

[Act 1996 No 34]



New South Wales

State Revenue Legislation Amendment Bill 1996

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 *Stamp Duties Act 1920*:
 - (i) to enlarge the class of credit contracts that are exempt from loan security duty, and
 - (ii) to reduce, and in some cases dispense with, the duty payable in respect of hiring arrangements and refinancing loan securities, and
 - (iii) to enact provisions prescribing conditions of exemption from duty and other matters currently provided for in regulations made under the Act, and
 - (iv) to impose duty in connection with instalment receipts issued on behalf of the Commonwealth of Australia that confer ownership in shares, and
-

- (b) amend the *Debits Tax Act 1990* to prescribe the rate (currently prescribed by regulation) at which unpaid taxes under that Act attract penalty interest, and
- (c) amend the *Business Franchise Licences (Tobacco) Act 1987* to enable the cancellation or suspension of licences under that Act, and in relation to licence conditions.

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 *Stamp Duties Act 1920* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Debits Tax Act 1990* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Business Franchise Licences (Tobacco) Act 1987* set out in Schedule 3.

Schedule 1 amends the *Stamp Duties Act 1920* and is divided into four Parts.

Schedule 1.1 amends section 84EB of the Act so as to enlarge the class of credit contracts that are exempt from loan security duty. At present, only contracts worth \$25,000 or less are exempt. As a result of the amendment, contracts worth up to \$35,000 will get the benefit of the exemption.

Schedule 1.2 deals with hiring arrangements and with loan security refinancing.

Schedule 1.2 [1] inserts a definition of *equipment financing arrangement* into section 74D of the Act, and **Schedule 1.1 [6]** and **[7]** amend section 74F so as to provide that the duty on hiring arrangements (normally 1.5 per cent) is reduced to 0.75 per cent in the case of equipment financing arrangements (as defined in section 74D).

Schedule 1.2 [11] repeals sections 84CAA and 84CAB and replaces them with a new section 84CAA, which provides for a general exemption from duty on a mortgage or other loan security document the object of which is merely to refinance a loan. The exemption applies so long as the amount, or the total of amounts, financed under the new loan security does not exceed the amount financed under the original loan.

The other items in **Schedule 1.2** make consequential amendments.

Schedule 1.3 deals with the sale of shares on behalf of the Commonwealth Government.

Schedule 1.3 [1] inserts a definition of an IR. An IR, or “instalment receipt”, is a document (of the kind now being issued in connection with the sale of shares in the Commonwealth Bank) issued by a trustee in connection with a Commonwealth Government share sale, that conveys a beneficial interest in shares quoted on the stock exchange.

Schedule 1.3 [2] includes an IR in the definition of *marketable security*. As a consequence, duty is payable on IRs in the same way as on shares.

Schedule 1.4 amends the Act so as to include miscellaneous provisions prescribing matters that are currently prescribed by regulation under the Act and (in the case of **Schedule 1.4 [28]**) to make a consequential amendment.

Schedule 2 amends section 34 of the *Debts Tax Act 1990* so as to fix the rate of interest payable on overdue taxes under that Act at 20% per annum (the figure currently prescribed by regulation under the Act).

Schedule 3 contains amendments to the *Business Franchise Licences (Tobacco) Act 1987*.

Schedule 3 [1] and **[2]** amend section 36 of the Act so as to expand the grounds on which the Chief Commissioner for Business Franchise Licences (Tobacco) may decline to authorise the granting of a licence under the Act. **Schedule 3 [4]** and **[7]** make consequential amendments.

Schedule 3 [3] inserts a new section 36A which enables the Chief Commissioner to impose conditions on a licence under the Act. It is an offence to contravene any of those conditions.

Schedule 3 [6] amends section 50 of the Act to allow the Chief Commissioner to suspend the licence of a person who the Chief Commissioner believes has contravened a licence condition. Following the suspension, the licensee has 14 days to show cause why the licence should not be cancelled, and thereafter the Chief Commissioner, taking into account any representations made by the licensee, may reinstate or cancel the licence. **Schedule 3 [5]** makes a consequential amendment.

Schedule 3 [8] amends section 51 of the Act to provide for an appeal to the District Court against the cancellation of a licence under proposed section 50 (4) of the Act.

Explanatory note

Schedule 3 [9] amends section 57 of the Act so as to enable the Chief Commissioner to require an applicant for a licence or any other person to furnish such information as the Chief Commissioner may reasonably require in order to determine whether or not to refuse to authorise the granting of a licence and, if necessary, to require the applicant or other person to appear and give evidence.