

Passed by both Houses



New South Wales

# Revenue Legislation Further Amendment Bill 2024

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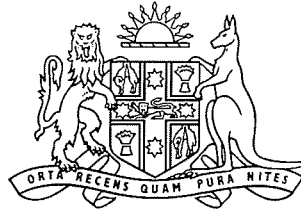
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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2024*



New South Wales

## **Revenue Legislation Further Amendment Bill 2024**

Act No \_\_\_\_\_, 2024

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

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Revenue Legislation Further Amendment Act 2024*.

**2 Commencement**

This Act commences on the date of assent to this Act.

## Schedule 1 Amendment of Duties Act 1997 No 123

### [1] Section 5A

Insert after section 5—

#### **5A Application of Act to corporate collective investment vehicles**

- (1) For this Act, each sub-fund of a CCIV is taken to be a unit trust scheme of which—
  - (a) the CCIV is the trustee, and
  - (b) the business, assets and liabilities of the sub-fund are the trust property, and
  - (c) the members of the sub-fund are the beneficiaries.
- (2) For a sub-fund that is taken to be a unit trust scheme—
  - (a) a share in the CCIV that is referable to the sub-fund is taken to be a unit in the unit trust scheme, and
  - (b) a shareholder of the share, as a member of the sub-fund, is taken to be a registered unit holder of the unit in the unit trust scheme, and
  - (c) the rights, entitlements, obligations and other characteristics attaching to the share are taken, as far as practicable, to be the same rights, entitlements, obligations and other characteristics attaching to the unit, and
  - (d) a winding up of the sub-fund is taken to be a winding up of the unit trust scheme, and
  - (e) a person who has an entitlement to a distribution of property in the event of the distribution of all the property of the sub-fund is taken to have the same entitlement to a distribution of property in the event of the distribution of all the property of the unit trust scheme.
- (3) For this Act, a CCIV is taken to be a separate person in relation to each unit trust scheme of which it is the trustee under subsection (1).
- (4) This Act does not apply to a CCIV or the members of a sub-fund of a CCIV except as provided for by this section.

### [2] Section 10 Form of dutiable transaction is immaterial

Omit “or not”.

### [3] Section 54B

Insert after section 54A—

#### **54B Transfers in relation to corporate collective investment vehicles**

- (1) This section applies to dutiable property over which a CCIV is taken to be a trustee because of section 5A.
- (2) Duty of \$500 is chargeable for the transfer of dutiable property between a CCIV and a custodian or agent of the CCIV.
- (3) Duty of \$500 is chargeable for the transfer of dutiable property from a sub-custodian of a custodian of the CCIV to the custodian.
- (4) Duty of \$500 is chargeable for the declaration of trust over dutiable property—
  - (a) by a custodian of a CCIV, or

(b) by a sub-custodian of a custodian of a CCIV.

**[4] Section 65 Exemptions from duty**

Insert after section 65(1)(e)—

- (f) a declaration of a bare trust over dutiable property, if—
  - (i) duty under this Act is not chargeable in relation to the transfer of the dutiable property to the trustee of the bare trust under section 274, and
  - (ii) the beneficiary of the bare trust is taken to be the person directing the transferee under section 274,

**[5] Sections 65(9), 74(5), 78AA(7), 81, 85(1)(b) and 104ZJA(8), definition of “new home”**

Omit “*First Home Owner Grant (New Homes) Act 2000*” wherever occurring.

Insert instead “*First Home Owner Grant and Shared Equity Act 2000*”.

**[6] Section 68 Exemptions—break-up of marriages and other relationships**

Insert after section 68(4D)—

- (4E) This section applies to a legal personal representative of a deceased person in the same way as it applied to the person.

**[7] Section 104J Meanings of “foreign person” and “foreign trustee”**

Insert after section 104J(3), note—

- (4) When assessing whether a sub-fund of a CCIV is a foreign person for the purposes of this chapter, the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth must be read subject to section 5A.
- (5) To avoid doubt, subsection (4) also applies for the purposes of the definition of *foreign person* in the *Land Tax Act 1956*.

**[8] Section 157AB Qualified investors**

Insert after section 157AB(1)(h)—

- (h1) as a statutory body that—
  - (i) is established under a law of the Commonwealth or a State or Territory, and
  - (ii) is prescribed by the regulations, or

**[9] Section 157AB(1)(l) and (m)**

Omit section 157AB(1)(l). Insert instead—

- (l) in a way approved by the Chief Commissioner if the Chief Commissioner is satisfied the units are held by a person—
  - (i) under the law of an external Territory or a foreign country, and
  - (ii) in a way that corresponds to paragraphs (a)–(j), or
- (m) in a way approved by the Chief Commissioner if the Chief Commissioner is satisfied the units are held by a wholly-owned subsidiary or wholly owned trust of a person referred to in paragraphs (a)–(l).

**[10] Section 273A Definitions**

Omit “that scheme.” from section 273A(2)(b). Insert instead—

the scheme, and

- (c) for a sub-fund of a CCIV that is taken to be a unit trust scheme because of section 5A—includes a reference to anything done by or held by a custodian of the CCIV as custodian.

**[11] Section 273E Meaning of “corporate group”**

Insert after section 273E(3)—

- (3A) A requirement under the *Corporations Act 2001* of the Commonwealth for a resolution to be passed by a sub-fund of a CCIV must be disregarded for the purposes of assessing whether the sub-fund has voting control over another sub-fund of the CCIV.

**[12] Section 273E(5A)**

Omit the subsection. Insert instead—

- (5A) A reference in subsection (5) to a trustee includes—
  - (a) for a trustee of a unit trust scheme that is a managed investment scheme—a reference to a custodian of the trustee of the scheme acting as the custodian, or
  - (b) for a CCIV that is taken to be a trustee of a unit trust scheme because of section 5A—a reference to a custodian of the CCIV acting as the custodian.

**[13] Section 274 Transfer of certain business property between family members**

Omit section 274(5A).

**[14] Section 280 Aboriginal land councils**

Omit “, a Regional Aboriginal Land Council,”.

**[15] Schedule 1 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

## **Part Provision consequent on enactment of Revenue Legislation Further Amendment Act 2024**

### **Application of amendments**

The amendments to section 157AB made by the *Revenue Legislation Further Amendment Act 2024* are taken to—

- (a) have commenced on 1 February 2024, and
- (b) have been made by the *Treasury and Revenue Legislation Amendment Act 2023* for the purposes of this schedule, clause 151.

**[16] Dictionary**

Insert in alphabetical order in clause 1—

**asset**, of a sub-fund of a CCIV, has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth, section 1233H.

**CCIV** means a corporate collective investment vehicle within the meaning of the *Corporations Act 2001* of the Commonwealth.

**liabilities**, in relation to a sub-fund of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1233L.

*member*, in relation to a sub-fund of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1222Q(3).

*referable*, in relation to a sub-fund and a share in a CCIV, has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth, section 1230(1).

*sub-fund*, of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1222Q(1).

**[17] Dictionary, clause 1, definition of “unit trust scheme”, note**

Insert at the end of the definition—

**Note—** The Act, section 5A provides that a sub-fund of a CCIV is taken to be a unit trust scheme.

## Schedule 2 Amendment of Fines Act 1996 No 99

### [1] Section 117A Disclosure of information by Commissioner

Omit “*First Home Owner Grant (New Homes) Act 2000*” from section 117A(1)(a2)(i).

Insert instead “*First Home Owner Grant and Shared Equity Act 2000*”.

### [2] Section 126A Penalty notices and penalty reminder notices sent to recently reported postal address and returned to sender

Omit section 126A(3) and (4). Insert instead—

(3) In this section—

*Australian driver licence* has the same meaning as in the *Road Transport Act 2013*.

*finer application* means the following—

- (a) an application for a review of a decision to issue a penalty notice under section 24A,
- (b) an application for a work and development order,
- (c) an application for a time to pay order,
- (d) an election under section 23A or 36 to have a matter dealt with by a court.

*NEVDIS* means the National Exchange of Vehicle and Driver Information System kept by Austroads.

*recently reported postal address*, in relation to a penalty notice or penalty reminder notice sent to a person, means—

- (a) the latest postal address given by the person—
  - (i) to the appropriate officer, under a legal obligation, when the offence was alleged to have been committed, or
  - (ii) in connection with a fines application, or
- (b) a postal address of the person as shown in the records of Transport for NSW or NEVDIS in relation to a current Australian driver licence or vehicle registration in Australia if—
  - (i) the postal address was not given by the person under paragraph (a), or
  - (ii) the postal address of the person shown in the records has been updated since the postal address was given under paragraph (a).

*registration in Australia* has the same meaning as in the *Road Transport Act 2013*, section 7(2).



### **Schedule 3      Amendment of Land Tax Act 1956 No 27**

**Section 5C Surcharge land tax—certain development by Australian-based developers that are foreign persons**

Omit “*First Home Owner Grant (New Homes) Act 2000*” from section 5C(7), definition of *new home*.

Insert instead “*First Home Owner Grant and Shared Equity Act 2000*”.

## Schedule 4      **Amendment of Land Tax Management Act 1956 No 26**

### [1]    **Section 3 Definitions**

Insert in alphabetical order in section 3(1)—

*asset*, of a sub-fund of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1233H.

*CCIV* means a corporate collective investment vehicle within the meaning of the *Corporations Act 2001* of the Commonwealth.

*liabilities*, in relation to a sub-fund of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1233L.

*member*, in relation to a sub-fund of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1222Q(3).

*referable*, in relation to a sub-fund and a share in a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1230(1).

*sub-fund*, of a CCIV, has the same meaning as in the *Corporations Act 2001* of the Commonwealth, section 1222Q(1).

### [2]    **Section 3C**

Insert after section 3B—

#### **3C    Application of Act to corporate collective investment vehicles**

- (1) For this Act, each sub-fund of a CCIV is taken to be a unit trust of which—
  - (a) the CCIV is the trustee, and
  - (b) the business, assets and liabilities of the sub-fund are the trust property, and
  - (c) the members of the sub-fund are the beneficiaries.
- (2) For a sub-fund that is taken to be a unit trust—
  - (a) a share in the CCIV that is referable to the sub-fund is taken to be a unit in the unit trust, and
  - (b) a shareholder of the share, as a member of the sub-fund, is taken to be a unit holder of the unit in the unit trust, and
  - (c) the rights, entitlements, obligations and other characteristics attaching to the share are taken, as far as practicable, to be the same rights, entitlements, obligations and other characteristics attaching to the unit.
- (3) For this Act, a CCIV is taken to be a separate person in relation to each unit trust of which it is the trustee under subsection (1).
- (4) This Act does not apply to a CCIV or the members of a sub-fund of a CCIV except as provided for by this section.
- (5) Despite another provision of this Act, a sub-fund of a CCIV, taken to be a unit trust under this section, is taken to be a special trust.

### [3]    **Section 9C Reduction in land value for flats on mixed development land or mixed use land**

Insert after section 9C(3)(c)—

- (d) the land must not be owned, or jointly owned, by a person in the person's capacity as trustee of a special trust,

**[4] Section 10 Land exempted from tax**

Omit “, a Regional Aboriginal Land Council” from section 10(1)(f1).

**[5] Section 10(1)(f1)**

Insert “or a registered native title body corporate within the meaning of the *Native Title Act 1993* of the Commonwealth” after “*Aboriginal Land Rights Act 1983*”.

## **Schedule 5      Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

### **Schedule 2 Search warrants under other Acts**

Omit "*First Home Owner Grant (New Homes) Act 2000*".

Insert instead "*First Home Owner Grant and Shared Equity Act 2000*".

## Schedule 6 Amendment of Payroll Tax Act 2007 No 21

### [1] Section 74A Groups arising from former entities

Insert “or has executed a deed of company arrangement under the *Corporations Act 2001* of the Commonwealth,” after “wound up,” in section 74A(5), definition of **former entity**, paragraph (a).

### [2] Section 81 Joint and several liability

Omit “corporation” wherever occurring in section 81(6). Insert instead “entity”.

### [3] Section 81(7)

Insert after section 81(6)—

- (7) A reference in subsection (6) to amount payable by a former entity includes an amount that would have been payable by the former entity if the former entity had not executed a deed of company arrangement as referred to in section 74A(5), definition of **former entity**, paragraph (a).

### [4] Schedule 2 NSW specific provisions

Insert after clause 1—

#### 1A Payments by corporate collective investment vehicle to corporate director

- (1) Wages do not include amounts paid or payable by a CCIV to its corporate director.
- (2) In this clause—

**CCIV** means a corporate collective investment vehicle within the meaning of the *Corporations Act 2001* of the Commonwealth.

**corporate director**, of a CCIV, means the public company that is the director of the CCIV.

### [5] Schedule 2, clause 10A

Insert in alphabetical order—

**prescribed billing arrangements**, for general practitioner services, means either or both of the following—

- (a) bulk billing arrangements for the services,  
(b) veterans arrangements for the services.

**veterans arrangement**, for general practitioner services, means an arrangement—

- (a) approved by the Chief Commissioner, and  
(b) under which the general practitioner accepts as full payment for the services payment under one or more of the following Acts of the Commonwealth—  
(i) the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*,  
(ii) the *Military Rehabilitation and Compensation Act 2004*,  
(iii) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*,  
(iv) the *Treatment Benefits (Special Access) Act 2019*,  
(v) the *Veterans' Entitlements Act 1986*.

**[6] Schedule 2, clause 10B**

Omit “a bulk billing arrangement” wherever occurring in clause 10B(1)(c) and (2).  
Insert instead “prescribed billing arrangements”.

**[7] Schedule 3 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

**Part Provision consequent on enactment of Revenue  
Legislation Further Amendment Act 2024**

**Application of amendments**

The amendments made to Schedule 2, clauses 10A and 10B by the *Revenue Legislation Further Amendment Act 2024* are taken to have commenced on 4 September 2024.

## Schedule 7 Amendment of State Debt Recovery Act 2018 No 11

### [1] Section 3 Definitions

Omit section 3(1), definition of *debt notice*, paragraph (b).

Insert instead—

- (b) in relation to a grant debt—a debt notice under the *First Home Owner Grant and Shared Equity Act 2000* or the repealed *Small Business Grants (Employment Incentive) Act 2015*, or

### [2] Section 7 Referable debt—meaning

Omit section 7(1)(b). Insert instead—

- (b) a fee, charge or other amount declared to be a referable debt by—
  - (i) an order under subsection (2), or
  - (ii) another Act.

### [3] Section 9 Grant debt—meaning

Omit “*First Home Owner Grant (New Homes) Act 2000*” from section 9(a).

Insert instead “*First Home Owner Grant and Shared Equity Act 2000*”.

### [4] Section 9(b)

Omit the paragraph.

### [5] Section 16 Referral of debt to Chief Commissioner

Insert after section 16(3)—

- (4) To avoid doubt, the referral of a referable debt to the Chief Commissioner is an action on a cause of action for the purposes of the *Limitation Act 1969*.

### [6] Section 19 Revocation of referral

Omit section 19(1). Insert instead—

- (1) Either party, being the referring officer or the Chief Commissioner, may revoke the referral of a referable debt by giving written notice of the revocation to the other party.

### [7] Section 19(2)

Omit “the referring officer”. Insert instead “a party”.

### [8] Section 19, note

Omit the note. Insert instead—

**Note—** Section 81(2)(a) and (3) make provision for the revocation of a debt recovery order if the referral of a referable debt is revoked.

### [9] Section 38 Content of debt recovery order

Omit section 38(b).

### [10] Section 67 Hardship Review Board

Omit “Department of Finance, Services and Innovation” from section 67(1)(a).

Insert instead “Department of Customer Service”.

**[11] Section 67(1)(c)**

Omit “Department of Justice”. Insert instead “Department of Communities and Justice”.

**[12] Section 81 Circumstances in which power may be exercised**

Insert after section 81(2)—

- (3) The Chief Commissioner must, if revoking the referral of a referable debt, revoke a debt recovery order for the referable debt to the extent that an amount to which the order relates has not been paid.

**[13] Section 95 Allocation of recovered amounts between State debts**

Insert “, including by applying it to payment of a debt payable under another debt recovery order,” after “section” in section 95(7).

**[14] Section 95(7)(e)**

Omit “payable.” from section 95(7)(d). Insert instead—

- payable,  
(e) for a referable debt—the limitation period that applies to the debt under the *Limitation Act 1969*.

**[15] Schedule 3 Consequential amendments**

Omit Schedule 3.3, heading. Insert instead—

**3.3 First Home Owner Grant and Shared Equity Act 2000 No 21**

**[16] Schedule 3.3[2]**

Omit “section 25 (1A)”. Insert instead “section 25(2)”.

**[17] Schedule 3.12 and 3.13**

Omit the subschedules.



## **Schedule 8      Amendment of Taxation Administration Act 1996 No 97**

**[1] Section 3 Definitions**

Insert after section 3(1), definition of *tax*—

- (a1) a penalty under section 106KA, and

**[2] Section 21 Interest in respect of tax defaults**

Omit section 21(2). Insert instead—

- (2) Interest is payable under this section in respect of a tax default that consists of a failure to pay—
- (a) penalty tax under Division 2, or
- (b) a penalty imposed under section 106KA.
- (3) Interest is not payable in respect of a failure to pay interest under this division.

**[3] Section 26 Penalty tax in respect of certain tax defaults**

Omit “Division.” from section 26(3)(b). Insert instead—

division, or

- (c) a penalty imposed under section 106KA.

**[4] Sections 60(2) and 64(2)**

Omit “Department of Finance, Services and Innovation” wherever occurring.

Insert instead “department in which this Act is administered”.

**[5] Section 82 Permitted disclosures—to particular persons**

Omit “*First Home Owner Grant (New Homes) Act 2000*” from section 82(b)(ii).

Insert instead “*First Home Owner Grant and Shared Equity Act 2000*”.

**[6] Section 82(b)(vi) and (vii) and (k)(ii) and (xia)**

Omit the subparagraphs.

**[7] Section 82(k)(xx)**

Omit the subparagraph. Insert instead—

- (xx) the Chief Executive Officer of Investment NSW for the purposes of the administration of Jobs Plus agreements under the *Payroll Tax Act 2007*, section 66F,
- (xxi) Museums of History NSW,
- (xxii) State Records Authority NSW, or

**[8] Section 106KA**

Insert after section 106K—

**106KA Additional penalties for tax avoidance schemes**

- (1) The Chief Commissioner may impose a penalty on a taxpayer if the Chief Commissioner—
- (a) issues a notice of assessment, or reassessment, of tax liability to the taxpayer, and

- (b) issues the notice on the basis that a scheme is a tax avoidance scheme.
- (2) The penalty—
  - (a) may be imposed by written notice to the taxpayer, and
  - (b) must not be more than the amount of tax avoided by the taxpayer.
- (3) In deciding whether to impose a penalty and the amount of the penalty, the Chief Commissioner must consider the following—
  - (a) the amount of tax avoided,
  - (b) the length of the period during which the person was involved in the tax avoidance scheme,
  - (c) the deterrent effect the penalty may have,
  - (d) another matter the Chief Commissioner considers relevant.
- (4) The liability to pay the penalty is in addition to the following—
  - (a) a liability under this division to pay the amount of tax avoided,
  - (b) a liability under Part 5 to pay interest in relation to the amount of tax avoided,
  - (c) a liability under Part 5 to pay penalty tax in relation to the amount of tax avoided.

**[9] Section 109 Valuation of foreign currency**

Omit section 109(1). Insert instead—

- (1) If an amount involved in the calculation of tax is not in Australian currency, the amount is to be converted to Australian currency—
  - (a) at the rate of exchange last reported by the Reserve Bank before the liability to pay the tax arose, or
  - (b) at a rate of exchange determined by the Chief Commissioner.