

TAXATION AND RELATED LEGISLATION AMENDMENTS

Introduction

The *Taxation and Related Legislation (Miscellaneous Amendments) Act 2008* makes changes to the following legislation administered by the State Revenue Office (SRO):

- *Duties Act 2001*
- *Taxation Administration Act 1997*
- *Land Tax Act 2000*
- *First Home Owner Grant Act 2000*

Changes made to the *Land Tax Act 2000* commence on 1 July 2008.

Changes to the other Acts commenced on 2 May 2008.

The major changes are highlighted below and the Act can be viewed at www.thelaw.tas.gov.au

Duties Act 2001 Amendments

(Phone (03) 6233 3722 for Duties enquiries)

1. Section 6(1)(b)(ii) is amended so that declarations of trust over both dutiable and non-dutiable property are treated as dutiable transactions in the first instance. This amendment ensures that the section 42 concession operates as intended to charge \$20 duty where a trust is declared over unidentified or non-dutiable property.
2. A new exemption is provided for transfers of dutiable property made in accordance with an order made under the *Testator's Family Maintenance Act 1912* (section 47).
3. A new transfer duty exemption has been introduced for associations that are required to incorporate under the *Corporations Act 2001 (Commonwealth)* (section 53).
4. The land-rich provisions have been amended so that a private corporation is land-rich if the unencumbered value of the corporation's land holdings in all places is 60 per cent or more of the unencumbered value of all of the corporation's property (section 60).
5. The land-rich majority interest test has also been amended so that the test is met where a person or associated persons together acquire a 50 per cent or more interest in the property of that corporation (section 64).
6. Section 90 has been amended to clarify that duty is payable on an acquisition statement lodged following the acquisition of land use entitlements rather than on the preceding share allotment or unit issue.
7. Section 190 has been amended to introduce a new insurance duty exemption to include those policies taken out by self-insurers to indemnify themselves against liability or payment in relation to workers compensation claims (section 190 (ha)).

8. Section 199 has been amended to introduce a new motor vehicle duty exemption where a registered operator of a vehicle takes ownership of a leased vehicle at the end of the lease.
9. Section 225 has been amended to ensure that the intergenerational rural transfer exemption only applies where the land is currently, and will continue to be, used in a primary production business and where the land qualifies for the land tax primary production land classification.
10. The current duty exemption contained in section 227 for private hospitals is extended to cover “medical establishments”. Medical establishments include private hospitals, day procedure centres and residential care services.

The duty loans scheme is abolished from 2 May 2008. Existing loans will continue until completion or termination under the terms of the duty loan agreement.

Taxation Administration Act 1997 Amendments

(Phone (03) 6233 2694 for enquiries)

1. The Commissioner’s ability to impose any conditions of approval for special tax return arrangements has now been included in the Act (section 51). This power is currently provided by way of regulations.
2. Section 41 has been amended to ensure that a reduction in penalty tax is limited to those situations where the taxpayer discloses the precise nature and extent of the tax default to the Commissioner without the need for the Commissioner to carry out further investigations.
3. Section 95 has been amended to provide that interest is only payable on an amount refunded where the amount of interest exceeds \$20, ensuring consistency with the calculation of interest payable by taxpayers on late payments.
4. Section 55 has been amended to allow the Commissioner to recover costs and expenses incurred where a debt collection agency is engaged to recover, or attempt to recover, unpaid tax. The Commissioner’s ability to recover the costs and expenses of recovery action already exists where recovery action is instituted through the court system.

Land Tax Act 2000 Amendments (commences 1 July 2008)

(Phone (03) 6233 3068 for enquiries)

1. A new definition of the term “owner” has been introduced in section 3 and provides for regulations to be made prescribing persons other than a person appearing by a folio of the Register kept under section 33 of the Land Titles Act 1980 to be the owner.
2. A new definition of the term ‘transfer’ has been introduced in section 3 which includes ‘transmissions’ of land which occur in relation to bankrupt estates, Family Court of Australia orders and deceased estates.
3. The current private hospital and rest home exemption in section 18 has been extended to cover land held by “medical establishments”.
4. Section 6 has been amended to clarify that a person occupying residential premises in a retirement village is unable to claim principal place of residence classification on another property.
5. Section 7 has been amended to provide for land subject to a forest practices plan certified by the Forest Practices Authority in accordance with the State Permanent Forest Estate Policy to be classified as primary production land.

6. A new exemption has been introduced in section 19 for retirement village land.
7. Section 37 has been amended to ensure that an owner who constructs a dwelling on vacant land that they owned as at 1 July, is ineligible for the rebate where that person owned land which was treated as principal residence land in another State or Territory as at 1 July of the same financial year (note: the existing section 6(4)(c) requires the Commissioner to be satisfied that the person does not own any other principal place of residence land in Tasmania).
8. Section 37A has been amended to ensure that the transitional rebate applies where the owner of 50 per cent or more of the principal residence land is also the owner of 50 per cent or more of the other land.
9. Section 39 has been amended to provide for the recovery of unpaid land tax from both a current agent and a person who was an agent at the time that the liability was raised.

First Home Owner Grant Act 2000 Amendments

(Phone (03) 6233 3068 for enquiries)

1. Section 37 has been amended to provide for the imposition of a court imposed fine of up to 150 penalty units where an applicant, or former applicant, dishonestly makes a statement that is false or misleading, omits any matter from a statement that makes a statement false or misleading or provides a document that is false or misleading.
2. Section 37 has also been amended to provide for the imposition of a court imposed fine of up to 100 penalty units where an applicant, or former applicant, intentionally or negligently makes a false or misleading statement, omits any matter from a statement that makes a statement false or misleading or provides a document that is false or misleading.
3. Section 38 has been amended to provide for the imposition of an administrative penalty where an applicant acts dishonestly, intentionally or negligently in making a statement or in providing a document to the Commissioner.
4. Section 39 has been amended to enable interest to be charged where grant monies are not repaid following the issue of a Notice requiring repayment of the grant.

Further Information

If you require further information regarding any of the material included in this document, please telephone the State Revenue Office on (03) 6233 2694 or e-mail taxhelp@treasury.tas.gov.au

Note: **general tax line specific enquiries** should continue to be made to previously advised contact numbers and **should not be made to (03) 6233 2694.**

Disclaimer

This guideline has been written as a guide and does not constitute a ruling. If uncertainty arises, please seek advice from the SRO.

Enquiries:

Telephone: (03) 6233 2286 If you are a Tas subscriber outside the 62 area call 1800 001 388

Facsimile: (03) 6234 3357

E-mail: taxhelp@treasury.tas.gov.au

Internet: www.sro.tas.gov.au

By Correspondence:

The Commissioner of State Revenue, State Revenue Office
GPO Box 1374, HOBART Tas 7001

In Person: 4th Floor, 80 Elizabeth Street, Hobart

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