of the deceased person's estate).	17
(3)    The Chief Commissioner may extend (and further extend) the	18
period of 12 months referred to in subclause (2) (a) if:	19
(a)    the land has not been leased to any person since the date of	20
the deceased person's death, and	21
(b)    the land has not been transferred to any person (other than	22
the deceased person's personal representative), and	23
(c)    the Chief Commissioner is satisfied that:	24
(i)    a person is using and occupying the land as his or	25
her principal place of residence, and	26
(ii)    that person is likely to be a person in whom the	27
deceased's interest in the land vests pursuant to the	28
administration of the deceased's estate.	29
<b>[7]    Schedule 1A, clause 10</b>	30
Insert "or with the permission of any other person to whom the land is	31
transferred following that death" after "conferred by the will of that owner" in	32
paragraph (b).	33

<b>[8] Schedule 1A, clause 11</b>	1
Omit “the land is owned by a company, unless the land is owned” from clause 11 (1) (a).	2
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Insert instead “the land is owned, or jointly owned, by a company, unless the land is owned or jointly owned”.	4
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<b>[9] Schedule 1A, clause 11 (6)</b>	6
Insert after clause 11 (5):	7
(6) This clause does not prevent the principal place of residence exemption applying to land owned by a company if a provision of this Act deems a natural person to be the owner of the land, to the exclusion of the company.	8
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<b>Note.</b> Section 21A provides that a company title unit is not to be regarded as being owned by the company in which the relevant shares are held. Section 26 provides for circumstances in which a purchaser or vendor of land (including a company purchaser or vendor) is to be regarded as the owner of the land when the purchase is not complete.	12
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<b>[10] Schedule 2 Savings and transitional provisions</b>	17
Insert at the end of clause 1A (1):	18
<i>State Revenue Legislation Amendment Act 2006</i>	19
<b>[11] Schedule 2, Part 18</b>	20
Insert at after Part 17:	21
<b>Part 18 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2006</b>	22
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<b>39 Application of amendments</b>	25
(1) Section 10S, as in force immediately before the amendments made by the <i>State Revenue Legislation Amendment Act 2006</i> , continues to apply in respect of the land tax payable in the year commencing 1 January 1991 or any subsequent year before the year commencing 1 January 2006.	26
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(2) The amendments made to clauses 9 and 10 of Schedule 1A by the <i>State Revenue Legislation Amendment Act 2006</i> apply to the assessment of liability for land tax payable in the year commencing 1 January 2007 or any subsequent year, even if the owner of the land died before the commencement of the amendments.	31
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## Schedule 3 Amendment of Pay-roll Tax Act 1971 No 22

(Section 3)

### [1] Section 3AD Inclusion of grant of shares and options as wages

Omit section 3AD (3) and (4). Insert instead:

- (3) For the purposes of this section, the *relevant day* is the date on which the share or option is granted to the employee, or the vesting date, whichever date the employer elects to treat as the date on which the wages are paid or payable.
- (4) A share or option is *granted* to a person in the following circumstances:
  - (a) in the case of a share—if the person acquires the share (within the meaning of section 139G of the *Income Tax Assessment Act 1936* of the Commonwealth) or in the circumstances prescribed by the regulations,
  - (b) in the case of an option—if the person acquires a right (within the meaning of section 139G of the *Income Tax Assessment Act 1936* of the Commonwealth) to the share to which the option relates or in the circumstances prescribed by the regulations.
- (4A) The *vesting date* in respect of a share is the date on which the share vests in the employee (that is, when any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded).

### [2] Section 3AD (5) (b)

Omit the paragraph. Insert instead:

- (b) the date on which the employee exercises a right under the option to have the share the subject of the option transferred to, allotted to or vest in him or her.

### [3] Section 3AD (6)

Omit “an option”, “the option” and “that option” wherever occurring.

Insert instead “a share or an option”, “the share or option” and “that share or option” respectively.

<b>[4] Section 3AD (6A)</b>	1
Insert after section 3AD (6):	2
(6A) If the grant of a share or option is withdrawn, cancelled or	3
exchanged before the vesting date for any valuable consideration	4
(other than the grant of other shares or options), the following	5
provisions apply:	6
(a) the date of withdrawal, cancellation or exchange is taken	7
to be the vesting date of the share or option,	8
(b) the market value of the share or option, on the vesting date,	9
is taken to be the amount of the valuable consideration	10
(and, accordingly, that amount is the amount paid or	11
payable as wages on that date).	12
<b>[5] Section 3AD (7)</b>	13
Omit the subsection. Insert instead:	14
(7) If an employer grants a share or an option to an employee and the	15
value of the grant of the share or option is nil or, if the employer	16
were to elect to treat the date of grant as the relevant day, the	17
wages constituted by the grant would not be liable to pay-roll tax,	18
the employer is taken to have elected to treat the wages	19
constituted by the grant of that share or option as being paid or	20
payable on the date on which the share or option was granted.	21
<b>[6] Section 3AD (8)</b>	22
Omit “by the employer”.	23
<b>[7] Section 3AE Value of shares and options</b>	24
Omit “for the grant of” from section 3AE (1).	25
Insert instead “in respect of”.	26
<b>[8] Section 3AE (3A)</b>	27
Insert after section 3AE (3):	28
(3A) Section 9 does not apply to the grant of a share or option that	29
constitutes wages, even if it constitutes a fringe benefit.	30
<b>[9] Schedule 6 Savings, transitional and other provisions</b>	31
Insert at the end of clause 1 (1):	32
<i>State Revenue Legislation Amendment Act 2006</i>	33

<b>[10] Schedule 6, Part 12</b>	1
Insert after Part 11:	2
<b>Part 12 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2006</b>	3 4 5
<b>21 Amendments relating to employee share schemes</b>	6
(1) The employee share scheme amendments have effect as if those amendments had commenced on 1 July 2005, subject to this clause.	7 8 9
(2) An employer who included the grant of a share in the taxable wages for the employer for the financial year commencing 1 July 2005 is taken to have elected to treat the grant date of the share as the date on which the wages constituted by the grant of that share are paid or payable.	10 11 12 13 14
(3) Liability for pay-roll tax in respect of any shares or options granted by an employer on or after 1 July 2003, but before 1 July 2005, is to be determined in accordance with this Act as amended by the employee share scheme amendments, if the employer so elects.	15 16 17 18 19
(4) Anything done or omitted to be done on or after 1 July 2003 and before the date of assent to the <i>State Revenue Legislation Amendment Act 2006</i> , that would have been validly done or omitted if the employee share scheme amendments had been in force at the time that it was done or omitted, is taken to have been validly done or omitted.	20 21 22 23 24 25
(5) In this clause: <i>employee share scheme amendments</i> means the amendments made to sections 3AD and 3AE by the <i>State Revenue Legislation Amendment Act 2006</i> .	26 27 28 29



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**Schedule 4      Amendment of Taxation Administration  
Act 1996 No 97**

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(Section 3)

**Section 82 Permitted disclosures—to particular persons**

Insert after section 82 (k) (xi):

- (xia) the Director-General of the Department of State and  
Regional Development,