



New South Wales

Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Bill 2016

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Taxation Administration Act 1996* to enable the Chief Commissioner of State Revenue (the **Chief Commissioner**) to collect, and disclose to the Commissioner of Taxation of the Commonwealth (the **Taxation Commissioner**), information about the transfer of freehold and leasehold interests in real property situated in New South Wales, even if:

- (a) the information is collected only for the purposes of disclosure to the Taxation Commissioner and is not collected under or in relation to the administration of any law of the State (except for the proposed new law), and
- (b) the information is not disclosed in connection with the administration or execution of any law of the State (except for the proposed new law).

The information is proposed to be used by the Australian Taxation Office for the purposes of data-matching and ensuring compliance with the taxation laws of the Commonwealth. In addition, it is proposed that the information (which will include information about the nationality and residency of vendors and purchasers) be used for the purposes of a National Register of Foreign Ownership of Land Titles to be administered by the Australian Taxation Office. The creation of a National Register was agreed to at the Council on Federal Financial Relations held on 16 October 2015.

The Bill also provides for related amendments to the *Conveyancing (Sale of Land) Regulation 2010* to prescribe an implied term of a contract for the sale of land that requires a vendor to serve on the purchaser, before completion, a certificate issued under the *Land Tax Management Act 1956* (a **current land tax certificate**) that shows whether there is any land tax charged on the land. It is intended that the application by the vendor for a current land tax certificate will enable the

Chief Commissioner to collect information about the vendor for disclosure to the Taxation Commissioner.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act commences, or is taken to have commenced, on 1 July 2016.

Schedule 1 **Amendment of Taxation Administration Act 1996** **No 97**

Schedule 1 [2] inserts proposed Division 2B (proposed sections 80C–80H) into Part 9 of the *Taxation Administration Act 1996*.

Proposed section 80C contains definitions for the purposes of the proposed Division, including a definition of **reportable information**, which is information that is reportable by the State to the Taxation Commissioner under the provisions of the *Taxation Administration Act 1953* of the Commonwealth relating to the reporting by third parties of certain transactions. Under those provisions, information about transfers of freehold and leasehold interests in real property is reportable by a State or Territory to the Taxation Commissioner if the real property is situated in the State or Territory. The reportable information will include information relating to the nationality and residency of vendors and purchasers.

Proposed section 80D overrides any restrictions on the collection and disclosure of reportable information in accordance with the proposed Division that are imposed by any Act or law, including the *Privacy and Personal Information Protection Act 1998*. The proposed section also makes it clear that information may be collected and disclosed in accordance with the proposed new Division even if:

- (a) the information is collected only for the purposes of disclosure to the Taxation Commissioner and is not collected under or in relation to the administration of any law of the State (except for the proposed new Division), and
- (b) the information is not disclosed in connection with the administration or execution of any law of the State (except for the proposed new Division).

Proposed section 80E enables the Chief Commissioner to collect reportable information and disclose it to the Taxation Commissioner, and enables the head of a Public Service agency to collect reportable information and disclose it to the Chief Commissioner.

Proposed section 80F enables the Treasurer to direct the head of a Public Service agency to collect reportable information and disclose it to the Chief Commissioner.

Proposed section 80G authorises the Chief Commissioner or the head of a Public Service agency to collect reportable information by requiring a person providing information for the purposes of a function carried out under a taxation law, or a law administered by the Minister to whom the Public Service agency is responsible, to provide the reportable information. For example, a person may be required by the Chief Commissioner or the head to provide the reportable information in connection with the lodgment of an instrument, or the making of an application, under such a law.

Proposed section 80H extends various offences provided for in the *Taxation Administration Act 1996* to persons required by the Chief Commissioner or the head of a Public Service agency to provide reportable information under proposed section 80G.

Schedule 1 [1] makes an amendment that is consequent on the amendment made by **Schedule 1 [2]**.

Schedule 2 Amendment of Conveyancing (Sale of Land) Regulation 2010

Schedule 2 provides for the amendments to the *Conveyancing (Sale of Land) Regulation 2010* that are described in the Overview. It is proposed that the Chief Commissioner exercise powers under proposed section 80G of the *Taxation Administration Act 1996* (as inserted by **Schedule 1 [2]**) to require a vendor applying for a current land tax certificate to provide reportable information about the vendor (which will include information relating to the nationality and residency of the vendor) for disclosure to the Taxation Commissioner.



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New South Wales

Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Bill 2016

No. , 2016

A Bill for

An Act to amend the *Taxation Administration Act 1996* in relation to the collection and disclosure to the Commonwealth of information relating to property transactions; and for other purposes.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Act 2016*.

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2 Commencement

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This Act commences, or is taken to have commenced, on 1 July 2016.

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Schedule 1	Amendment of Taxation Administration Act 1996	1
	No 97	2
[1] Part 9, heading		3
	Insert “, collection of information” after “investigation”.	4
[2] Part 9, Division 2B		5
	Insert after Division 2A:	6
Division 2B	Collection of information for disclosure to	7
	Commonwealth	8
80C Definitions		9
	In this Division:	10
	<i>head</i> of a Public Service agency and <i>Public Service agency</i> have the same	11
	meanings as in the <i>Government Sector Employment Act 2013</i> .	12
	<i>reportable information</i> means information that is reportable by the State to the	13
	Commissioner of Taxation of the Commonwealth under Subdivision 396-B of	14
	Division 396 of Part 5-25 of Chapter 5 of Schedule 1 to the <i>Taxation</i>	15
	<i>Administration Act 1953</i> of the Commonwealth.	16
80D Relationship with other NSW laws		17
(1)	Nothing in this Act or any other Act or law (including the <i>Privacy and</i>	18
	<i>Personal Information Protection Act 1998</i>) prevents the collection or	19
	disclosure of reportable information in accordance with this Division.	20
(2)	Nothing in this Division prevents the collection or disclosure of reportable	21
	information in accordance with any other provisions of this Act or any other	22
	Act or law (including the <i>Privacy and Personal Information Protection Act</i>	23
	<i>1998</i>).	24
(3)	Information may be collected and disclosed in accordance with this Division	25
	even if:	26
(a)	the information is collected only for the purposes of disclosure to the	27
	Commissioner of Taxation of the Commonwealth and not collected	28
	under or in relation to the administration of any law of the State (except	29
	for this Division), and	30
(b)	the information is not disclosed in connection with the administration or	31
	execution of any law of the State (except for this Division).	32
80E Collection and disclosure of reportable information		33
(1)	The Chief Commissioner or the head of a Public Service agency may collect	34
	reportable information.	35
(2)	The Chief Commissioner may disclose reportable information to the	36
	Commissioner of Taxation of the Commonwealth.	37
(3)	The head of a Public Service agency may disclose reportable information to	38
	the Chief Commissioner.	39
80F Treasurer may direct collection and disclosure to Chief Commissioner		40
(1)	The Treasurer may direct the head of a Public Service agency to disclose any	41
	reportable information held by the agency to the Chief Commissioner and may	42

also direct the head of a Public Service agency to collect reportable information for the purposes of that disclosure.	1 2
(2) The head of the Public Service agency is to make such arrangements as are necessary for the collection, and disclosure to the Chief Commissioner, of reportable information, in accordance with the direction of the Treasurer.	3 4 5
80G How reportable information may be collected	6
(1) The Chief Commissioner or the head of a Public Service agency may collect reportable information by requiring a person providing information for the purposes of a function carried out under a taxation law, or a law administered by the Minister to whom the Public Service agency is responsible, to provide the reportable information.	7 8 9 10 11
(2) Without limiting subsection (1), the Chief Commissioner or the head of a Public Service agency may require reportable information to be provided in connection with the lodgment of an instrument, or the making of an application, under a taxation law or a law administered by the Minister to whom the Public Service agency is responsible.	12 13 14 15 16
(3) Nothing in this section limits the circumstances in which the Chief Commissioner or the head of a Public Service agency may collect reportable information.	17 18 19
80H Enforcement	20
Sections 55–59 extend to a person who is required by the Chief Commissioner or the head of a Public Service agency to provide reportable information under section 80G (1) or (2). For that purpose:	21 22 23
(a) a reference in sections 55 and 56 to a tax officer includes a reference to the head of a Public Service agency or any other person engaged (whether as an employee or otherwise) in the administration or enforcement of the law concerned, and	24 25 26 27
(b) a reference in section 57 to a document, statement or return that is required to be lodged by a taxation law includes a reference to the following:	28 29 30
(i) any of the reportable information that the Chief Commissioner or head requires the person to provide,	31 32
(ii) any document, statement or return that the Chief Commissioner or head requires to be lodged in support of that reportable information, and	33 34 35
(c) a reference in section 58 to a taxpayer includes a reference to the person.	36

Schedule 2	Amendment of Conveyancing (Sale of Land)	1
	Regulation 2010	2
[1] Clause 8A		3
Insert after clause 8:		4
8A Implied term of contract for all contracts on or after 1 July 2016		5
(1)	For the purposes of section 52A (2) (b) of the Act, the following terms are prescribed for all contracts for the sale of land entered into on or after 1 July 2016:	6
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		8
(a)	in the case where the date for completion is specified in the contract:	9
(i)	if that date is 14 days or less after the day on which the contract is made—the term set out in clause 4 of Schedule 2, or	10
		11
(ii)	if that date is more than 14 days after the day on which the contract is made—the term set out in clause 5 of Schedule 2,	12
		13
(b)	in the case where the date for completion is not specified in the contract:	14
(i)	if the parties to the contract have agreed on a date for completion that is 14 days or less after the day on which the contract is made—the term set out in clause 4 of Schedule 2, or	15
		16
		17
(ii)	if the parties to the contract have agreed on a date for completion that is more than 14 days after the day on which the contract is made—the term set out in clause 5 of Schedule 2, or	18
		19
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(iii)	if the parties to the contract have not agreed on a date for completion—the term set out in clause 5 of Schedule 2.	21
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(2)	In Schedule 2, <i>current land tax certificate</i> , in relation to a contract for sale, means a certificate issued under section 47 of the <i>Land Tax Management Act 1956</i> (as is relevant to the land the subject of the contract for sale or, in the case of a contract for the sale of land comprising one or more lots in a proposed plan of subdivision, the land from which the lot is to be created), being a certificate applied for by, or on behalf of, the vendor that is issued:	23
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(a)	in the year in which the contract is to be completed, or	29
(b)	no more than 3 months before the date on which service is required under a term set out in Schedule 2.	30
		31

[2] Schedule 2 Prescribed terms	1
Insert after clause 3:	2
4 Land tax certificate—contracts completing in 14 days or less	3
(1) The vendor must serve, on the day that the contract is made, a current land tax certificate.	4 5
(2) The purchaser does not have to complete before the date on which the certificate is served.	6 7
5 Land tax certificate—contracts completing in more than 14 days and contracts where no completion date agreed	8 9
(1) The vendor must serve, at least 14 days before completion, a current land tax certificate.	10 11
(2) The purchaser does not have to complete earlier than 14 days after service of the certificate.	12 13