

[Act 1999 No 10]



New South Wales

# State Revenue Legislation Amendment Bill 1999

## Explanatory note

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

This Bill is cognate with the *Pay-roll Tax Amendment (Apprentices Concession and Rate Reduction) Bill 1999*.

## Overview of Bill

The object of this Bill is to make miscellaneous amendments to the following State revenue Acts:

- *Debits Tax Act 1990*
  - *Duties Act 1997*
  - *Land Tax Act 1956*
  - *Land Tax Management Act 1956*
  - *Premium Property Tax Act 1998*
  - *Taxation Administration Act 1996*
  - *Unclaimed Money Act 1995*
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## 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 giving effect to the amendments to the *Debits Tax Act 1990* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Duties Act 1997* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Land Tax Act 1956* set out in Schedule 3.

**Clause 6** is a formal provision giving effect to the amendments to the *Land Tax Management Act 1956* set out in Schedule 4.

**Clause 7** is a formal provision giving effect to the amendments to the *Premium Property Tax Act 1998* set out in Schedule 5.

**Clause 8** is a formal provision giving effect to the amendments to the *Taxation Administration Act 1996* set out in Schedule 6.

**Clause 9** is a formal provision giving effect to the amendments to the *Unclaimed Money Act 1995* set out in Schedule 7.

## Schedule 1 Amendment of Debits Tax Act 1990

**Schedule 1** makes amendments to the *Debits Tax Act 1990* to impose a direct liability to debits tax on non-bank financial institutions as a result of amendments made in 1998 to the Commonwealth *Cheques Act 1986*. The effect of the Commonwealth amendments is to abolish payment orders, and extend cheque issuing rights to certain non-bank financial institutions, thereby removing the need to distinguish between banks and non-bank financial institutions. Consequently, building societies, credit unions and other special services providers that directly issue cheques, and their customers, are made directly liable to tax on taxable debits.

## **Schedule 2 Amendment of Duties Act 1997**

**Schedule 2 [1], [2], [3], [4], [6], [20], [21] and [23]** seek to clarify the concessions of duty applicable to managed investment schemes following the making of amendments to the *Corporations Law* by the Commonwealth *Managed Investments Act 1998*. The amendments made by the proposed Act will provide for the payment of nominal duty on a transfer of dutiable property:

- (a) from a prescribed interest scheme to a custodian, and
- (b) from a non-registered prescribed interest scheme to a responsible entity, and
- (c) to a replacement responsible entity, and
- (d) to a responsible entity from a custodian.

Provision is also made for the payment of nominal duty where it is necessary to enter into new arrangements as a consequence of the retirement of the trustee.

**Schedule 2 [5]** extends the concession for transfers of dutiable property from a trust to a beneficiary of a trust where the trust was established with non-dutiable property.

**Schedule 2 [7]** provides a duty concession for the amalgamation of certain leases under the *Western Lands Act 1901*.

**Schedule 2 [8]** adds two additional exemptions to the list of transactions that are not liable to duty under Chapter 2 of the *Duties Act 1997*. The first comprises the transfer of a poker machine permit that occurs as a consequence of the transfer of a licence under the *Liquor Act 1982* or as a consequence of the making of certain decisions or orders by the Liquor Administration Board or the Licensing Court. The second comprises the transfer of a manufactured home that is situated on land that is not owned by the transferor.

**Schedule 2 [9]** extends the exemption for a transfer of marketable securities from a beneficial owner to a trustee or nominee to hold for the beneficial owner, or from a trustee or nominee to the person from whom the securities were transferred, where there has been no change of beneficial ownership. The extension will include transfers that occur in the nomineeing and custodian industries where the transaction does not directly involve the beneficial owner, but involves a nominee, trustee or custodian.

**Schedule 2 [10], [11] and [12]** provide that the purchase price paid by the participants in a self help scheme under the First Home Purchase Scheme is to be taken, for the purposes of the Scheme, to be the full market value under the relevant agreement of transfer.

**Schedule 2 [13] and [14]** extend the circumstances in which a dutiable acquisition may occur in relation to a land-rich corporation by including the variation of rights of shareholders in addition to the variation of rights attaching to shares.

**Schedule 2 [15]** clarifies the liability to duty, and the responsibility for record-keeping, for on-market share transfers involving third party clearing of trading in equities where the trading and settlement functions may be separated.

**Schedule 2 [16]** extends the credit given on a collateral mortgage in New South Wales following an interstate refinancing that is exempt from duty in the other State. The credit comprises the amount of duty exempted in the other State.

**Schedule 2 [17]** extends the exemption for the refinancing of a loan to a refinancing resulting from the break-up of a de facto relationship.

**Schedule 2 [18] and [19]** make savings and transitional provisions as a consequence of the enactment of the proposed Act.

**Schedule 2 [22]** clarifies the exemption in relation to mortgage-backed securities by providing that a mortgage includes a charge.

### **Schedule 3 Amendment of Land Tax Act 1956**

**Schedule 3** makes amendments to the *Land Tax Act 1956*. The amendments remove provisions for the rounding off of assessments because a general provision to this effect applying to all State revenue laws is now contained in the *Taxation Administration Act 1996*.

### **Schedule 4 Amendment of Land Tax Management Act 1956**

**Schedule 4 [1]** inserts proposed section 40 into the *Land Tax Management Act 1956* which entitles a taxpayer to a discount for early payment of land tax in certain circumstances.

**Schedule 4 [2]** enables the Chief Commissioner of State Revenue to issue a land tax certificate in relation to any land to any applicant, and to include in the certificate the land value of the land in relation to a specified tax year.

**Schedule 4 [3]** enables the Chief Commissioner to determine the means by which a land tax certificate may be issued, including electronically, and the form of the certificate.

**Schedule 4 [4]** extends the circumstances in which the Chief Commissioner may release land from the charge created by the imposition of unpaid land tax.

**Schedule 4 [5]** makes a minor amendment to the *Land Tax Management Act 1956* to create consistency with the *Taxation Administration Act 1996* in relation to the payment of interest or penalty tax on unpaid land tax.

**Schedule 4 [7]** inserts proposed section 62VA into the *Land Tax Management Act 1956* which enables the Chief Commissioner to issue a certificate to any person certifying details of an entry in the Register of Land Values. **Schedule 4 [6]** makes a consequential amendment.

## **Schedule 5 Amendment of Premium Property Tax Act 1998**

**Schedule 5** amends the *Premium Property Tax Act 1998*. The amendment removes a provision for the rounding off of assessments because a general provision to this effect applying to all State revenue laws is now contained in the *Taxation Administration Act 1996*.

## **Schedule 6 Amendment of Taxation Administration Act 1996**

**Schedule 6 [1]** adds an additional circumstance in which the Chief Commissioner may make a reassessment more than 5 years after the initial assessment, namely, where the application by the taxpayer is made within 5 years after the initial assessment and the reassessment results in a reduction of the tax liability.

**Schedule 6 [2]** and **[3]** make provision for the calculation of the *market rate component* of interest necessitated by the proposed repeal of section 214A (8) of the Commonwealth *Income Tax Assessment Act 1936*.

**Schedule 6 [4]** enables the Chief Commissioner to remit the payment of interest imposed as a condition of an arrangement for the payment of tax.

**Schedule 6 [5]** enables the disclosure of information by the Chief Commissioner or another tax officer in accordance with an authorisation conferred by or under any Act.

**Schedule 6 [6]** facilitates the provision by the Chief Commissioner of information concerning land for the purposes of the land data warehouse under the Spatial Information Partnering Project.

**Schedule 6 [7]** provides specific authority for the Chief Commissioner to receive and use information obtained from notices of sale of land lodged with the Land Titles Office.

## **Schedule 7 Amendment of Unclaimed Money Act 1995**

**Schedule 7** amends the *Unclaimed Money Act 1995* to apply the provisions of that Act to unclaimed amounts in retirement savings accounts held under the *Retirement Savings Accounts Act 1997* of the Commonwealth (the *Commonwealth RSA Act*). Under Part 8 of the Commonwealth RSA Act, an RSA provider, that is, a person who accepts contributions to a retirement savings account, must pay unclaimed benefits in retirement savings accounts (*unclaimed RSA benefits*) to a State authority if required to do so under State legislation that complies with that Part's requirements. The object of Schedule 7 is to enact legislation that so complies so as to enable payment of the unclaimed RSA benefits in this State to the Chief Commissioner of State Revenue. The legislation reflects provisions already enacted relating to unclaimed superannuation benefits.

**Schedule 7 [12]** inserts proposed section 13BA. The proposed section requires an RSA provider to lodge returns relating to unclaimed RSA benefits for each half year with the Chief Commissioner. A return must contain particulars of payments of unclaimed benefits made after the end of the half year concerned and must be lodged with payment of the amounts of outstanding unclaimed RSA benefits. The Chief Commissioner must pay the money received into the Consolidated Fund. The form of the return is to be approved by the Chief Commissioner and may be on a specified kind of data processing device in accordance with specified software requirements.

**Schedule 7 [13]** requires an RSA provider to keep a copy of the return at the provider's registered office or principal place of operation in the State and makes it an offence (with a maximum penalty of 2 penalty units) not to do so.

**Schedule 7 [14]** requires an RSA provider to make the copies of returns reasonably available for inspection and makes it an offence (with a maximum penalty of 2 penalty units) not to do so. The RSA provider may also charge an inspection fee of not more than \$10 or such other greater amount as may be prescribed by the regulations.

**Schedule 7 [15]** requires the Chief Commissioner to publish in the Government Gazette notice of the amount of any unclaimed RSA benefits exceeding \$50 (or such other amount as may be prescribed by the regulations) and of the identity of the beneficiary concerned.

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**Schedule 7 [17]** requires the Chief Commissioner to pay an unclaimed RSA benefit to a beneficiary if satisfied that the amount would have been payable by the RSA provider concerned, if the money concerned had not been payable to the Chief Commissioner as unclaimed RSA benefits.

**Schedule 7 [18]** requires the Chief Commissioner to refund excess amounts paid to the Chief Commissioner by RSA providers.

**Schedule 7 [19]** inserts proposed section 13HA. The proposed section requires the Chief Commissioner to keep a register of unclaimed RSA benefits paid to the Chief Commissioner. The register must include particulars of the unclaimed RSA benefits and the holder of each retirement savings account in respect of whom any such benefit was payable.

**Schedule 7 [20]** discharges an RSA provider from liability in the capacity of such a provider in respect of amounts paid to the Chief Commissioner.

**Schedule 7 [22]** applies the provisions relating to unclaimed RSA benefits to a retirement savings account and an RSA provider, if the provider has its registered office in this State.

**Schedule 7 [23]** sets out the extraterritorial operation of the provisions in relation to RSA providers.

**Schedule 7 [24]–[26]** apply certain provisions of the *Taxation Administration Act 1996* to RSA providers and unclaimed RSA benefits. These provisions relate to penalty taxes, interest and other matters relating to the recovery of money owed to the Chief Commissioner under the *Unclaimed Money Act 1995* as well as other administrative matters.

**Schedule 7 [27], [28] and [29]** prevent an RSA provider from deducting any penalty tax or interest payable because of the application of the provisions of the *Taxation Administration Act 1996* from the amount of an RSA benefit.

**Schedule 7 [30]–[33]** enable the Chief Commissioner to make an assessment of the liability of an RSA provider to pay unclaimed RSA benefits, if the provider fails to lodge a return by the due date or lodges an incorrect return.

**Schedule 7 [34] and [35]** enable things required under the *Unclaimed Money Act 1995* to be done by a natural person to be done on behalf of an RSA provider that is not a natural person.

**Schedule 7 [36] and [37]** enable savings and transitional regulations to be made as a consequence of the proposed amendments.

**Schedule 7 [1]–[11], [16] and [21]** make consequential amendments.