

NORTHERN TERRITORY OF AUSTRALIA

REVENUE LAW REFORM (BUDGET INITIATIVES) ACT 2008

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Act No. 23 of 2008

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 23 of 2008

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An Act to amend the *Stamp Duty Act*, the *First Home Owner Grant Act* and the *Taxation Administration Act* and to make miscellaneous minor amendments to other legislation

[Assented to 30 June 2008]  
[Second reading 7 May 2008]

**The Legislative Assembly of the Northern Territory enacts as follows:**

## **Part 1                      Formal provisions**

### **1                      Short title**

This Act may be cited as the *Revenue Law Reform (Budget Initiatives) Act 2008*.

### **2                      Commencement**

- (1) The following provisions are taken to have commenced on 1 January 2008:
- (a) this Part;
  - (b) section 3;
  - (c) section 12(1);
  - (d) section 18;
  - (e) section 19.

- (2) The following provisions are taken to have commenced on 6 May 2008:
- (a) section 7;
  - (b) section 10;
  - (c) section 11(1).
- (3) The remaining provisions of this Act commence on 1 July 2008.

## **Part 2                      Amendment of Stamp Duty Act**

### **3                      Act amended**

This Part amends the *Stamp Duty Act*.

### **4                      Amendment of section 4 (Interpretation)**

- (1) Section 4(1)

*insert (in alphabetical order)*

***farm-in agreement*** means a written agreement under which a person is entitled to acquire an interest in (but not full ownership of) a mining tenement by carrying out exploration work, or contributing a proportionate part of the cost of exploration work to be carried out, on the area of that mining tenement after the date of the agreement.

- (2) Section 4(1), definition ***mining tenement***

*omit, substitute*

***mining tenement*** means a statutory licence, lease or authorisation to explore for, recover or exploit resources (such as minerals or geothermal resources) to be found in or under the surface of the earth and includes an exploration licence or an exploration retention licence under the *Mining Act*.

- (3) Section 4(1), definition ***conveyance***

*omit*

and includes an instrument effecting or evidencing a conveyance (including a decree, judgment or order of a court).

*substitute*

- (g) an instrument effecting or evidencing a conveyance (including

a decree, judgment or order of a court);

- (h) an instrument, agreement, transaction or arrangement that would operate as a conveyance but for a statutory condition requiring Ministerial approval or registration.

## **5 Amendment of section 4AB (Dutiable value)**

After section 4AB(3)

*insert*

- (4) If:
- (a) dutiable property consists of an interest in an exploration licence or exploration retention licence under the *Mining Act*; and
  - (b) the conveyance of the interest arises out of the operation of a farm-in agreement; and
  - (c) the exploration work, or the contribution to the cost of exploration work, in respect of which the right to the interest arises under the farm-in agreement has actually been carried out or made;

then, for the purpose of assessing the dutiable value of the interest, its unencumbered value will be determined as at the date of the farm-in agreement and the consideration will be taken to be the amount by which the consideration given for the interest exceeds the reasonable cost of the exploration work or (where the consideration consists of a contribution to the cost of exploration work) the relevant proportion of that reasonable cost.

## **6 Amendment of section 9 (Time for lodgement of instrument etc.)**

Section 9(3)(c)(iii)

*omit*

## **7 Amendment of section 88 (Interpretation)**

Section 88(1), definition ***first home owner concession***, paragraph (b)

*omit, substitute*

- (b) the duty payable on a conveyance of land with a dutiable value of \$385 000.

**8 Amendment of section 89 (First home owner concession)**

## (1) Section 89(2)

*omit, substitute*

## (2) If:

- (a) there are 2 or more conveyees and not all of the conveyees will be able to occupy a home on the land as their principal place of residence within the period for occupancy, but they would, but for that fact, be entitled to the first home owner concession; and
- (b) at least one of the conveyees will be able to commence to occupy a home on the land as his or her principal place of residence for the prescribed period commencing within the period for occupancy; and
- (c) there are special reasons for exempting the other conveyee or conveyees from the occupancy requirements;

the Commissioner may grant an exemption accordingly and authorise the concession.

## (2) Section 89(3), at the end

*insert*

*Note*

*This subsection does not apply to a conveyee who has an exemption from the relevant occupancy requirement.*

**9 Amendment of section 90 (Principal place of residence rebate)**

## (1) Section 90(2)

*omit, substitute*

## (2) If:

- (a) there are 2 or more conveyees and not all of the conveyees will be able to occupy a home on the land as their principal place of residence within the period for occupancy, but they would, but for that fact, be entitled to the principal place of residence rebate; and
- (b) at least one of the conveyees will be able to commence to occupy a home on the land as his or her principal place of residence for the prescribed period commencing within the period for occupancy; and

- (c) there are special reasons for exempting the other conveyee or conveyees from the occupancy requirements;

the Commissioner may grant an exemption accordingly and authorise the rebate.

- (2) Section 90(3), at the end

*insert*

*Note*

*This subsection does not apply to a conveyee who has an exemption from the relevant occupancy requirement.*

## **10 New sections 97A and 97B**

After section 97

*insert*

### **97A Transitional provision (rates of duty)**

- (1) Subject to subsection (2), the relevant amendments apply to a conveyance first executed on or after 6 May 2008 and, if a conveyance was first executed before that date, this Act applies as if the relevant amendments had not been made.
- (2) This Act also applies to a conveyance as if the relevant amendments had not been made if:
- (a) the conveyance replaces an earlier conveyance, first executed before 6 May 2008, of the same or substantially similar property; or
  - (b) the conveyee entered into a contract or option, before 6 May 2008, to purchase the property to which the conveyance relates, or substantially similar property; or
  - (c) the conveyer had an option, granted before 6 May 2008, to require the conveyee to purchase the property to which the conveyance relates or substantially similar property.

- (3) In this section:

***relevant amendments*** means:

- (a) the amendment made by the *Revenue Law Reform (Budget Initiatives) Act 2008* to the definition of ***first home owner concession*** in section 88; and
- (b) the amendments made by the *Revenue Law Reform (Budget*

*Initiatives) Act 2008* to the rate of ad valorem conveyance duty under this Act.

**97B Transitional provision (dutiable property)**

- (1) A conveyance of relevant property is not liable to duty if:
- (a) the conveyance was first executed before the commencement of the relevant amendment; or
  - (b) the conveyance is made before 1 July 2009 in pursuance of an agreement to make the conveyance entered into before the commencement of the relevant amendment.

- (2) In this section:

**relevant amendment** means the amendment made by *Revenue Law Reform (Budget Initiatives) Act 2008* under which certain mining tenements that were not formerly dutiable property became dutiable property.

**relevant property** means property that becomes dutiable property as a result of the relevant amendment.

**11 Amendment of Schedule 1**

- (1) Schedule 1, clause 1(2)

*omit, substitute*

- (2) Subject to this clause, the duty payable on a conveyance of dutiable property is determined at the ad valorem rate as follows:

- (a) if the dutiable value of the dutiable property subject to the conveyance does not exceed \$525 000:

$$D = (0.06571441 \times V^2) + 15V$$

where:

D is the duty (expressed in dollars)

V is 1/1 000 of the dutiable value (expressed in dollars)

- (b) if the dutiable value exceeds \$525 000, the duty is 4.95% of the dutiable value.



(2) Schedule 1, clause 2(1)

*omit, substitute*

(1) A deed:

(a) that is not chargeable with ad valorem duty; and

(b) that:

(i) constitutes a trust; or

(ii) varies a trust in any way; or

(iii) deals with actual, potential or contingent interests or entitlements under a trust; or

(iv) extinguishes a trust;

is a dutiable instrument.

(3) Schedule 1, clause 2(3)

*omit*

## **12 Amendment of Schedule 2**

(1) Schedule 2, item 6(b)

*omit, substitute*

(b) made by a trustee of a non-discretionary trust to a beneficiary where:

(i) the conveyance is made in accordance with the terms of the trust (but not for valuable consideration); and

(ii) the property conveyed was acquired by the trustee by virtue of an instrument that was duly stamped, was exempt from duty under this Schedule (or a corresponding previous enactment) or was for some other reason not liable to duty; or

(2) Schedule 2, item 9

*omit, substitute*

9. Grant of a mining tenement, or of a statutory licence or permission used in or in connection with a business undertaking, unless, in the opinion of the Commissioner, the grant forms part of a wider transaction amounting, in effect, to

a transfer of the mining tenement, licence or permission.

- (3) Schedule 2, item 12, paragraph (b)

*omit*

given.

*insert*

given; or

- (4) Schedule 2, item 12, after paragraph (b)

*insert*

(c) a grant of a mining tenement.

- (5) Schedule 2, items 24 to 28

*omit*

### **Part 3                    Amendment of First Home Owner Grant Act**

#### **13            Act amended**

This Part amends the *First Home Owner Grant Act*.

#### **14            Amendment of section 3 (Definitions)**

Section 3

*insert (in alphabetical order)*

**statutory interest rate**, see section 35 of the *Taxation Administration Act*.

#### **15            Amendment of section 41 (Power to recover amount paid in error etc.)**

Section 41(12)

*omit, substitute*

- (12) Interest accrues under this section at the statutory interest rate as in force from time to time.

**16 Repeal and substitution of sections 42 and 43A**

Sections 42 and 43A

*repeal, substitute*

**42 Misleading statements and documents**

- (1) A person must not make a statement to a person who is carrying out functions for, or related to, the administration of this Act (an **official**) that is misleading in a material particular.

Fault element: Awareness that the statement is or may be misleading or reckless indifference to whether the statement is or may be misleading.

Maximum penalty: Imprisonment for 2 years.

- (2) A person must not give an official a document that is misleading in a material particular.

Fault element: Awareness that the document is or may be misleading or reckless indifference to whether the document is or may be misleading.

Maximum penalty: Imprisonment for 2 years.

- (3) This section extends to a statement or document that is misleading because of the omission of relevant information as well as to one that is misleading because it consists of, or includes, misinformation.

- (4) However, no offence is committed against subsection (2) if the person, when giving the document to the official:

- (a) draws the misleading aspect of the document to the official's attention; and
- (b) to the extent the person can reasonably do so, gives the official the information necessary to correct the document.

**43A Time for bringing prosecutions**

A proceeding for an offence against this Act must be commenced:

- (a) if alleged to have been committed before 1 July 2008 – within 3 years after the offence is alleged to have been committed; or

- (b) if alleged to have been committed on or after 1 July 2008 – within 5 years after the offence is alleged to have been committed.

**17      New section 52**

After section 51

*insert*

**52      Transitional provision (rates of interest on pre-existing liabilities)**

- (1) Interest accrues under section 41(3) on a liability arising before the commencement of the relevant amendment:
  - (a) up to the commencement of the relevant amendment – at the rate applicable before the commencement of the relevant amendment; and
  - (b) after the commencement of the relevant amendment – at the rate prescribed by the relevant amendment.
- (2) In this section:

**relevant amendment** means the amendment made by *Revenue Law Reform (Budget Initiatives) Act 2008* to section 41(12).

**Part 4                      Amendment of Taxation Administration Act**

**18      Act amended**

This Part amends the *Taxation Administration Act*.

**19      Amendment of section 59 (Recovery from partnership and other groups)**

Section 59(2)

*omit*

taxpayers

*substitute*

persons

**20 Amendment of section 101 (Definitions)**

Section 101, definition *law enforcement agency*

*omit, substitute*

*law enforcement agency* means any of the following:

- (a) a member of the police force of the Territory;
- (b) the Director of Public Prosecutions;
- (c) any other authority or person responsible for the enforcement of laws of the Territory;
- (d) the Australian Crime Commission;
- (e) ASIC;
- (f) the Australian Federal Police;
- (g) Centrelink;
- (h) the Commonwealth department or agency primarily responsible for regulating immigration;
- (i) a member of the police force of a State or another Territory;
- (j) any other authority or person responsible for enforcement of the laws of the Commonwealth, a State or another Territory.

**Part 5 Consequential amendments****21 Amendment of other laws**

The Schedule amends the laws mentioned in it.

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**Schedule Amendment of other laws**

section 21

Provision	Amendment	
	omit	substitute
<b><i>Agents Licensing Regulations</i></b>		
Schedule 1, Forms 1, 2 and 3, Schedules 4B and 5	<i>Taxation (Administration) Act</i> (all references)	<i>Taxation Administration Act</i>
<b><i>Associations Act</i></b>		
section 6(3)(c)(v)	Commissioner of Taxes	Commissioner of Territory Revenue
<b><i>Co-operatives Act</i></b>		
section 447(4)(c)	Commissioner of Taxes	Commissioner of Territory Revenue
<b><i>Debits Tax Act</i></b>		
Schedule 2, definition <b><i>Commissioner</i></b> , column 3	<i>Taxation (Administration) Act</i>	<i>Taxation Administration Act</i>
<b><i>Debits Tax Regulations</i></b>		
regulation 4(b)	section 17A of the <i>Taxation (Administration) Act</i>	section 17A of the <i>Taxation (Administration) Act</i> as in force before 1 January 2008
<b><i>De Facto Relationships Act</i></b>		
section 50	Commissioner of Taxes	Commissioner of Territory Revenue

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**Energy Resource  
Consumption Levy  
Act**

section 3(1), definition <b>Commissioner</b>	Commissioner of Taxes under the <i>Taxation (Administration) Act</i>	Commissioner of Territory Revenue under the <i>Taxation Administration Act</i>
section 15, heading	<b>Taxation (Administration) Act</b>	<b>Taxation Administration Act</b>
section 15(2)	<i>Taxation (Administration) Act</i>	<i>Taxation Administration Act</i>
section 15(2)(a)	that Act;	a taxation law; and
section 15(2)(b)	that Act; and	a taxation law; and
section 15(2)(c)	that Act.	a taxation law.

**Financial Institutions  
Duty Act**

sections 4, 21 and 22(5), (6), (8) and (9)	<i>Taxation (Administration) Act</i> (all references)	<i>Taxation Administration Act</i>
section 23	whole section	The Administrator may make regulations under this Act.

**Financial Institutions  
Duty Regulations**

regulation 2(1)	section 126(1) of the <i>Taxation (Administration) Act</i>	section 126(1) of the <i>Taxation (Administration) Act</i> as in force before 1 January 2008
regulation 4(d)	whole paragraph	
regulation 4(e)(ii)	section 17A of the <i>Taxation (Administration) Act</i>	section 17A of the <i>Taxation (Administration) Act</i> as in force before 1 January 2008

**Fuel Subsidies Act**

section 3(1), definition <b>Commissioner</b>	whole definition	<b>Commissioner</b> means the Commissioner of Territory Revenue appointed under section 6 of the <i>Taxation Administration Act</i> and includes any person performing the functions and exercising the powers of the Commissioner under that Act.
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section 14(3)	Division 8A of Part III of the <i>Taxation (Administration) Act</i>	Part 3, Division 8A of the <i>Stamp Duty Act</i>
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**Gaming Control Act**

sections 25(2), 46N(2) and 47N(2)	Part 6 of the <i>Taxation (Administration) Act</i>	Part 7 of the <i>Taxation Administration Act</i>
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section 71(2)(b)(iv)	<i>Taxation (Administration) Act</i> (all references)	<i>Taxation Administration Act</i>
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**Gaming Control (Gaming Machines) Regulations**

regulation 2, definition <b>Commissioner</b>	whole definition	<b>Commissioner</b> means the Commissioner of Territory Revenue as defined in section 3(1) the <i>Taxation Administration Act</i> .
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regulation 8	<i>Taxation (Administration) Act</i>	<i>Taxation Administration Act</i>
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regulation 8(a) and (b)	that Act;	a taxation law; and
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regulation 8(c)	that Act; and	a taxation law; and
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**Gaming Machine Act**

section 22(2)(b)(iv)	<i>Taxation (Administration) Act</i> (all references)	<i>Taxation Administration Act</i>
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**Information Act**

Schedule 1, entries for <i>Debits Tax Act, First Home Owner Grant Act and Pay-roll Tax Act</i>	whole entry	
Schedule 1, entry for <i>Taxation (Administration) Act</i>	whole entry	<i>Taxation Administration Act</i> section 102

**Mineral Royalty Act**

Part II, Note and section 42A(3)	Part V of the <i>Taxation (Administration) Act</i>	Part 11 of the <i>Taxation Administration Act</i>
section 50(2)(c)	Commissioner of Taxes	Commissioner of Territory Revenue

**Powers of Attorney  
Regulations**

regulation 5(1A)(b)(iv)	whole subparagraph	
Schedule 2, Form 1	Commissioner of Taxes Use only	
	The original must show the imprint of the Commissioner of Taxes as being stamped (Stamp Duty)	
Schedule 2, Form 2	Commissioner of Taxes Use only (where revoked by deed)	
	A revocation by way of deed must bear the imprint of the Commissioner of Taxes (Stamp Duty)	

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***Racing and Betting Act***

section 79(c)	Commissioner of Taxes	Commissioner of Territory Revenue
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***Registration of Interests in Motor Vehicles and Other Goods Act***

section 7	<i>Taxation (Administration) Act</i>	<i>Taxation Administration Act</i>
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***Totalisator Licensing and Regulation Act***

section 32, definition <b><i>Commissioner of Taxes</i></b>	whole definition	<b><i>Commissioner of Territory Revenue</i></b> means the Commissioner as defined in section 3(1) of the <i>Taxation Administration Act</i> .
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section 33, heading	<b><i>Taxation (Administration) Act</i></b>	<b><i>Taxation Administration Act</i></b>
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section 33(1)	whole subsection	<p>(1) Subject to this Division, the <i>Taxation Administration Act</i> applies, with the necessary changes, to the payment and recovery of wagering tax as if:</p> <ul style="list-style-type: none"> <li>(a) wagering tax were a tax payable under a taxation law; and</li> <li>(b) a return under this Division were a return required to be lodged under a taxation law; and</li> <li>(c) a licensee were a person liable to</li> </ul>
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		pay tax under a taxation law.
section 33(2)	<i>Taxation (Administration) Act</i>	<i>Taxation Administration Act</i>
sections 34(1), 35(2) and 36(1) and (2)(c) and (d)	Commissioner of Taxes	Commissioner of Territory Revenue
<b><i>Totalisator Licensing and Regulation Regulations</i></b>		
regulation 5(b)	Commissioner of Taxes within the meaning of section 4(1) of the <i>Taxation (Administration) Act</i>	Commissioner of Territory Revenue as defined in section 3(1) of the <i>Taxation Administration Act</i>

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