



New South Wales

State Revenue Legislation Amendment Bill 2013

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Duties Act 1997*:
 - (i) to make further provision for duty on transfers of options to purchase land, including to prevent avoidance practices, and
 - (ii) to make further provision for the duty on transfers of mining tenements or land subject to a mining tenement, and
 - (iii) to refine the power of the Chief Commissioner of State Revenue (the **Chief Commissioner**) to grant exemptions from landholder duty, and
 - (iv) to specify a time limit for the lodging of landholder acquisition statements, and
 - (v) to remove a landholder duty concession that applies to acquisitions in a landholder that holds land used for primary production, and
 - (vi) to specify new exceptions to rules relating to the aggregation of interests of related persons and associated persons, and
 - (vii) to make other minor miscellaneous amendments,

- (b) to amend the *Land Tax Management Act 1956*:
 - (i) to specify additional rules that a unit trust must comply with to be treated as a fixed trust for land tax purposes, and
 - (ii) to update and clarify various land tax exemptions, and
 - (iii) to change the land tax rules for life estates, to prevent avoidance practices, and
 - (iv) to simplify the land tax concession that applies when a person acquires a new principal place of residence, and
 - (v) to simplify the land tax concession that applies when a person is absent from his or her principal place of residence,
- (c) to amend the *Tax Administration Act 1996* to make further provision for the liability of directors for unpaid corporate tax.

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.

Schedule 1 Amendment of Duties Act 1997 No 123

Transfers of options to purchase land

Schedule 1 [1] and [2] ensure that certain transactions involving options to purchase land are dutiable in the same way as transfers of options to purchase land. The amendments provide that a transfer of an option to purchase land in New South Wales is taken to occur if, for valuable consideration:

- (a) the option holder nominates another person to exercise the option, or
- (b) the option holder nominates another person as purchaser or transferee of the land the subject of the option on or before the exercise of the option, or
- (c) the option holder agrees to a novation of the option, or otherwise relinquishes his or her rights under the option, so that another person obtains a right to purchase the land.

Schedule 1 [3] provides that the consideration for a transfer of dutiable property that occurs when an option to purchase land is exercised is taken to include the amount or value of the consideration provided by the transferee for the option.

Schedule 1 [6] ensures that the duty chargeable in respect of a transfer of dutiable property that occurs on the exercise of an option to purchase land is reduced by the amount of duty (if any) paid by the transferee on the transfer of the option to the transferee.

Mining tenements

Schedule 1 [20] provides that a mining tenement in relation to land is taken to give the holder an interest in land. An interest in land is dutiable property and, accordingly, a transfer of an interest in land is subject to duty. An interest in land is also treated as land holding of a landholder for the purposes of landholder duty. At present, only mining leases and mineral claims are treated as interests in land. As a result of the amendment, assessment leases, exploration licences and opal prospecting licences will also be regarded as giving the holder an interest in land. **Schedule 1 [17]** is a consequential amendment.

Schedule 1 [4] requires the unencumbered value of an interest in land arising because of a mining tenement to be determined having regard to any information about the land.

Landholder duty

Schedule 1 [15] repeals a provision that gives the Chief Commissioner a general discretion to exempt or partially exempt an acquisition from landholder duty.

That general discretion is replaced by 2 new exemptions of a more targeted nature.

The first new exemption applies when property is held for the benefit of a beneficiary of a discretionary trust. Generally, a beneficiary of a discretionary trust is taken to own property the subject of the trust. The Chief Commissioner is given a discretion to waive that rule if the Chief Commissioner is satisfied it would be inequitable in the circumstances. See **Schedule 1 [10] and [11]**.

The second new exemption applies when an acquisition in a landholder is made as part of one arrangement involving several acquisitions of the same or part of the same land holding. The Chief Commissioner is given a discretion to exempt an acquisition if satisfied that to charge duty in the circumstances would result in double duty or multiple duty. See **Schedule 1 [13]**.

Schedule 1 [9] requires an acquisition statement for an acquisition that is subject to duty to be lodged with the Chief Commissioner within 3 months after it is made.

Schedule 1 [14] repeals a duty concession that applies when an acquisition is made in a landholder that holds land used for primary production. As a consequence, an acquisition of an interest in a landholder that is a primary producer will be subject to duty whether or not the landholder is land rich. The general rule (that the landholder must have land holdings in NSW with a threshold value of \$2,000,000 or more) will still apply.

Aggregation of interests

The *Duties Act 1997* provides for the aggregation of the interests of related persons and associated persons in certain circumstances, as a means of preventing duty avoidance practices.

Schedule 1 [18] ensures that a natural person, or a private company, and a trustee of a discretionary trust are not automatically treated as related persons if the natural person or private company is a beneficiary of the trust.

Schedule 1 [19] ensures that the trustee of a complying superannuation fund and another trustee of a complying superannuation fund are considered to be associated persons by reason of having a common beneficiary, only if a member of the first fund (either alone or together with other members of the first fund who are related persons) has an interest in the other fund of more than 20%.

Other amendments

Schedule 1 [7] and [12] update definitions of *matrimonial property* and *relationship property* to reflect the power of the Family Court to order that property be treated as property of parties to a marriage or de facto relationship.

Schedule 1 [5] and [8] make minor amendments of a statute law revision nature.

Schedule 1 [16] provides for savings and transitional matters.

Schedule 2 Amendment of Land Tax Management Act 1956 No 26

Fixed trusts

Land that is subject to a fixed trust enjoys the benefit of a tax free threshold under land tax legislation. Land that is the subject of a special trust does not. **Schedule 2 [2]** provides for certain additional criteria that must be met before a unit trust is considered to be a fixed trust. The criteria require that:

- (a) there must be only one class of units issued, and
- (b) the proportion of trust capital to which a unit holder is entitled on a winding up or surrender of units must be fixed and must be the same as the proportion of income of the trust to which the unit holder is entitled.

Schedule 2 [1] and [10] are consequential amendments.

Land tax exemptions

Schedule 2 [3], [5] and [7] clarify existing land tax exemptions for charitable and educational institutions, to make it clear that they also apply to bodies corporate, societies, institutions or other bodies carried on solely for charitable or educational purposes.

Schedule 2 [6] updates a land tax exemption that applies in respect of land used for a child care service. The amendment is consequential on the commencement of the *Children (Education and Care Services) National Law (NSW)*. **Schedule 2 [4]** is a consequential amendment.

Schedule 2 [8] updates an exemption that applies to land zoned as rural land that is used for primary production. The amendment reflects changes in planning terminology brought about by the standard environmental planning instrument prescribed under the *Environmental Planning and Assessment Act 1979*.

Life estates

Schedule 2 [9] changes the way in which life estates are treated for land tax purposes, to prevent land tax avoidance practices. At present, the owner of a freehold estate that is less than the fee-simple is taken to be the owner of the land, to the exclusion of any person entitled in reversion or remainder.

Under the amendments, both the owner of a freehold estate that is less than the fee-simple (a *limited estate*) and the person entitled in reversion or remainder will be treated as owners of the land. The owner of the limited estate is treated as primary taxpayer and the person entitled in reversion or remainder is treated as secondary taxpayer.

This means that, if either the person entitled in reversion or remainder, or the owner of the limited estate, is a company the principal place of residence exemption will not be available. The amendments in **Schedule 2 [11] and [17]** make this clear.

However, if the limited estate is a life estate created by the express terms of a will, and the duration of the life estate is based on the life of the tenant, the life tenant under the life estate will continue to be regarded as the owner of the land to the exclusion of the person entitled in reversion or remainder. The principal place of residence exemption may be available in such a case.

Schedule 2 [18] is a consequential amendment.

Concession for acquisition of new principal place of residence

Schedule 2 [13] and [14] modify a concession that allows a person, in certain circumstances, to treat 2 residences as his or her principal place of residence for land tax purposes. The concession applies when the person has recently acquired a new residence that he or she intends to use as a principal place of residence but has not yet disposed of the former residence.

As a result of the amendments, it will no longer be necessary for a person to dispose of his or her former residence in order to claim the benefit of the concession. However, the concession can only be claimed for one taxing date.

Schedule 2 [12] and [15] are consequential amendments.

Concession for absence from former residence

Schedule 2 [16] modifies a concession that allows a person, in certain circumstances, to be absent from his or her residence and to continue to treat the residence as his or her principal place of residence for land tax purposes. At present, the concession applies only if the person uses and occupies other land that is not owned by the person as a principal place of residence.

As a result of the amendments, it will no longer be necessary for a person to establish that he or she uses and occupies other land as a principal place of residence. It will be sufficient that the person does not own any other land used and occupied by the person as a principal place of residence.

Other amendments

Schedule 2 [19] provides for savings and transitional matters.

**Schedule 3 Amendment of Taxation Administration
Act 1996 No 97**

Schedule 3 [4], [5], [6] and [9] clarify that a director or former director of a corporation who is required by the Chief Commissioner to rectify a failure by the corporation to pay tax must rectify that failure within a period specified by the Chief Commissioner in a notice in writing served on the director or former director. If the failure to pay the tax is not rectified by the end of that period, the director or former director is jointly and severally liable with the corporation to pay the unpaid tax.

Schedule 3 [1] ensures that, if the failure to pay the tax is not rectified, the liability of a director or former director for a corporate tax liability is not limited to the original assessment amount, but can include interest and penalty tax payable in respect of that assessment amount. **Schedule 3 [2], [3] and [8]** are consequential amendments.

Schedule 3 [7] requires the Chief Commissioner to issue to the director or former director a notice of assessment of the tax liability of the director or former director, in relation to corporate tax liability.

Schedule 3 [10] provides for savings and transitional matters.

First print



New South Wales

State Revenue Legislation Amendment Bill 2013

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New South Wales

State Revenue Legislation Amendment Bill 2013

No. , 2013

A Bill for

An Act to make miscellaneous amendments to certain State revenue legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Revenue Legislation Amendment Act 2013</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent to this Act, except as provided by subsection (2).	5 6
(2) Schedule 1 commences on 1 July 2013, or the date of assent to this Act, whichever is the later.	7 8

Schedule 1	Amendment of Duties Act 1997 No 123	1
[1]	Section 8 Imposition of duty on certain transactions concerning dutiable property	2
	Insert at the end of section 8 (1) (c), before the notes:	3
	, and	4
	(d) a transfer of an option to purchase land in New South Wales that is taken to occur under section 9B.	5
		6
		7
[2]	Section 9B	8
	Insert after section 9A:	9
	9B Transfer of option occurring on nomination or other change	10
	(1) A transfer of an option to purchase land in New South Wales is taken to occur if, for valuable consideration:	11
		12
	(a) the option holder nominates another person to exercise the option, or	13
		14
	(b) the option holder nominates another person as purchaser or transferee of the land the subject of the option on or before the exercise of the option, or	15
		16
		17
	(c) the option holder agrees to a novation of the option, or otherwise relinquishes his or her rights under the option, so that another person obtains a right to purchase the land.	18
		19
		20
	(2) For the purpose of charging duty under this Chapter on a transfer referred to in subsection (1) (a) or (b):	21
		22
	(a) the option is taken to be transferred when the nomination is made, and	23
		24
	(b) the person nominated is taken to be the transferee of the option (and a reference in this Act to a transferee includes a reference to such a person).	25
		26
		27
	(3) For the purpose of charging duty under this Chapter on a transfer referred to in subsection (1) (c):	28
		29
	(a) the option is taken to be transferred when the option holder agrees to the novation or otherwise relinquishes his or her rights under the option, and	30
		31
		32
	(b) the person who obtains a right to exercise the option is taken to be the transferee of the option (and a reference in this Act to a transferee includes a reference to such a person).	33
		34
		35
		36
	(4) This section applies regardless of when the option is exercisable.	37

(5)	For the purposes of this section, anything done by a person under a power of appointment or other authority granted by an option holder is taken to have been done by the option holder.	1 2 3
(6)	Subsection (1) (b) does not apply to a nomination made by an option holder acting as purchaser of the land.	4 5
(7)	In this section: <i>option holder</i> , in relation to an option to purchase land in New South Wales, means a person who has a right to purchase the land under the option (whether or not that right has crystallised).	6 7 8 9
[3]	Section 22 What is the consideration for the transfer of dutiable property?	10 11
	Insert after section 22 (3):	12
(4)	The consideration for a transfer of land in New South Wales that occurs on the exercise of an option to purchase the land is taken to include the amount or value of the consideration provided by the transferee for the option (whether for its grant, transfer, exercise or otherwise).	13 14 15 16 17
	Note. This section extends to an agreement for sale or transfer of dutiable property. Under sections 8 and 9 such agreements are treated as transfers of dutiable property.	18 19 20
[4]	Section 23 What is the “unencumbered value” of dutiable property?	21
	Insert after section 23 (2):	22
(2A)	The <i>unencumbered value</i> of an interest in land arising because of a mining tenement is to be determined having regard to any information about the land, as if the information were an attribute of the land.	23 24 25 26
[5]	Section 54 Change in trustees	27
	Omit “a special trustee or” from section 54 (3).	28
	Insert instead “a special trustee, a trustee of a self managed superannuation fund or a”.	29 30
[6]	Section 64D	31
	Insert after section 64C:	32
	64D Transfers made on exercise of option to purchase land	33
	The duty chargeable in respect of a transfer of land in New South Wales that occurs on the exercise of an option to purchase the	34 35

	land is to be reduced by the amount of duty (if any) paid by the transferee on the transfer of the option to the transferee.	1 2
[7]	Section 68 Exemptions—break-up of marriages and other relationships	3
	Omit the definitions of <i>matrimonial property</i> and <i>relationship property</i> from section 68 (5).	4 5
	Insert in alphabetical order:	6
	<i>matrimonial property</i> means property in relation to the parties to a marriage or of either of them (within the meaning of the <i>Family Law Act 1975</i> of the Commonwealth), including any property treated as property in relation to the parties or of either of them as a result of an order made under that Act.	7 8 9 10 11
	<i>relationship property</i> :	12
	(a) in relation to a de facto relationship, means property in relation to the parties to the de facto relationship or of either of them (within the meaning of the <i>Family Law Act 1975</i> of the Commonwealth), including any property treated as property in relation to the parties or of either of them as a result of an order made under that Act, or	13 14 15 16 17 18
	(b) in relation to a domestic relationship, means property of the parties to the relationship or of either of them.	19 20
[8]	Section 149 What is a “relevant acquisition”?	21
	Omit “transactions” from section 149 (1) (a) (iii).	22
	Insert instead “acquisitions”.	23
[9]	Section 152 Acquisition statements	24
	Insert “within 3 months after the relevant acquisition is made” after “Chief Commissioner” in section 152 (1).	25 26
[10]	Section 159 Constructive ownership of land holdings and other property: discretionary trusts	27 28
	Insert “, unless the Chief Commissioner, being satisfied that the application of this subsection in a particular case would be inequitable, determines otherwise” after “subject of the trust” in section 159 (2).	29 30 31
[11]	Section 159 (3)	32
	Insert “, unless the Chief Commissioner, being satisfied that the application of this subsection in a particular case would be inequitable, determines otherwise” after “beneficiary of it”.	33 34 35

[12] Section 163B Exemption—break-up of marriages and other relationships	1
Omit the definitions of <i>matrimonial property</i> and <i>relationship property</i> from section 163B (8).	2 3
Insert in alphabetical order:	4
<i>matrimonial property</i> means property in relation to the parties to a marriage or of either of them (within the meaning of the <i>Family Law Act 1975</i> of the Commonwealth), including any property treated as property in relation to the parties or of either of them as a result of an order made under that Act.	5 6 7 8 9
<i>relationship property</i> :	10
(a) in relation to a de facto relationship, means property in relation to the parties to the de facto relationship or of either of them (within the meaning of the <i>Family Law Act 1975</i> of the Commonwealth), including any property treated as property in relation to the parties or of either of them as a result of an order made under that Act, or	11 12 13 14 15 16
(b) in relation to a domestic relationship, means property of the parties to the relationship or of either of them.	17 18
[13] Section 163C	19
Insert after section 163B:	20
163C Arrangements involving multiple acquisitions	21
An acquisition of an interest in a landholder is an exempt acquisition if:	22 23
(a) the acquisition (the <i>subject acquisition</i>) is part of one arrangement that involves several acquisitions of the same land holding or part of the same land holding by acquirers that are associated persons, and	24 25 26 27
(b) duty under this Chapter is paid on at least one of the other acquisitions that form part of the arrangement, and	28 29
(c) the Chief Commissioner is satisfied that the subject acquisition represents an acquisition of the same land holding or part of the same land holding on which duty has been paid and that to charge duty on the subject acquisition would result in double duty or multiple duty.	30 31 32 33 34
[14] Section 163D Concession for primary producers—continuation of land rich requirement	35 36
Omit the section.	37

[15] Section 163H Discretion to grant exemption or concession	1
Omit the section.	2
[16] Schedule 1 Savings, transitional and other provisions	3
Insert after Part 39:	4
Part 40 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2013	5 6 7
107 Definition	8
In this Part:	9
<i>amending Act</i> means the <i>State Revenue Legislation Amendment Act 2013</i> .	10 11
108 General application of amendments	12
(1) An amendment made to Chapter 2 by the amending Act applies in respect of a dutiable transaction that occurs on or after the commencement of the amendment.	13 14 15
(2) However, an amendment made to Chapter 2 by the amending Act does not apply to a transfer of dutiable property made in conformity with an agreement for sale or transfer of the dutiable property that was entered into before the commencement of the amendment.	16 17 18 19 20
(3) Any other amendment made to this Act by the amending Act applies in relation to any liability for duty that arises on or after the commencement of the amendment.	21 22 23
109 Amendments relating to options	24
(1) Section 9B, as inserted by the amending Act, extends to an option granted before the commencement of that section.	25 26
(2) Section 22 (4), as inserted by the amending Act, extends to consideration provided for an option before the commencement of that subsection.	27 28 29
(3) Section 64D, as inserted by the amending Act, extends to options granted or transferred before the commencement of that section.	30 31

110	Repeal of section 163D	1
	Section 163D (4), as in force immediately before its repeal by the amending Act, continues to apply in respect of an acquisition of an interest in a primary producer made within 5 years before the repeal of that subsection.	2 3 4 5
111	Application of amendments to landholder duty	6
(1)	A landholder duty amendment does not apply to an acquisition in a landholder that is made on or after the commencement of the landholder duty amendment, if the acquisition is made in conformity with an agreement for sale first executed before that commencement.	7 8 9 10 11
(2)	This Act applies in respect of such an acquisition as if the landholder duty amendment had not been made.	12 13
(3)	In this clause, a <i>landholder duty amendment</i> means an amendment made by the amending Act to:	14 15
	(a) Chapter 4, or	16
	(b) clause 4 of the Dictionary.	17
[17]	Dictionary	18
	Insert in alphabetical order in clause 1:	19
	<i>mining tenement</i> means a mining lease, mineral claim, assessment lease, exploration licence or opal prospecting licence under the <i>Mining Act 1992</i> .	20 21 22
[18]	Dictionary, clause 1	23
	Insert “or discretionary trust” after “public unit trust scheme” wherever occurring in paragraphs (d) and (e) of the definition of <i>related person</i> .	24 25
[19]	Dictionary, clause 2 (4) and (5)	26
	Insert after clause 2 (3):	27
(4)	A trustee of a complying superannuation fund and the trustee for another complying superannuation fund are considered to be associated persons under subclause (1) (d) only if:	28 29 30
	(a) a member of the first fund who holds a significant interest in that fund is also a member of the other fund and holds a significant interest in that other fund, or	31 32 33
	(b) a member of the first fund holds a significant interest in the first fund and a related person to that member (who is a member of the other fund) holds a significant interest in the other fund.	34 35 36 37

(5) A member of a complying superannuation fund holds a <i>significant interest</i> in the fund if the member has an interest in the fund that (either alone or when aggregated with the interests in the fund held by related persons who are members of the fund) is an interest of more than 20%.	1 2 3 4 5
[20] Dictionary, clause 4	6
Omit the clause. Insert instead:	7
4 Interests in land	8
(1) For the purposes of this Act, a mining tenement is taken to give the holder of the mining tenement an interest in the land to which it relates.	9 10 11
(2) To avoid doubt, the land includes anything that, under the authority of the mining tenement (whether direct or indirect), is fixed to the land the subject of the mining tenement and that would be a part of the land (as a fixture) if the mining tenement were an estate in fee simple in the land.	12 13 14 15 16
(3) For the purposes of this Act, the following do not give rise to an interest in land:	17 18
(a) a carbon sequestration right within the meaning of Division 4 of Part 6 of the <i>Conveyancing Act 1919</i> ,	19 20
(b) a petroleum title within the meaning of the <i>Petroleum (Onshore) Act 1991</i> ,	21 22
(c) a licence, permit, lease, access authority or special prospecting authority under the <i>Petroleum (Offshore) Act 1982</i> .	23 24 25

Schedule 2	Amendment of Land Tax Management Act 1956 No 26	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3 (1):	4
	<i>unit trust</i> means a trust in respect of which the beneficiaries of the trust are owners of units in the trust and each unit holder, or each unit holder of a particular class:	5
		6
		7
	(a) is entitled, as a beneficiary of the trust, to participate in any income or capital distributions (or both) of the trust, and	8
		9
	(b) the amount or proportion of any income or capital distribution to which the unit holder is entitled is based on the number or class of units owned by the person (or both).	10
		11
		12
[2] Section 3A Special trust—meaning		13
	Insert after section 3A (3B) (b):	14
	(c) if the trust is a unit trust:	15
	(i) there must be only one class of units issued, and	16
	(ii) the proportion of trust capital to which a unit holder is entitled on a winding up or surrender of units must be fixed and must be the same as the proportion of income of the trust to which the unit holder is entitled.	17
		18
		19
		20
		21
[3] Section 10 Land exempted from tax		22
	Omit section 10 (1) (d). Insert instead:	23
	(d) land owned by or in trust for a charitable body,	24
[4] Section 10 (1) (g) (ii)		25
	Omit the subparagraph. Insert instead:	26
	(ii) a school registered under the <i>Education Act 1990</i> ,	27
[5] Section 10 (1) (g) (iv)		28
	Omit the subparagraph. Insert instead:	29
	(iv) a charitable body,	30
[6] Section 10 (1) (u) and (v)		31
	Insert after section 10 (1) (t):	32
	(u) land that is used solely for the provision of an approved education and care service (within the meaning of the	33
		34

	<i>Children (Education and Care Services) National Law (NSW)</i>), but only if:	1
	(i) the service is provided by an approved provider under that Law, and	2
	(ii) the land is the place where children are educated or cared for by the service,	3
(v)	land that is used solely for the provision of an approved education and care service (within the meaning of the <i>Children (Education and Care Services) Supplementary Provisions Act 2011</i>), but only if:	4
	(i) the service is a centre based education and care service within the meaning of that Act, and	5
	(ii) the service is provided by an approved provider under that Act, and	6
	(iii) the land is the place where children are educated or cared for by the service.	7
[7]	Section 10 (5)	8
	Insert in alphabetical order:	9
	<i>charitable body</i> means a body corporate, society, institution or other body carried on solely for charitable or educational purposes and not for pecuniary profit.	10
[8]	Section 10AA Exemption for land used for primary production	11
	Omit section 10AA (4). Insert instead:	12
	(4) For the purposes of this section, land is <i>rural land</i> if:	13
	(a) the land is zoned rural, rural residential, non-urban or large lot residential under a planning instrument, or	14
	(b) the land has another zoning under a planning instrument, and the zone is a type of rural zone under the standard instrument prescribed under section 33A (1) of the <i>Environmental Planning and Assessment Act 1979</i> , or	15
	(c) the land is not within a zone under a planning instrument but the Chief Commissioner is satisfied the land is rural land.	16

[9] Section 20	1
Omit the section. Insert instead:	2
20 Holder of limited estate taken to be owner	3
(1) The following persons are taken to be owners of land and are to be assessed for land tax accordingly:	4
(a) the owner of any freehold estate in land less than the fee-simple (a <i>limited estate</i>),	5
(b) any person entitled to an estate in the land in reversion or remainder.	6
(2) For that purpose:	7
(a) the owner of the limited estate is taken to be the primary taxpayer, and	8
(b) the person entitled to an estate in the land in reversion or remainder is taken to be the secondary taxpayer, and	9
(c) there is to be deducted from the land tax payable by the secondary taxpayer in respect of the land such amount (if any) as is necessary to prevent double taxation.	10
(3) If the limited estate is a life estate, the life tenant under the life estate is taken to be an owner of the land to the exclusion of any person entitled to an estate in the land in reversion or remainder, but only if:	11
(a) the life estate was created by the express terms of a will (and not by the exercise of a discretion conferred by a will), and	12
(b) the duration of the life estate is based on the life of the tenant and not the life of some other person.	13
(4) This section does not apply if the limited estate is a freehold estate arising by virtue of a lease for life under a lease or an agreement for lease.	14
[10] Schedule 1AA Family unit trusts—special provisions	15
Omit clause 1 from the Schedule.	16
[11] Schedule 1A Principal place of residence exemption	17
Omit “clause” wherever occurring in clause 2 (3) and (4).	18
Insert instead “Schedule”.	19

[12] Schedule 1A, clause 7 Concession for change to principal place of residence	1
	2
Omit “owner, and” from clause 7 (2) (c) (ii). Insert instead “owner.”.	3
[13] Schedule 1A, clause 7 (2) (d)	4
Omit the paragraph.	5
[14] Schedule 1A, clause 7 (3) and (3A)	6
Omit clause 7 (3). Insert instead:	7
(3) The principal place of residence exemption cannot be claimed for both a former residence and a new residence under this clause for more than one taxing date.	8
	9
	10
(3A) A principal place of residence exemption that applies, by operation of this clause, to land not actually used and occupied by a person at the relevant taxing date is revoked if the person is not actually using and occupying the new residence as his or her principal place of residence by the next taxing date immediately following the relevant taxing date.	11
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	13
	14
	15
	16
[15] Schedule 1A, clause 7 (5)	17
Omit the subclause.	18
[16] Schedule 1A, clause 8 (1)	19
Omit the subclause. Insert instead:	20
(1) A person is taken, for the purpose of the principal place of residence exemption, to continue to use and occupy land formerly used and occupied by the person as a principal place of residence (a <i>former residence</i>), after the person ceases to so use and occupy the former residence, if the Chief Commissioner is satisfied that:	21
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(a) the person used and occupied the former residence as a principal place of residence for a continuous period of at least 6 months, and	27
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(b) the person does not own any other land used and occupied by the person as a principal place of residence.	30
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State Revenue Legislation Amendment Bill 2013

Schedule 2 Amendment of Land Tax Management Act 1956 No 26

[17] Schedule 1A, clause 11 (5A)	1
Insert after clause 11 (5):	2
(5A) To avoid doubt, land that is taken to be owned by more than one person under this Act is taken, for the purposes of this clause, to be jointly owned by them.	3 4 5
Note. See, for example, sections 20 and 25.	6
[18] Schedule 1A, clause 11 (6), note	7
Insert “Section 20 provides for circumstances in which a life tenant is taken to be the owner of land, to the exclusion of another owner (including a company).” before “Section 21A”.	8 9 10
[19] Schedule 2 Savings and transitional provisions	11
Insert after Part 26:	12
 Part 27 Provisions consequent on enactment of State Revenue Legislation Amendment Act 2013	 13 14 15
 55 General application of amendments	 16
The amendments made to this Act by the <i>State Revenue Legislation Amendment Act 2013</i> apply to the assessment of land tax liability in respect of the 2014 land tax year and subsequent land tax years.	17 18 19 20
 56 Amendments relating to child care services	 21
Section 10 (1) (u) and (v), as inserted by the <i>State Revenue Legislation Amendment Act 2013</i> , extend to the assessment of land tax liability in respect of the 2013 land tax year.	22 23 24
 57 Fixed trusts	 25
A unit trust that satisfies the relevant criteria referred to in section 3A, as amended by the <i>State Revenue Legislation Amendment Act 2013</i> , by the end of 30 June 2013 is taken to be a fixed trust under section 3A (3) in relation to the 2013 land tax year.	26 27 28 29 30

Schedule 3	Amendment of Taxation Administration Act 1996 No 97	1
		2
[1] Section 47A Definitions		3
	Omit the definition of <i>assessment amount</i> . Insert instead:	4
	<i>corporate tax liability</i> means:	5
	(a) the amount of tax that a corporation has been assessed as being liable to pay, as set out in a notice of assessment issued to the corporation, and	6 7 8
	(b) any interest or penalty tax payable in respect of an amount referred to in paragraph (a).	9 10
[2] Section 47A, definition of “special arrangement”		11
	Omit “an assessment amount”. Insert instead “a corporate tax liability”.	12
[3] Section 47B Liability of directors and former directors of corporation for failure to pay corporate tax liability		13 14
	Omit “an assessment amount” and “the assessment amount” wherever occurring in section 47B (1) and (3)–(5).	15 16
	Insert instead “a corporate tax liability” and “the corporate tax liability” respectively.	17 18
[4] Section 47B (2) and (2A)		19
	Omit section 47B (2). Insert instead:	20
	(2) A <i>compliance notice</i> is a notice that advises a director or former director of a corporation that he or she will be liable to pay a corporate tax liability of the corporation if the failure to pay the corporate tax liability is not rectified before the end of a period specified in the notice (the <i>compliance period</i>).	21 22 23 24 25
	(2A) The compliance period is to be a period of not less than 21 days from the date the notice is served on the director or former director.	26 27 28
[5] Section 47B (3)		29
	Insert “before the end of the compliance period” after “if”.	30
[6] Section 47B (4)		31
	Omit “within the period specified in the compliance notice”.	32
	Insert instead “before the end of the compliance period”.	33

[7] Section 47B (4A)	1
Insert after section 47B (4):	2
(4A) The Chief Commissioner is to issue to the director or former director a notice of assessment of the tax liability of the director or former director under this Division.	3 4 5
[8] Sections 47C and 47D	6
Omit “an assessment amount” and “the assessment amount” wherever occurring.	7 8
Insert instead “a corporate tax liability” and “the corporate tax liability” respectively.	9 10
[9] Section 47E	11
Omit the section. Insert instead:	12
47E Defences	13
In proceedings for the recovery of a corporate tax liability from a director or former director of a corporation under this Division, it is a defence to the recovery of the corporate tax liability from the director or former director if the director or former director establishes that:	14 15 16 17 18
(a) the director or former director took all reasonable steps that were possible in the circumstances to ensure that the corporation rectified the failure to pay the corporate tax liability before the end of the compliance period for the compliance notice served on the director or former director, or	19 20 21 22 23 24
(b) the director or former director was unable, because of illness or for some other similar good reason, to take steps to ensure that the corporation rectified the failure to pay the corporate tax liability before the end of the compliance period for the compliance notice served on the director or former director.	25 26 27 28 29 30

[10] Schedule 1 Savings, transitional and other provisions	1
Insert after Part 9:	2
Part 10 Provisions arising from enactment of State Revenue Legislation Amendment Act 2013	3
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39 Director's liabilities	5
Division 2 of Part 7, as in force immediately before the commencement of the amendments made by the <i>State Revenue Legislation Amendment Act 2013</i> , continues to apply to a compliance notice issued before that commencement.	6
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