

[Act 2000 No 51]



New South Wales

# State Revenue Legislation Amendment Bill 2000

## Explanatory note

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

This Bill is cognate with the *Appropriation Bill 2000*.

## 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 Management Act 1956*

*Pay-roll Tax Act 1971*

*Premium Property Tax Act 1998*

*Taxation Administration Act 1996*.

An amendment by way of statute law revision is also made to the *Roads Act 1993*.

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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 Management Act 1956* set out in Schedule 3.

**Clause 6** is a formal provision giving effect to the amendments to the *Pay-roll Tax Act 1971* 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 *Roads Act 1993* set out in Schedule 6.

**Clause 9** is a formal provision giving effect to the amendments to the *Taxation Administration Act 1996* set out in Schedule 7.

## Schedule 1 Amendment of Debits Tax Act 1990

**Schedule 1 [1]–[3]** amends the definition of *excluded debit* (being a debit not subject to debits tax) to include a debit made to an account kept with a financial institution in the name of a non-profit organisation having as one of its objects a charitable, benevolent, philanthropic or patriotic purpose.

**Schedule [4]** contains a savings and transitional provision.

## Schedule 2 Amendment of Duties Act 1997

**Schedule 2 [1]** makes it clear that a concessional rate of duty is payable in respect of the transfer of property as a consequence of the appointment of a new trustee for a managed investment scheme, but only if the Chief Commissioner of State Revenue is satisfied that the only beneficial interest in property being acquired is by the new trustee because of its appointment as trustee for that scheme.

**Schedule 2 [2]** provides that the concessional rate of duty payable on the transfer of a new strata lot to a person in substitution for a similar interest held in the property immediately before the creation of the lot is only applicable if the person had already paid ad valorem duty when originally acquiring the interest in the property.

**Schedule 2 [3] and [4]** give an exemption from duty for the transfer of a poker machine permit under the *Liquor Act 1982* that does not result in a change in the beneficial ownership of the permit or that occurs as a consequence of an agreement for the sale or transfer of dutiable property in respect of which duty has been paid.

**Schedule 2 [5]** gives an exemption from duty for a purchase at public auction of property that was property of the parties, or of one of the parties, to a domestic relationship if the auction was held to comply with an order of a court under the *Property (Relationships) Act 1984* or with a certified termination agreement under that Act. A similar provision currently exists in relation to matrimonial property.

**Schedule 2 [6]–[16], [44] and [54]** replace the First Home Purchase Scheme with a new scheme to be called First Home Plus. The new scheme removes the means test for eligibility for the scheme and provides for a total exemption from duty on the purchase of a first home or block of land for a first home where the consideration paid is below certain specified limits. A graduated discounted scale of duty is then applicable for amounts paid over those limits up to a further specified limit. Duty on mortgages under the new scheme is at a discounted graduated scale up to specified limits depending on the consideration for the purchase.

**Schedule 2 [17]–[43], [53] and [55]** apply, with appropriate modifications, the provisions of Chapter 4 of the *Duties Act 1997* dealing with the duty payable in respect of the sale or purchase of marketable securities on a broker's own account effected in New South Wales (and certain associated transactions) to the sale or purchase of marketable securities by a registered independent options trader (**RIOT**) on its own account (and certain associated transactions). Provisions in that Chapter relating to the keeping of records and the lodging of returns are also applied.

**Schedule 2 [45]** changes, until 1 February 2005, the category of insurance which applies to insurance under the Debtor Insurance Scheme of the Stock and Station Agents Association. That insurance will, for that limited time, fall within Class 3 insurance which attracts a lower amount of duty.

**Schedule 2 [46]** reduces the amount of duty payable on insurance premiums for Class 1 insurance (that is, general insurance that is not dealt with specifically in the other classes of insurance set out in the *Duties Act 1997*).

**Schedule 2 [47]** provides an exemption from duty for an application to register a motor vehicle made by a person who is eligible for 70 per cent or more of the general rate of pension under the *Veterans' Entitlements Act 1986* of the Commonwealth or a rate of pension under that Act known as the extreme disablement adjustment rate of pension or the intermediate rate of pension. Currently, the exemption covers only the special rate of pension under that Act for total and permanent incapacity.

**Schedule 2 [48]** provides an exemption from duty for an agreement for the sale or transfer of land, and an associated mortgage, if at least one of the purchasers or borrowers is a tenant of the Aboriginal Housing Office who will obtain at least a 25 per cent beneficial ownership of the land and intends to use the land as his or her principal place of residence.

**Schedule 2 [49]** and **[50]** contain savings and transitional provisions.

**Schedule 2 [51]** amends the definition of *index trust* to include Barclays Investment Funds Australian Equity Index Fund. The amendment will provide an exemption from duty in respect of certain transfers of marketable securities to and from the trustee of that Index Fund.

**Schedule 2 [52]** makes it clear that the definition of *mortgage* in the Dictionary applies not only to references to that term in the definitions of *mortgage-backed security* and *pool of mortgages* but also to other references in sections 282 and 284. Those sections deal with exemptions from duty for certain transactions involving mortgage-backed or loan-backed securities.

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

**Schedule 3 [1]** updates an out-of-date reference by way of statute law revision.

**Schedule 3 [2]** provides an exemption from land tax in respect of land used solely as a police station.

**Schedule 3 [3]–[8]** extend the provisions that deem company title units in a building to be strata lots to situations where company title exists in relation to several buildings on a lot, for example, a villa homes situation.

**Schedule 3 [9]** enables the Chief Commissioner of State Revenue to determine the fee payable for a certificate in respect of land showing whether it is subject to land tax and what its land value is.

**Schedule 3 [10]** updates a reference to a repealed provision by way of statute law revision.

**Schedule 3 [11]** contains a savings and transitional provision.

### **Schedule 4 Amendment of Pay-roll Tax Act 1971**

**Schedule 4 [1]–[6]** update out-of-date references by way of statute law revision.

**Schedule 4 [7]** reduces the rate of pay-roll tax from 1 January 2001.

**Schedule 4 [8]** contains a savings and transitional provision.

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

**Schedule 5** updates an out-of-date reference by way of statute law revision.

### **Schedule 6 Amendment of Roads Act 1993**

**Schedule 6** updates an out-of-date reference by way of statute law revision.

### **Schedule 7 Amendment of Taxation Administration Act 1996**

**Schedule 7 [1]** provides that a reassessment of tax liability cannot be made after 5 years from the initial assessment of liability on the ground that the relevant facts and circumstances were not fully and truly disclosed unless the tax liability was assessed at a lower amount than the Chief Commissioner of State Revenue would otherwise have assessed it.

**Schedule 7 [2] and [3]** provide that the calculation of duty by a taxpayer, agent or other person in accordance with special arrangements approved by the Chief Commissioner of State Revenue under Division 2 of Part 6 of the *Taxation Administration Act 1996* does not constitute an assessment of tax for the purposes of that Act and that the endorsement of an instrument in accordance with such arrangements is no evidence that duty has been paid.

**Schedule 7 [4]** enables a tax officer to disclose information obtained in the administration of a taxation law to the Commissioner for the New South Wales Crime Commission. A taxation law is defined as the following Acts and any regulation made under them:

*Accommodation Levy Act 1997*

*Debits Tax Act 1990*

*Duties Act 1997*

*Health Insurance Levies Act 1982*

*Land Tax Act 1956*

*Land Tax Management Act 1956*

*Parking Space Levy Act 1992*

*Pay-roll Tax Act 1971*

*Premium Property Tax Act 1998*

*Revenue Laws (Reciprocal Powers) Act 1987*

*Stamp Duties Act 1920*

*Taxation Administration Act 1996.*

**Schedule 7 [5]** contains a savings and transitional provision.