

NORTHERN TERRITORY OF AUSTRALIA
TAXATION (ADMINISTRATION) AMENDMENT ACT 2000

No. 36 of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. 36 of 2000

AN ACT

to amend the *Taxation (Administration) Act*

[Assented to 27 June 2000]

[Second reading 18 May 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Taxation (Administration) Amendment Act 2000*.

2. Commencement

(1) This Part comes into operation on the day on which the Administrator's assent to this Act is declared.

(2) Part 2 is to be taken to have come into operation on 16 May 2000.

(3) Parts 3, 4, 5, 6, 7 and 8 come into operation on 1 July 2000.

3. Principal Act

The *Taxation (Administration) Act* is in this Act referred to as the Principal Act.

PART 2 – CONVEYANCES

Division 1 – Land-owning corporations and unit trusts

4. Interpretation

Section 4 of the Principal Act is amended –

- (a) by omitting paragraph (a) of the definition of "dutiabale property" in subsection (1) and substituting the following:

"(a) land;" and

- (b) by inserting after the definition of "judge" in subsection (1) the following:

" 'land' means land in the Territory and includes –

- (a) a lease of land;
- (b) a mining tenement under the *Mining Act*, including information relating to the tenement; and
- (c) a fixture to land, including a fixture to land comprised in a lease or mining tenement;"

5. Interpretation

Section 56C of the Principal Act is amended by omitting from subsection (1) the definition of "real property".

6. Valuation of land

Section 56E of the Principal Act is amended by omitting from subsection (1)(a) "real property" and substituting "land".

7. Notice may be registered on title

Section 56F of the Principal Act is amended –

- (a) by omitting from subsection (1)(b) "real property" and substituting "land";
- (b) by omitting from subsection (1) "the registered proprietor of the real property" and substituting "the registered proprietor of the land";
- (c) by omitting from subsection (2) "the real property" and substituting "the land";
- (d) by omitting from subsection (2)(a) "the property" and substituting "the land";

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- (e) by omitting from subsection (2)(b)(ii) and (iii) "real property" and substituting "land";
- (f) by omitting from subsection (2)(b)(iii) "the property" and substituting "the land";
- (g) by omitting from subsections (4), (6) and (7) "real property" and substituting "land"; and
- (h) by omitting from subsection (8) "property" and substituting "land".

8. Charges on land

Section 56G of the Principal Act is amended by omitting "real property" (wherever occurring) and substituting "land".

9. Power of sale

Section 56H of the Principal Act is amended –

- (a) by omitting from subsection (1)(a) and (c) "real property" and substituting "land";
- (b) by omitting from subsection (1) "a notice specifying the real property" and substituting "a notice specifying the land";
- (c) by omitting from subsection (1) "the sale of the real property" and substituting "the sale of the land"; and
- (d) by omitting from subsections (2) and (3) "real property" (wherever occurring) and substituting "land".

10. Application of proceeds of sale

Section 56J of the Principal Act is amended –

- (a) by omitting "Where real property" and substituting "Where land"; and
- (b) by omitting from paragraphs (c) and (d) "real property" (wherever occurring) and substituting "land".

11. When statement to be lodged

Section 56K of the Principal Act is amended by omitting from subsection (4)(d) "real property" and substituting "land".

12. Corporations to which this Division applies

Section 56N of the Principal Act is amended by omitting from subsection (2)(a) and (b), (3), (5) and (6) "real property" (wherever occurring) and substituting "land".

13. How dutiable value is determined

Section 56R of the Principal Act is amended –

- (a) by omitting from subsections (1), (2) and (3)(a) and (b) "real property" and substituting "land";
- (b) by omitting from subsection (4) "real property" (first occurring) and substituting "land"; and
- (c) by omitting from subsection (4)(a) and (b) "real property" (wherever occurring) and substituting "land".

14. Unit trust schemes

Section 56T of the Principal Act is amended by omitting from subsections (4) and (5) "real property" (wherever occurring) and substituting "land".

Division 2 – Declarations of trust

15. New Division

Part III of the Principal Act is amended by inserting after Division 8 the following:

"Division 8AA – Declarations of trust

"56BA. Imposition of duty on declarations of trust

"(1) Duty is payable on a declaration of trust over dutiable property or marketable securities as if the declaration were a conveyance of the property or securities.

"(2) For the purposes of subsection (1) –

- (a) the dutiable property or marketable securities vested or to be vested in the declarant is to be taken to be the property or securities conveyed;
- (b) the declarant is to be taken to be the conveyee; and
- (c) the conveyance is to be taken to have occurred at the time the declaration is made.

"(3) In this section, 'declaration of trust' means a declaration (other than by a will or testamentary instrument) that identified dutiable property or marketable securities vested or to be vested in the person making the declaration is or is to be held in trust for the person or persons, or for the purpose or purposes, mentioned in the declaration although the beneficial owner of the property or securities or the person entitled to appoint the property or securities may not have joined in or assented to the declaration."

Division 3 – Options

16. New Division

Part III of the Principal Act is amended by inserting before Division 8A the following:

"Division 8AB – Options to convey dutiable property or marketable securities

"56BB. Duty payable on simultaneous call and put options

"(1) Where –

- (a) a person has an option (a 'call option') exercisable within a specified period to require another person to sell to the first-mentioned person dutiable property or marketable securities ('the option property'); and
- (b) the other person has an option (a 'put option') exercisable within a specified period that is the same as or overlaps with the period referred to in paragraph (a) to require the first-mentioned person to buy from that other person the same option property,

duty is payable on the call option as if it were an agreement to convey the option property.

"(2) Duty imposed under subsection (1) is payable on –

- (a) the sum of the consideration for the grant of the call option and the consideration for the exercise of the call option; or
- (b) the unencumbered value of the option property,

whichever is greater.

"(3) Duty imposed under subsection (1) is payable by the holder of the call option as if the holder were the conveyee of the option property.

"56BC. Duty payable if neither option exercised

"Where neither option referred to in section 56BB is exercised within the period specified for its exercise, duty is payable on the call option as an option to purchase the option property.

"56BD. Remission or refund of duty if neither option exercised

"(1) Where –

- (a) duty has been paid or is payable on a call option under section 56BB; and
- (b) neither the call option nor the put option is exercised within the period specified for its exercise,

subject to subsection (2), an amount equal to the difference between the amount of duty paid or payable on the call option under section 56BB and the amount of duty paid or payable on the call option under section 56BC is to be remitted or is to be refunded to the person who held the call option.

"(2) A remission is not available or a refund is not payable under subsection (1) unless a person furnishes to the Commissioner, within 90 days after the period specified for the exercise of the call option expires or within the further period allowed by the Commissioner under subsection (3), an application in an approved form and the information that the Commissioner requires to determine the amount of the remission or refund.

"(3) The Commissioner may allow a further period to furnish an application or information under subsection (2) if satisfied that a person has a reasonable excuse for not furnishing the application or information within the 90-day period."

Division 4 – Unencumbered value

17. New section

The Principal Act is amended by inserting after section 4 in Part I the following:

"4A. Unencumbered value: arrangements to reduce stamp duty

"(1) For the purposes of the definition of 'unencumbered value' in subsection 4(1), in determining the full value of property –

- (a) an agreement or arrangement between related parties that has the effect of reducing the stamp duty payable on a conveyance of the property is to be disregarded; and

- (b) an agreement or arrangement between unrelated parties that has the effect of reducing the stamp duty payable on a conveyance of the property is to be disregarded unless the Commissioner is satisfied that the agreement or arrangement was not made with a purpose (collateral or otherwise) of reducing the stamp duty payable on the conveyance.

"(2) For the purpose of subsection (1)(a), parties to an agreement or arrangement are related if—

- (a) the parties are a corporation and a person who, in relation to the corporation, is an associated person of a kind specified in section 56C(2)(a)(i) to (vi) (inclusive);
- (b) a party is, in relation to the other party, a relative of a kind specified in section 56C(2)(c)(i) to (iv) (inclusive); or
- (c) the parties have a relationship of a kind specified in section 56C(3)(a) to (g) (inclusive).

"(3) For the purpose of subsection (1)(b), in considering whether or not an agreement or arrangement is to be disregarded, the Commissioner may have regard to the following:

- (a) the duration of the agreement or arrangement before the conveyance of the property;
- (b) the nature of the relationship between the transferor and transferee of the property and a party to or affected by the agreement or arrangement;
- (c) the reasons (commercial and otherwise) for making the agreement or arrangement other than to reduce stamp duty;
- (d) other matters the Commissioner considers relevant."

PART 3 – INSURANCE

18. New section

The Principal Act is amended by inserting before section 39 in Division 6 of Part III the following:

"38. Imposition of tax on policies of insurance

"Tax is payable on a policy of insurance in respect of—

- (a) property in the Territory; or

- (b) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory."

19. Insurance effected outside Territory

Section 44A of the Principal Act is amended by omitting from subsection (1) "in respect of property in the Territory, for which insurance" and substituting the following:

"in respect of—

- (a) property in the Territory; or
- (b) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory,

for which insurance".

20. New section

The Principal Act is amended by inserting before section 45 in Division 7 of Part III the following:

"44C. Imposition of tax on life policies

"Tax is payable on a life policy in respect of a person whose principal place of residence, or persons whose principal places of residence are, in the Territory."

21. New Division

Part III of the Principal Act is amended by inserting after Division 7 the following:

"Division 7A – Apportionment of premiums etc. between Territory and other jurisdictions

"49A. Application of Division

"This Division applies to—

- (a) a policy of insurance in respect of—
 - (i) property in the Territory and property in another place; or
 - (ii) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory or within or partly within another

place or within or partly within the Territory and another place; or

- (b) a life policy in respect of persons whose principal places of residence are variously in the Territory and another place.

"49B. Schedule of Apportionment

"(1) The Commissioner may adopt a Schedule of Apportionment for the purpose of apportioning premiums for insurance or life insurance, or premiums paid for specific classes of insurance or life insurance, and other amounts in relation to insurance or life insurance in accordance with this Division.

"(2) The Schedule of Apportionment may be developed in consultation with any person the Commissioner considers suitable.

"49C. Apportionment in practice

"(1) Subject to this section, a premium or an amount is to be apportioned in accordance with the Schedule of Apportionment adopted for the time being.

"(2) An insurer or an insured person may apply in writing to the Commissioner to apportion a premium or an amount on a basis other than that provided by the Schedule of Apportionment and the Commissioner may apportion the premium or amount on the other basis.

"(3) If the Commissioner is not satisfied that a premium paid or another amount in relation to a policy of insurance or life policy has been properly apportioned for each risk insured, the Commissioner may determine the apportionment, reassess the liability to tax and charge tax accordingly."

PART 4 – LEASES

22. Interpretation

Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of "reappraisalment".

23. Repeal and substitution

Section 55 of the Principal Act is repealed and the following substituted:

"55. Payment of duty where rent unascertainable

"(1) This section applies to unascertainable rent, which is rent or a component of rent payable under a lease that cannot be ascertained as a definite amount at the time duty is payable on the lease.

"(2) The Commissioner may make a reasonable estimate of unascertainable rent.

"(3) Where rent consists of unascertainable rent only, duty is payable on the estimate by the Commissioner under subsection (2) of the unascertainable rent.

"(4) Where rent consists of both ascertainable and unascertainable rent, duty is payable on the sum of the ascertainable rent and the estimate by the Commissioner under subsection (2) of the unascertainable rent.

"(5) Once unascertainable rent under a lease is actually paid, the lessee may resubmit the lease to the Commissioner for a reassessment of the duty payable on the lease and, if the duty paid on the lease based on an estimate of unascertainable rent exceeds the duty that would have been payable had it been based on the rent actually paid, the lessee is entitled to a refund of the difference.

"(6) During the term of a lease, the Commissioner –

- (a) may make periodic estimates of the unascertainable rent payable under a lease on the dates that the Commissioner, having regard to the provisions of the lease, determines; and
- (b) after each periodic estimate, may adjust the duty payable on the unascertainable rent by the difference between the duty that was paid on the unascertainable rent and the duty that would have been payable had it been based on the rent actually paid.

"(7) An adjustment under subsection (6) may be made –

- (a) by adjusting the duty payable as a result of the next periodic estimate; or
- (b) if there are no further periodic estimates – by refunding the difference to the lessee or requiring the lessee to pay the difference, as the case the requires.

"(8) A lease in respect of which periodic estimates are made under subsection (6) is to be marked 'interim stamp only'.

"(9) Within one month after the date of a periodic estimate under subsection (6), the lessee must resubmit the lease to the Commissioner together with a statement setting out –

- (a) the amount of unascertainable rent actually paid under the lease; and
- (b) the amount of duty paid on the unascertainable rent under the lease.

"(10) Nothing in section 97(1) is to be taken to prevent the Commissioner from reassessing duty under this section at any time during the term of a lease.

"55AA. Payment of duty on lease containing rent review clause

"(1) Where –

- (a) the rent or a component of the rent payable under a lease can be ascertained at the time duty is payable on the lease or estimated under section 55; and
- (b) the lease contains a provision under which that rent or component of rent may be increased at intervals during the lease,

the Commissioner may estimate the increase in the rent payable under the lease by compounding the rate at which rent is payable during the first interval by the annual percentage increase in the Consumer Price Index published immediately before the lease was executed.

"(2) Once rent under a lease to which this section applies is actually paid, the lessee may resubmit the lease to the Commissioner for a reassessment of the duty payable on the lease and, if the duty paid on the lease based on an estimate of the rent payable under subsection (1) exceeds the duty that would have been payable had it been based on the rent actually paid, the lessee is entitled to a refund of the difference.

"(3) In this section, 'Consumer Price Index' means the number appearing in the Consumer Price Index (All Groups Index) for Darwin published under the *Census and Statistics Act 1905* of the Commonwealth."

24. Application

The amendments of the Principal Act effected by sections 22 and 23 apply only in relation to a lease executed on or after 1 July 2000.

PART 5 – HIRING ARRANGEMENTS

Division 1 – Hire-purchase agreements

25. Interpretation

(1) Section 4 of the Principal Act is amended –

- (a) by omitting from subsection (1) the definition of "hire-purchase agreement" and substituting the following:

" 'hire-purchase agreement' means –

- (a) a letting of goods with an option to purchase; or

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- (b) an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent, hire or otherwise),

but does not include an agreement by which the property in the goods the subject of the agreement passes at the time of the agreement or on or at any time before the delivery of the goods;"

- (b) by omitting from the definition of "hiring arrangement" in subsection (1) "includes an arrangement" and substituting "includes a hire purchase agreement or other arrangement";
- (c) by omitting paragraph (d) of the definition of "hiring arrangement" in subsection (1);
- (d) by omitting from subsection (1) the definition of "lender" and substituting the following:

" 'lender' –

- (a) in relation to a hiring arrangement, means the person from whom goods are hired under the hiring arrangement; and
- (b) in relation to a hire-purchase agreement, includes the person agreeing to sell goods under the hire-purchase agreement;"

- (e) by omitting from subsection (1) the definition of "user" and substituting the following:

" 'user' –

- (a) in relation to a hiring arrangement, means the person to whom goods are hired under the hiring arrangement; and
- (b) in relation to a hire-purchase agreement, includes the person agreeing to buy goods under the hire-purchase agreement."

(2) The amendments of the Principal Act effected by subsection (1) apply only in relation to a hire-purchase agreement entered into on or after 1 July 2000.

Division 2 – Video rentals

26. Interpretation

Section 4 of the Principal Act is amended by omitting from paragraph (e) of the definition of "hiring arrangement" in subsection (1) "or a book," and substituting ", a video cassette, a book".

Division 3 – Nexus with Territory

27. Interpretation

Section 4 of the Principal Act is amended –

- (a) by omitting paragraph (c) of the definition of "hiring arrangement" in subsection (1) and substituting the following:

"(c) the goods are used solely or principally in the Territory,"; and

- (b) by inserting after subsection (1) the following:

"(2) For the purposes of paragraph (c) of the definition of 'hiring arrangement', goods are used principally in the Territory if they are used more in the Territory than elsewhere."

28. Instrument to be made out

Section 71 of the Principal Act is amended –

- (a) by omitting subsection (5); and
- (b) by omitting from subsection (6) "or in accordance with the provisions imposing duty of a like nature by a law of the Commonwealth, a State or of a Territory (other than the Territory)".

29. New section

The Principal Act is amended by inserting after section 75 the following:

"75AA. No duty payable on final payment under hire-purchase agreement

"Duty is not payable on the amount of a payment under a hire-purchase agreement if title to the goods passes to the user as a consequence of the payment."

30. Duty reduced where paid or payable elsewhere

Section 75A of the Principal Act is amended –

- (a) by omitting "Notwithstanding" and substituting "(1) Despite";
- (b) by omitting "a hiring arrangement" and substituting "a hiring arrangement to which this section applies"; and
- (c) by adding at the end the following:

"(2) This section applies to a hiring arrangement –

- (a) in respect of goods (other than a motor vehicle) where one or both of the following apply:
 - (i) the arrangement is entered into in the Territory;
 - (ii) the goods are supplied or delivered or agreed to be supplied or delivered in the Territory,but the goods are not used solely or principally in the Territory; or
- (b) in respect of a motor vehicle where the arrangement was entered into in the Territory where one or both of the following apply:
 - (i) the motor vehicle is not supplied or delivered and is not agreed to be supplied or delivered in the Territory;
 - (ii) the motor vehicle is not used solely or principally in the Territory."

PART 6 – MOTOR VEHICLES

31. Interpretation

Section 4 of the Principal Act is amended –

- (a) by inserting in the definition of "assessment" in subsection (1) ", or under Division 9 of Part III by the Registrar," after "Commissioner"; and
- (b) by omitting from subsection (1) the definition of "motor vehicle certificate of registration" and substituting the following:

"motor vehicle certificate of registration" means a certificate of registration issued on the registration or the transfer of the registration of a motor vehicle under the *Motor Vehicles Act*;"

32. Registrar not to register unless duty paid

Section 58 of the Principal Act is amended by omitting from subsection (1) ", unless there has been paid to the Registrar in respect of the registration an amount equal to the duty payable on the certificate" and substituting the following:

"unless –

- (a) there has been paid to the Registrar in respect of the registration the duty payable on the certificate; and
- (b) the Registrar is satisfied that the duty paid on the certificate was based on the consideration for the transfer of the motor vehicle or the market value of the motor vehicle, as the case requires."

33. Assessment of duty payable on motor vehicle certificate of registration

Section 59 of the Principal Act is amended –

- (a) by omitting from subsection (3) "the transferor" and substituting "within 14 days after the date of the transfer, the transferor"; and
- (b) by omitting subsections (4), (5) and (6) and substituting the following:

"(4) The Commissioner or the Registrar may require the applicant or transferor (as the case requires) to provide, within the time specified, the further information that the Commissioner or Registrar considers necessary to determine –

- (a) whether duty is payable under this Division; or
- (b) if duty is payable, the amount of duty.

"(5) A person must not –

- (a) fail, refuse or neglect to comply with subsection (2) or (3) or a requirement under subsection (4); or
- (b) in purported compliance with subsection (2) or (3) or a requirement under subsection (4), provide information that is false in a material particular.

Penalty: 50 penalty units."

34. Default assessments

Section 94 of the Principal Act is amended –

- (a) by omitting "Where" and substituting "(1) Where"; and
- (b) by adding at the end the following:

"(2) Where –

- (a) a motor vehicle registered under the *Motor Vehicles Act* is sold or disposed of; and
- (b) the new owner does not apply to the Registrar for the transfer of the vehicle within the period required by section 20(2) of that Act,

the Registrar or the Commissioner may make an assessment of the duty payable under Division 9 of Part III as if –

- (c) the new owner had applied to the Registrar for the transfer of the vehicle on the date on which it was sold or disposed of; and

- (d) the Registrar had issued to the new owner a motor vehicle certificate of registration for the vehicle on that date,

and for that purpose may create a memorandum that is to be taken to be the application for transfer for the purposes of this Act."

35. Notice of default assessment

Section 95 of the Principal Act is amended by inserting "or, in the case of duty payable under Division 9 of Part III, the Registrar" after "Commissioner".

36. Penalty additional to duty on default assessment

Section 96 of the Principal Act is amended –

- (a) by inserting in subsection (5) "or the Registrar" after "Commissioner"; and
- (b) by inserting in subsections (6) and (7) "or, in the case of duty payable under Division 9 of Part III, the Registrar" after "Commissioner".

37. Additional penalty for failure to pay duty or tax on time

Section 107 of the Principal Act is amended –

- (a) by inserting after subsection (1A) the following:

"(1B) Where the new owner of a motor vehicle registered under the *Motor Vehicles Act* does not apply to the Registrar for the transfer of the vehicle within the period required by section 20(2) of that Act, subsection (1) applies as if –

- (a) the Registrar had issued to the new owner a motor vehicle certificate of registration for the vehicle on the fifteenth day after the date on which it was sold or disposed of; and
 - (b) the person had failed to pay the duty payable on that certificate on that date."; and
- (b) by inserting in subsection (2) "or, where subsection (1B) applies, the Registrar" after "Commissioner".

38. Regulatory offences

Section 123A of the Principal Act is amended by omitting "57," and substituting "57, 59(5)".

39. Amendment of Taxation (Administration) Regulations

Regulations 11 and 12 of the Taxation (Administration) Regulations are repealed.

PART 7 – MARKETABLE SECURITIES

Division 1 – Brokers' representatives

40. Certain transfers taken to be made through broker

Section 66 of the Principal Act is amended by omitting from subsection (1) "agent or employee" and substituting "agent, employee or representative".

Division 2 – Buy-backs of marketable securities

41. New section

The Principal Act is amended by inserting after section 67 the following:

"67A. Buy-backs of marketable securities

"(1) For the purposes of section 67, an instrument under which the holder of marketable securities transfers or divests those marketable securities to give effect to a transaction under which a company buys back its own marketable securities is a conveyance of those marketable securities.

"(2) This section applies –

- (a) to an instrument whether created or executed before or after the commencement of this section; and
- (b) whether the transfer or divestiture of the marketable securities occurred before or occurs after the commencement of this section.

"(3) This section does not apply in relation to redeemable preference shares unless they are bought back on terms different from those on which they were on issue."

PART 8 – MISCELLANEOUS AMENDMENTS

42. Interpretation

Section 4 of the Principal Act is amended by omitting from subsection (1) the definitions of "miner", "mining agreement" and "recipient".

43. Duty accounted for by returns

Section 17A of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) In this section –

'approved person' means a person or firm granted permission under subsection (3) to pay duty in respect of a class of instruments or transactions to which the permission relates;

'firm' means an unincorporated body of persons and includes a partnership;"

- (b) by omitting from subsection (2) "person" (wherever occurring) and substituting "person or firm";
- (c) by omitting from subsection (5) "subsection (6)" and substituting "subsections (5A) or (6)";
- (d) by inserting after subsection (5) the following:

"(5A) Despite subsection (5), the Commissioner may, by notice in writing, determine a different period for –

- (a) including an instrument or transaction or a class of instruments or transactions in a return; or
 - (b) the lodgement of a remittance for an amount of duty in respect of an instrument or transaction or for a class of instruments or transactions."; and
- (e) by adding at the end the following:

"(12) The following applies where an approved person is a firm:

- (a) if a member of the firm commits an offence against this Act in circumstances connected with or arising out of the furnishing of a return or the remittance of an amount of duty under this section, every other member of the firm at the relevant time is to be taken to have committed the same offence;
- (b) if an amount is required to be paid under this Act by the firm or a member of the firm in circumstances connected with or arising out of the furnishing of a return or the remittance of an amount of duty under this section, each member of the firm at the relevant time is jointly and severally liable to pay the amount.

"(13) It is a defence to a prosecution for an offence against this Act committed by virtue of subsection (12)(a) if the defendant proves –

- (a) that the member of the firm who committed the offence that the defendant is to be taken to have committed by virtue of subsection (12)(a) would have been able to establish a defence to the offence; or

- (b) that the defendant did not know, and ought not reasonably be expected to have known, the offence was to be or was being committed and took all reasonable steps to prevent or stop the commission of the offence or a similar offence."

44. Refund of duty where early determination of lease

Section 56 of the Principal Act is amended by omitting from subsection (2) "the lease" and substituting "the lease or within the further period allowed by the Commissioner under section 56B".

45. Refund or remission of duty where transaction rescinded etc.

Section 56A of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) Where –

- (a) duty has been paid or is payable in respect of a conveyance of dutiable property or marketable securities or the grant of a lease; and
- (b) the conveyance or grant does not proceed or the entitlement to the dutiable property or marketable securities is, as a result of the rescission, cancellation, annulment or operation of the transaction by which it was conveyed, extinguished,

the Commissioner must refund the duty paid or remit the duty payable, as the case requires.";

- (b) by omitting from subsection (2) "relates" and substituting "relates or within the further period allowed in writing by the Commissioner under section 56B";
- (c) by omitting from subsection (2)(b) and (3) "or loan security";
- (d) by omitting from subsection (3) "dutiable property or grant a lease or operate as a loan security" and substituting "dutiable property or marketable securities or grant a lease"; and
- (e) by inserting in subsection (4) "or marketable securities" after "dutiable property".

46. New section

The Principal Act is amended by inserting after section 56A in Division 8 of Part III the following:

"56B. Extension of time to apply for refund

"The Commissioner may allow a further period to furnish an application or information under section 56 or 56A if satisfied that there is a reasonable excuse that prevented a person from furnishing the application or information within the 90-day period."

47. Objection to assessments

Section 100 of the Principal Act is amended by adding at the end the following:

"(7) If the Commissioner is satisfied that a person has a reasonable excuse for not lodging an objection within the 30-day period, the Commissioner may extend the time for lodging the objection."

48. New section

The Principal Act is amended by inserting after section 105 in Part V the following:

"105A. Interest payable on refunded duty or tax

"(1) If, as a result of—

- (a) a decision by the Commissioner on an objection under section 100, being an objection lodged after the commencement of this section; or
- (b) a decision of the Supreme Court on an appeal under section 101 against a decision of the Commissioner on an objection, being an objection lodged after the commencement of this section,

a person has overpaid duty or tax (including additional or further duty or tax), in addition to a refund of the amount of the overpayment, the person is entitled to be paid interest on that amount in accordance with subsection (2).

"(2) Interest under subsection (1) is payable—

- (a) at the prescribed rate; and
- (b) for the period commencing on the date on which the overpaid duty or tax was paid and ending on the date on which the refund is paid.

"(3) In subsection (2)—

'prescribed rate' means—

- (a) a rate prescribed by regulation; or

- (b) if a rate is not prescribed under paragraph (a) – the rate prescribed for the purposes of section 214A of the *Income Tax Assessment Act 1936* of the Commonwealth or the provision of the *Income Tax Assessment Act 1997* of the Commonwealth equivalent to that section."

49. Evidence

Section 112 of the Principal Act is amended –

- (a) by omitting "In proceedings" and substituting "(1) In proceedings";
- (b) by omitting from paragraphs (a) and (b) "copy of" and substituting "copy or record of";
- (c) by omitting from paragraph (c) "copy of, or extract from," and substituting "copy of, extract from or record of"; and
- (d) by adding at the end the following:

"(2) In subsection (1)–

'record' means any thing or process –

- (a) on or by which information is recorded or stored; or
- (b) by means of which a meaning can be conveyed in visible or recoverable form,

whether or not the use or assistance of some electronic, electrical, mechanical, chemical or other device or process is required to recover or convey the information or meaning."
