

NORTHERN TERRITORY OF AUSTRALIA

REVENUE LEGISLATION AMENDMENT ACT 2019

Act No. 22 of 2019

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 22 of 2019

An Act to amend the *First Home Owner Grant Act 2000*, the *Gaming Machine Regulations 1995* and the *Stamp Duty Act 1978*

[Assented to 21 June 2019]
[Introduced 9 May 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Revenue Legislation Amendment Act 2019*.

2 Commencement

- (1) This Act, except for Part 3, is taken to have commenced on 8 February 2019.
- (2) The remaining provisions commence on the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of First Home Owner Grant Act 2000

3 Act amended

This Part amends the *First Home Owner Grant Act 2000*.

4 Section 18 amended (Amount of grant)

- (1) Section 18(1)(b)
omit
- (3B)
insert
- (3C)
- (2) Section 18(3B), after "1 January 2015"
insert
but before 7 May 2019
- (3) After section 18(3B)
insert
- (3C) If the commencement date for the transaction is on or after 7 May 2019, the amount for subsection (1)(b) is \$10 000.

Part 3 Amendment of Gaming Machine Regulations 1995**5 Regulations amended**

This Part amends the *Gaming Machine Regulations 1995*.

6 Regulation 33 replaced

Regulation 33

repeal, insert

33 Gaming machine tax (section 149(3) of the Act)

For section 149(3) of the Act, a component of the gross monthly profit of Category 1 or Category 2 licensed premises is liable to tax at the rate specified in the following table:

| Component of Gross Monthly Profit | Rate |
|--|-------------|
| Not more than \$5 000 | 12.91% |
| \$5 001 to \$50 000 | 22.91% |
| \$50 001 to \$150 000 | 32.91% |

\$150 001 and above 42.91%

Example for regulation 33

If the gross monthly profit is \$250 000, the first \$5 000 will be taxed at 12.91%, the next \$45 000 will be taxed at 22.91%, the next \$100 000 will be taxed at 32.91% and the remaining \$100 000 will be taxed at 42.91%.

Part 4 Amendment of Stamp Duty Act 1978

7 Act amended

This Part amends the *Stamp Duty Act 1978*.

8 Section 88 amended (Interpretation)

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

omit

the date (if any) prescribed by regulation

insert

7 May 2019

- (2) Section 88(1)

insert

Territory home owner discount means a concession:

- (a) from the payment of duty on a conveyance of land that is equal to the lesser of:
- (i) the total amount of duty assessed as payable on the conveyance; or
 - (ii) \$18 601; and
- (b) that applies if the dutiable value of the land does not exceed the threshold amount.

9 Section 88A inserted

After section 88

insert

88A Application of Division

Except if otherwise expressly provided, this Division applies to conveyances first executed on or before 30 November 2020.

10 Section 89AA amended (First home owner discount)

Section 89AA(1)

omit

the date (if any) prescribed by regulation

insert

7 May 2019

11 Sections 89AAB and 89AAC inserted

After section 89AA

insert

89AAB Territory home owner discount

- (1) This section applies in relation to a conveyance first executed on or after 8 February 2019.
- (2) A conveyee of land is entitled to the Territory home owner discount if, on an application for the discount, the Commissioner is satisfied that:
 - (a) the conveyee is an individual; and
 - (b) subject to subsection (10), the conveyee is at least 18 years of age at the relevant time; and
 - (c) the conveyee is an Australian citizen, or a permanent resident, at the time the conveyee gives the declaration mentioned in subsection (9); and
 - (d) subject to subsections (11) and (12), neither the conveyee, nor a spouse of the conveyee at the relevant time, had a relevant interest in residential property in the Territory within 24 months before the relevant time; and

- (e) the conveyee has no beneficial interest in the land the subject of the conveyance; and
- (f) the conveyee will acquire the whole beneficial interest in the land the subject of the conveyance; and
- (g) the conveyee will not acquire an interest in the land in the capacity of a trustee; and
- (h) subject to subsection (14), the conveyee will occupy a home on the land as the conveyee's principal place of residence for the prescribed period commencing within the period for occupancy; and
- (i) the conveyee becomes entitled to possession of the land within:
 - (i) 12 months after settlement of the conveyance; or
 - (ii) the longer period approved by the Commissioner under subsection (15).

Notes for subsection (2)

- 1 See subsection (16) for how these requirements apply if there are multiple conveyees under a conveyance.
 - 2 See section 90B for eligibility for the Territory home owner discount if the conveyee would be entitled to another concession under this Division.
- (3) The Commissioner may reassess duty on the conveyance even though the time limit for reassessment under the *Taxation Administration Act 2007* has passed if the conveyee or conveyees would otherwise receive the Territory home owner discount if the time limit had not passed.
- (4) If the following occurs, the Commissioner must, even though the time limit for reassessment under the *Taxation Administration Act 2007* may have passed, reassess duty on the conveyance on the basis that the conveyee or conveyees were not eligible for the Territory home owner discount unless, in the Commissioner's opinion, there are special reasons for not making the reassessment:
- (a) if the conveyee, or the conveyee's spouse:
 - (i) is exempted from the requirement under subsection (2)(d) because subsection (11)(c)(ii) applies; and

- (ii) did not dispose of the relevant interest in accordance with the order, binding agreement or unconditional contract;
- (b) a conveyee or conveyees fail to occupy a home on the land as their principal place of residence:
 - (i) within the period for occupancy; or
 - (ii) for the prescribed period in accordance with this section.
- (5) In deciding for subsection (2)(d) whether a conveyee, or the conveyee's spouse, had an interest at a particular time, the Commissioner must include an interest the conveyee, or the conveyee's spouse, would have had if the occupation of the property had not been deferred because the property was subject to a lease.
- (6) Subsection (7) applies if the conveyee fails, or will fail, to occupy a home on the land as the conveyee's principal place of residence:
 - (a) within the period for occupancy; or
 - (b) for the prescribed period in accordance with this section.
- (7) The conveyee must, within 30 days after the date on which it first becomes apparent that a failure mentioned in subsection (6) has occurred or will occur, give written notice to the Commissioner of the failure or impending failure.

Maximum penalty: 50 penalty units.

Note for subsection (7)

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

- (8) If a person acquires land or an interest in land as guardian of a person under a legal disability, this section applies as if the person under the legal disability were:
 - (a) the conveyee of the land or interest; and
 - (b) the applicant for the Territory home owner discount; and
 - (c) if the discount is granted – the recipient of the discount.
- (9) A conveyee applying for the Territory home owner discount, and the conveyee's spouse (if any), must give the Commissioner a declaration, in the approved form, providing the information relating to the application that the Commissioner requires.

- (10) The Commissioner may exempt a conveyee from the requirement that the conveyee be at least 18 years of age at the relevant time if the Commissioner is satisfied that the conveyance does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to the Territory home owner discount.
- (11) Subject to subsection (13), the Commissioner may exempt a conveyee, or the conveyee's spouse, from the requirement under subsection (2)(d) if satisfied:
- (a) the conveyee, or the conveyee's spouse, was in a marriage or de facto relationship with another person under the *Family Law Act 1975* (Cth); and
 - (b) the conveyee, or the conveyee's spouse, had a relevant interest in residential property in the Territory during the marriage or de facto relationship; and
 - (c) at the time the conveyance is first executed, the marriage or de facto relationship had irretrievably broken down, and one of the following applies for each relevant interest:
 - (i) the conveyee, or the conveyee's spouse, for reasons that relate to the breakdown, no longer has the relevant interest in residential property in the Territory;
 - (ii) either of the following has occurred with the effect that the conveyee, or the conveyee's spouse, will no longer have the relevant interest in residential property in the Territory:
 - (A) an order or binding agreement under Part VIII, VIIIA or VIIIAB of the *Family Law Act 1975* (Cth) for the distribution of property between the conveyee and the other person, or the conveyee's spouse and the other person;
 - (B) the conveyee, or the conveyee's spouse, has entered into an unconditional contract for the disposal of the relevant interest.
- (12) For subsection (11)(c)(ii), it is irrelevant whether the conveyee, or the conveyee's spouse, still has the relevant interest at the time the conveyance is first executed.

- (13) The requirement under subsection (2)(d) applies if a conveyee, or the conveyee's spouse:
- (a) acquires a relevant interest in residential property in the Territory after the breakdown of the marriage or de facto relationship but before the time the conveyance is first executed; and
 - (b) has the relevant interest within 24 months before the relevant time.
- (14) If satisfied there are special reasons to do so, the Commissioner may:
- (a) approve either or both of the following for a conveyee:
 - (i) an extension of the period for occupancy;
 - (ii) a reduction of the prescribed period; or
 - (b) exempt a conveyee from the requirement under subsection (2)(h).
- (15) If satisfied there are special reasons to do so, the Commissioner may approve an extension of the period in which a conveyee is required under subsection (2)(i) to become entitled to possession of the land.
- (16) If there are 2 or more conveyees under a conveyance:
- (a) subject to paragraphs (b) to (d), this section applies as if a reference in this section to a conveyee were a reference to each conveyee; and
 - (b) the requirements of subsection (2)(b), (c) and (h) are satisfied if at least one of the conveyees meets those requirements; and
 - (c) subsection (2)(f) applies as if a reference in that subsection to the conveyee were a reference to the conveyees together; and
 - (d) subsection (7) applies only if all of the conveyees fail, or will fail, to occupy a home on the land as mentioned in subsection (6); and
 - (e) a conveyee need not comply with subsection (7) if another conveyee has already complied with that subsection.

89AAC Entitlement if eligible for first home owner grant and Territory home owner discount

- (1) This section applies if:
 - (a) a person enters an eligible transaction, the commencement date for which is on or after 1 January 2015 but before 7 May 2019; and
 - (b) the conveyance for the eligible transaction is first executed on or after 8 February 2019; and
 - (c) the dutiable value of the land does not exceed the threshold amount.
- (2) If the person is paid the first home owner grant for the transaction, the person is not eligible for the Territory home owner discount for the conveyance for the transaction.
- (3) However, the person may apply for the Territory home owner discount for the conveyance for the transaction if the person is not paid the first home owner grant for the transaction.
- (4) In this section:

commencement date, see section 13(5) of the *First Home Owner Grant Act 2000*.

eligible transaction, see section 13(1) of the *First Home Owner Grant Act 2000*.

first home owner grant means the amount mentioned in section 18(3B) of the *First Home Owner Grant Act 2000*.

12 Section 90 amended (Principal place of residence rebate)

Before section 90(1)

insert

- (1AA) This section does not apply in relation to a conveyance that was first executed on or after 8 February 2019.

13 Section 90A heading amended (Reassessments in relation to first home owner grant)

Section 90A, heading, after "**grant**"

insert

and senior, pensioner and carer concession or principal place of residence rebate

14 Section 90AB inserted

After section 90A

insert

90AB Reassessments in relation to first home owner grant and Territory home owner discount

- (1) This section applies if:
 - (a) duty on a conveyance of land was assessed on the basis that the conveyee or conveyees were entitled to the Territory home owner discount; and
 - (b) the Commissioner subsequently authorises payment to the conveyee or conveyees of the first home owner grant in relation to the conveyance or the construction of a home on the land.
- (2) If subsection (1) applies, the Commissioner must reassess duty on the conveyance on the basis that the conveyee or conveyees were not entitled to the Territory home owner discount.
- (3) If, as a result of a reassessment under subsection (2), the conveyee or conveyees are liable to pay duty on the conveyance, the Commissioner may credit all or part of the first home owner grant payable to them against their liability arising under that reassessment.

- (4) In this section:

first home owner grant means the amount mentioned in section 18(3B) of the *First Home Owner Grant Act 2000*.

15 Section 90B amended (No multiple concessions)

- (1) Section 90B(1)(d)
- omit*
- rebate.
- insert*
- rebate;
- (2) After section 90B(1)(d)
- insert*
- (e) the Territory home owner discount.

16 Part 15 inserted

After section 114

insert

Part 15 Transitional matters for Revenue Legislation Amendment Act 2019**115 Transitional matters for Revenue Legislation Amendment Act 2019**

- (1) Subject to subsection (2):
- (a) the relevant amendments apply to a conveyance first executed on or after 8 February 2019; and
- (b) 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 8 February 2019, of the same or substantially similar land; or
- (b) the conveyees entered into a contract or option, before 8 February 2019, to purchase the land to which the conveyance relates or substantially similar land; or

(c) the conveyor had an option, granted before 8 February 2019, to require the conveyees to purchase the land to which the conveyance relates or substantially similar land.

(3) In this section:

relevant amendments means the amendments made to this Act by Part 4 of the *Revenue Legislation Amendment Act 2019*.

Part 5 Repeal of Act

17 Repeal of Act

This Act is repealed on the day after the day on which the Administrator's assent to this Act is declared.