

NORTHERN TERRITORY OF AUSTRALIA
TAXATION (ADMINISTRATION) AMENDMENT ACT 1987

No. 31 of 1987

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 31 of 1987

AN ACT

to amend the *Taxation (Administration) Act*

[Assented to 31 July, 1987]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Taxation (Administration) Amendment Act 1987*.

2. COMMENCEMENT

This Act shall come into operation on 1 August 1987.

3. PRINCIPAL ACT

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

4. INTERPRETATION

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

- (a) by omitting the definition of "conveyance" and substituting the following:

"'conveyance' includes -

- (a) a transfer or assignment, or an agreement for a transfer or assignment, of a lease of land in the Territory;
- (b) a transfer, or an agreement for a transfer, of an estate or interest in land in the Territory, other than an interest referred to in paragraph (a); and

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(c)(i) an assignment (not being an assignment referred to in paragraph (a)), exchange, appointment, settlement, foreclosure or declaration of trust; or

(ii) a decree, judgment or order of a court,

whereby an estate or interest in land in the Territory is transferred to or vested in or accrues to a person, but does not include the grant of a lease;

"conveyee" means a person to whom -

(a) an estate or interest in land in the Territory is transferred or assigned or agreed to be transferred or assigned or vested in or accrues by a conveyance; or

(b) a lease is conveyed;"

(b) by inserting in the definition of "lease" before paragraph (a) the following:

"(aa) a Crown lease for a term not exceeding 5 years;"

(c) by omitting from paragraph (c) of the definition of "loan" the words "of an" and substituting "on an"; and

(d) by omitting from paragraph (d) of the definition of "mortgage" the words "or creditors generally" and substituting "of creditors generally".

5. WHEN DUTY PAYABLE

Section 9 of the Principal Act is amended by inserting after subsection (1A) the following:

"(1B) Except where other express provision is made by this Act or any other Act, a person who is liable to pay duty in respect of an instrument referred to in section 9B shall, unless it is sooner stamped under subsection (1A)(a) or (b), cause it to be duly stamped not later than 60 days after it has been first executed at the place outside the Territory where it was so executed."

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6. NEW SECTIONS

The Principal Act is amended by inserting after section 9A the following:

"9B. LIABILITY TO DUTY IN RESPECT OF INSTRUMENTS OUTSIDE TERRITORY

"Where an instrument that relates to property in the Territory or to a matter or thing done or to be done in the Territory is executed and held outside the Territory, this Act shall extend and apply to and in relation to the instrument, notwithstanding that the instrument is not in the Territory, in all respects as if the instrument were executed in the Territory.

"9C. COPIES OF INSTRUMENTS

"(1) In this section 'copy', in relation to an original instrument, includes -

- (a) a duplicate, facsimile, photocopy or counterpart of the original instrument;
- (b) an instrument that acknowledges, evidences or records the existence or terms of the original instrument; and
- (c) an instrument that acknowledges, evidences or records the transaction or a part of the transaction to which the original instrument relates or related.

"(2) Where an original instrument has not been duly stamped or has been destroyed without being duly stamped, or otherwise cannot be produced for stamping, a copy of the original instrument shall, for the purposes of this Act, be chargeable with duty and penalty, if applicable, as if it were the original instrument and be deemed to have been executed by the person or persons who executed the original instrument at the same time as the original instrument was executed.

"(3) Where a copy of an original instrument is duly stamped under this Act, the Commissioner shall, on application and production of the copy, stamp any further copy of the original instrument with a particular stamp denoting that it is duly stamped."

7. EVASION OF DUTY

Section 10 of the Principal Act is amended by adding at the end the following:

"(6) Nothing in this section shall prejudice any other right or remedy that exists, or action that may be taken, under this or any other Act against a person in relation to the evasion of duty or tax or duty or tax evaded."

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8. INSTRUMENT ON WHICH NO DUTY PAYABLE

Section 17 of the Principal Act is amended by omitting subsections (5) and (5A) and substituting the following:

"(5) Subject to subsection (5A), an agreement for a conveyance or for the grant of a lease shall, for the purposes of this Act, be treated as the original of the conveyance or grant made subsequently to give effect to the agreement where that conveyance or lease is in conformity with the agreement, and the conveyance or lease so made or granted shall be treated as the counterpart of the agreement.

"(5A) A conveyance or lease shall not, for the purposes of subsection (5), be in conformity with an agreement to convey or lease where the conveyee or lessee is a person other than the conveyee or lessee named in the agreement."

9. REPEAL AND SUBSTITUTION

Section 50 of the Principal Act is amended -

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

"(1) Duty imposed on a conveyance is payable by the conveyee."; and

(b) by omitting subsection (3).

10. INSTRUMENT TO BE STAMPED OR LODGED FOR ASSESSMENT

Section 52 of the Principal Act is amended -

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

"(1) Within 30 days after the execution of a conveyance, being a conveyance on which duty is imposed, the conveyee shall lodge the instrument of conveyance with the Commissioner for assessment.

Penalty: \$20."; and

(b) by omitting subsections (4), (5), (6) and (7).

11. REFUND OF DUTY WHERE AGREEMENT RESCINDED, &c.

Section 56A of the Principal Act is amended -

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

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"(1) Where duty is payable or has been paid on an agreement for a conveyance or a lease and the agreement is afterwards rescinded, cancelled or annulled, the Commissioner shall remit the amount of duty payable, or refund to the party to the agreement by whom or on whose behalf the duty was paid an amount equal to the amount of the difference between the amount of the duty so paid or payable and the amount which would have been payable if the agreement were a conveyance or a lease made or granted subsequent to and in conformity with a duly stamped agreement for a conveyance or a lease, as the case may be.";

- (b) by omitting from subsection (3)(a) "or transfer"; and
- (c) by omitting from subsection (3)(b) "an assignment or transfer" and "lessee or transferee" and substituting "a conveyance" and "conveyee" respectively.

12. NEW DIVISION

The Principal Act is amended by inserting after section 80 the following:

"Division 13A - Tourism Marketing Duty

"80A. INTERPRETATION

"In this Division, unless the contrary intention appears -

'accommodation house' means a motel, hotel, guest-house, boarding-house, lodging-house, caravan park, apartment, flat or residence of any kind (including a demountable building) which provides or is held out as providing sleeping accommodation as a commercial enterprise, whether with or without the provision of other services or facilities, but does not include -

- (a) an apartment, flat or residence which, in the opinion of the Commissioner, is usually let for purposes other than the provision of short term or temporary sleeping accommodation as a commercial enterprise; or
- (b) a hostel or other similar accommodation house, being a hostel or similar accommodation house which the Minister, by notice in the *Gazette*, has declared not to be an accommodation house for the purposes of this Division;

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'accommodation unit' means that building, room, suite, place or discrete area of an accommodation house let for sleeping accommodation and includes a site in a caravan park, but does not include a tent or, except where let on site for sleeping accommodation, a caravan or mobile home;

'caravan park' means a caravan park within the meaning of the *Caravan Parks Act*;

'demountable building' means a building, other than a caravan or mobile home, designed to be moved from site to site and not permanently attached to the land;

'manager' means the person responsible for the day to day management of an accommodation house;

'tourism marketing duty' means the stamp duty imposed on a tourism marketing duty invoice;

'tourism marketing duty invoice' means an instrument made out pursuant to section 80D.

"80B. ACCOMMODATION HOUSES TO BE REGISTERED

"(1) A person shall not in the Territory -

- (a) establish, operate or manage an accommodation house; or
- (b) advertise an accommodation house or hold out that an accommodation house is available for use,

unless that person is registered under this Division.

Penalty: \$500 and a further \$500 for each week or part of a week during which the offence continues.

"(2) Nothing in this section shall affect an obligation or liability to a person incurred by another person acting in contravention of this section.

"80C. REGISTRATION

"(1) For the purposes of this Division, the Commissioner shall keep a register to be called the 'Register of Accommodation Houses'.

"(2) A person operating or intending to operate an accommodation house in the Territory may apply to the Commissioner in accordance with an approved form for registration under this Division.

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"(3) Upon receipt of an application under subsection (1), the Commissioner shall register the accommodation house by entering its name in the Register of Accommodation Houses, and shall then give notice of the registration to the applicant.

"(4) Where -

- (a) the person operating an accommodation house registered under this Division requests the Commissioner to do so; or
- (b) an accommodation house registered under this Division -
 - (i) becomes bankrupt, is or is being wound up, has a liquidator or receiver appointed in respect of it, or ceases to carry on business as such; or
 - (ii) contravenes or fails to comply with, or evades or attempts to evade, any of the provisions of this Act,

the Commissioner may revoke the registration of the accommodation house.

"80D. INSTRUMENT TO BE MADE OUT

"(1) The manager of an accommodation house shall make out or cause to be made out, in respect of each letting of an accommodation unit other than the letting of a site in a caravan park occupied only by a tent or tents or similar temporary shelter, an instrument showing the period for which the accommodation unit was let at the time the instrument is made out, and the name of the accommodation house.

"(2) The instrument under subsection (1) shall be made out -

- (a) when the let of the accommodation unit has ceased; or
- (b) at the expiry of a period of 7 days after the commencement of the let,

whichever is earlier.

"(3) An instrument made out under subsection (1) need not be either signed or sealed, but shall be deemed to be executed when it is made.

"80E. HOW DUTY DENOTED

"(1) The duty on a tourism marketing duty invoice shall be denoted by adhesive stamps affixed to the invoice at the time it is made out.

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"(2) Except where otherwise approved by the Commissioner, all adhesive stamps to be affixed pursuant to subsection (1) shall be obtained from the Commissioner.

"80F. PAYMENT MAY BE MADE IN ARREAR

"(1) Notwithstanding anything to the contrary in this or any other Act but subject to this section, a person may, in respect of an accommodation house, on a form provided by the Commissioner for the purpose -

- (a) apply to the Commissioner for a supply of adhesive stamps to be used for the purposes of this Division, being a supply which is estimated would be used on tourism marketing duty invoices made out in the accommodation house during the period (not exceeding one month) specified in the application; and
- (b) undertake to pay for such adhesive stamps as are used on tourism marketing duty invoices during the period for which they were supplied in accordance with the conditions specified on the form.

"(2) The Commissioner may, on receipt of an application form pursuant to subsection (1) and after being satisfied of the status and authority of the applicant to give the undertaking mentioned in paragraph (b) of that subsection, provide the applicant, without requiring immediate payment, with a supply of adhesive stamps to be used in accordance with this Division.

"(3) A person who fails to comply with an undertaking given pursuant to subsection (1) and accepted by the Commissioner under subsection (2) is guilty of an offence.

Penalty: \$500.

"80G. MANAGER MAY RECOVER DUTY FROM OCCUPANTS

"(1) The manager of an accommodation house who has made out or caused to be made out a tourism marketing duty invoice may recover the duty paid from the occupants of the accommodation unit in respect of which the invoice was made out.

"(2) For the purposes of a recovery under subsection (1), each occupant (where there is more than one at one letting of an accommodation unit) is jointly and severally liable for the payment of any tourism marketing duty.

"80H. TOURISM MARKETING TRUST FUND

"(1) The Treasurer shall establish a trust fund (within the meaning of the *Financial Administration and Audit Act*) to be known as the Tourism Marketing Trust Fund.

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"(2) The Tourism Marketing Trust Fund shall be credited with all duty paid pursuant to this Act that is identified by the Commissioner as being tourism marketing duty."

13. DEFAULT ASSESSMENTS

Section 94 of the Principal Act is amended -

- (a) by omitting from paragraph (b) "or" (last occurring);
- (b) by inserting after paragraph (b) the following:
"(ba) the Commissioner has reason to believe or suspect that a person is liable to pay duty or tax under this Act; or"; and
- (c) by inserting after "payable" the words "and, for this purpose in relation to paragraphs (a), (b) or (ba), may create a memorandum of a return, instrument or other document, which memorandum is deemed to be an instrument for the purposes of this Act".

14. PENALTY ADDITIONAL TO DUTY ON DEFAULT ASSESSMENT

Section 96 of the Principal Act is amended by inserting after subsection (2) the following:

"(2A) Where a person furnishes a return or lodges an instrument to which section 9B applies after the expiration of the period within which the person is required by this Act to furnish or lodge it, that person is liable to pay, by way of penalty, in addition to the amount of duty or tax that he is liable to pay in respect of that return or instrument and to an amount of penalty under subsection (2), a further amount equal to double the amount of that duty or tax."

15. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

16. TRANSITIONAL

(1) Section 9B of the Principal Act (as inserted by section 6 of this Act) shall not apply to or in relation to an instrument executed before the commencement of this Act.

(2) Nothing in Division 13A of Part III of the Principal Act (as inserted by section 12 of this Act) shall apply to a tourism marketing duty invoice under that Division made out in respect of the let of an accommodation unit that -

- (a) commenced on or before 1 August, 1987; or

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(b) was paid for in full on or before that day.

(3) The prohibition specified in section 80B(1) of the Principal Act does not apply to or in relation to an accommodation house (within the meaning of section 80A of that Act) being operated as such in the Territory at the commencement of this Act until -

- (a) where the person operating the accommodation house has applied before 1 September 1987 for registration under Division 13A of the Principal Act, the determination of the application by the Commissioner; or
- (b) where the person has not so applied, 1 September 1987.

SCHEDULE

Section 15

Provision	Amendment	
	omit	substitute
Section 4(1)		
- definitions of "motor vehicle certificate of registration" and "Registrar"	<i>"Motor Vehicles Ordinance"</i>	<i>"Motor Vehicles Act"</i>
- definition of "stamp duty"	<i>"Stamp Duty Ordinance"</i>	<i>"Stamp Duty Act"</i>
- definition of "third party insurance"	the whole definition	
Section 10(1) and (2)	"100 dollars or more than 1,000 dollars"	"\$100 or more than \$1,000"
Section 36(6)	"the provision of" (twice occurring)	
Section 52(2)(b) and (3)(a)	"1,500 dollars"	"\$1,500"
Section 52(2), (3), (4), and (5)	"Penalty: 20 dollars"	"Penalty: \$20"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
Section 52(4), (5), (6) and (7)	"500 dollars"	"\$500"
Section 58(1)	"Motor Vehicles Ordinance"	"Motor Vehicles Act"
Section 70	"A tax ticket issued under section 94W of the <i>Lottery and Gaming Ordinance</i> "	"A betting ticket referred to in section 73 of the <i>Racing and Betting Act</i> "
Section 71(6)	"the provisions of this Ordinance" (twice occurring)	"this Act"
Section 129(d)	"100 dollars"	"\$100"
Sections 14(1), (4), 24(2), 28, 29(1), 32(1), 33(1), 42(1), 48(2), 64(1), 67(2) and 76(2)	"Penalty: 50 dollars"	"Penalty: \$50"
Sections 22(1), 23(2), 52(6), (7) and 63(3)	"Penalty: 100 dollars"	"Penalty: \$100"
Sections 19, 39(1), 45(1), 55(2), 57, 59(6), 71(8), and 77	"Penalty: 200 dollars"	"Penalty: \$200"
Sections 62(3), 126(1) and 127(3)	"Penalty: 500 dollars"	"Penalty: \$500"
Sections 14(3), 87(1), 88(1) and 89(1)	"Penalty: 1,000 dollars"	"Penalty: \$1,000"

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SCHEDULE - continued

Provision	Amendment	
	omit	substitute
Long title and sections 1, 2, 3(2) and (3), 4(1), (3) and (4), 5(2), 6(1), 7(1), and (2), 8(1), 9(1), 11(1), 14(1), 15(1) and (2), 17(5), 18(2)(b), 19(c), 20, 39(1), 45(1), 51, 54(1), 55(1), 63(1), 66(2), 78(1)(a), 84(3) and (4), 85, 86(2), 88(1), 89(1), 90, 93(1), (2) and (4), 94(a), 100(1), 106, 107(1), 108(2), 109, 110(8), 111(2)(c), 112(b), 113(2), 114, 115(1), 116, 117, 118, 120, 123, 124, 125, 126(1), 127(1) and (3), 128(1) and 129	"Ordinance" (wherever occurring)	"Act"