

Serial 43
Revenue Legislation Amendment Bill 2009
Ms Lawrie

A Bill for an Act to amend legislation administered by the Treasurer

NORTHERN TERRITORY OF AUSTRALIA

REVENUE LEGISLATION AMENDMENT ACT 2009

Act No. [] of 2009

TABLE OF PROVISIONS

Part 1	Preliminary matters	
1	Short title	1
2	Commencement	1
Part 2	Amendment of First Home Owner Grant Act	
Division 1	Preliminary matter	
3	Act amended	2
Division 2	Amendment commencing on assent	
4	Amendment of section 3 (Definitions)	2
Division 3	Amendments commencing on future notification	
5	Amendment of section 3 (Definitions)	2
6	New section 12A	2
	12A Ineligibility – threshold amount exceeded	
7	Amendment of section 13 (Eligible transaction)	3
8	New section 13AA	3
	13AA Transactions that are not eligible transactions	
9	Amendment of section 17 (Commissioner to decide applications)	5
10	Amendment of section 41 (Power to recover amount paid in error etc.)	5
11	New section 45A	6
	45A Valuation of property	
12	New section 53	7
	53 Application of limit on eligibility of transactions before commencement of <i>Revenue Legislation Amendment Act 2009</i>	

Part 3	Amendment of Stamp Duty Act	
Division 1	Preliminary matter	
13	Act amended	8
Division 2	Amendment commencing 1 October 2008	
14	Amendment of Schedule 2 (Exemptions from duty)	8
Division 3	Amendments commencing on introduction day	
15	Amendment of section 4 (Interpretation)	8
16	New section 4E.....	9
	4E Merger vesting of property	
17	Amendment of section 56C (Interpretation).....	9
18	Amendment of section 56K (When statement to be lodged)	11
19	Amendment of section 56M (Statement chargeable with duty).....	11
20	Amendment of section 56Q (Interest and significant interest in corporation)	12
21	Repeal and substitution of Part 3, Division 8B heading	12
	Division 8B Imposition of duty on statutory vesting and merger vesting of dutiable property	
22	Amendment of section 56W (Duty on a statutory vesting of dutiable property).....	12
Division 4	Amendments commencing on assent	
23	Amendment of section 4 (Interpretation)	13
24	Amendment of section 56C (Interpretation).....	13
25	New section 56CA.....	13
	56CA Arrangement relating to certain entitlement	
26	Amendment of section 56P (Meaning of relevant acquisition)	15
27	New Part 7.....	16
	Part 7 Transitional matters for Revenue Legislation Amendment Act 2009	
	99 Application	
28	Amendment of Schedule 2 (Exemptions from duty)	17
Division 5	Amendments commencing on 1 July 2009	
29	Amendment of section 4 (Interpretation)	17
30	New section 4F.....	17
	4F Exempt entities and uses	
31	Amendment of section 9 (Time for lodgement of instrument etc.)	18

32	Amendment of section 17A (Stamp duty on related instruments).....	19
33	Amendment of section 56A (Refund or remission of duty if transaction does not proceed etc.)	19
34	Amendment of section 56C (Interpretation).....	20
35	Amendment of section 56K (When statement to be lodged)	20
36	Amendment of section 56M (Statement chargeable with duty).....	21
37	Amendment of Schedule 1 (Dutiable instruments and rates of duty)	21
38	Amendment of Schedule 2 (Exemptions from duty)	22
Division 6	Amendments commencing on future notification	
39	Amendment of section 88 (Interpretation)	23
40	Amendment of section 89 (First home owner concession)	23
Part 4	Amendment of Taxation Administration Act	
41	Act amended	23
42	Amendment of section 158 (Collection and recovery of tax)	23
Part 5	Expiry of Act	
43	Expiry	24



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend legislation administered by the Treasurer

[Assented to [] 2009]
[Second reading [] 2009]

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 2009*.

2 Commencement

- (1) This Part and Part 3, Divisions 1 and 2 are taken to have commenced on 1 October 2008.
- (2) Part 3, Division 3 is taken to have commenced on the day the Bill for this Act was introduced in the Legislative Assembly.
- (3) Part 2, Divisions 1 and 2, Part 3, Division 4 and Parts 4 and 5 commence on the day the Administrator's assent to this Act is declared.
- (4) Part 3, Division 5 commences on 1 July 2009.
- (5) Part 2, Division 3 and Part 3, Division 6 commence on the date fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of First Home Owner Grant Act

Division 1 Preliminary matter

3 Act amended

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

Division 2 Amendment commencing on assent

4 Amendment of section 3 (Definitions)

Section 3, definition ***Australian citizen***

omit, substitute

Australian citizen, see section 4 of the *Australian Citizenship Act 2007* (Cth).

Division 3 Amendments commencing on future notification

5 Amendment of section 3 (Definitions)

(1) Section 3

insert (in alphabetical order)

GST, see section 195-1 of *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

threshold amount means \$750 000.

(2) Section 3, definition *consideration***, after "section 13(8)"**

insert

and (9)

6 New section 12A

After section 12, in Part 2, Division 2

insert

12A Ineligibility – threshold amount exceeded

(1) Despite sections 10(2) and 11(4), an applicant is ineligible for a first home owner grant if:

(a) the applicant or applicant's spouse or de facto partner was

paid a grant on an earlier application under this Act or a corresponding law for a home used as the residence of the applicant, applicant's spouse or de facto partner; and

- (b) that transaction is not an eligible transaction under:
- (i) section 13AA(1)(b), (c), (d) or (e) because the threshold amount is exceeded; or
 - (ii) an equivalent provision of a corresponding law because the threshold amount (however described) under that law is exceeded (regardless of whether the amount under that law is the same as under this Act).

Note for subsection (1)

Under section 41, an applicant is required to repay a grant if the unencumbered value or consideration for the transaction results in it not being an eligible transaction.

- (2) Subsection (1) applies even if the applicant, applicant's spouse or de facto partner:
- (a) repaid the amount of the grant; and
 - (b) paid any penalty or interest in relation to the earlier application.

7 Amendment of section 13 (Eligible transaction)

- (1) Section 13(3) and (4)

omit

- (2) After section 13(8)

insert

- (9) The consideration for an eligible transaction includes any GST payable in relation to the transaction.

8 New section 13AA

After section 13, in Part 2, Division 3

insert

13AA Transactions that are not eligible transactions

- (1) Each of the following transactions is not an eligible transaction:
- (a) a contract made on or after 1 July 2000 for the purchase or

construction of a home if:

- (i) for a contract to purchase a home – the purchaser had an option to purchase the home granted before that date or the vendor had an option to require the purchaser to purchase the home granted before that date; or
 - (ii) for a comprehensive home building contract – either party had a right or option granted before that date to require the other party to enter into the contract;
- (b) a contract for the purchase of a home, comprehensive home building contract or building of a home by an owner builder, if the consideration for the transaction (including any GST payable in relation to it) is more than the threshold amount;
- (c) a contract for the purchase of a home if the total of the following amounts is more than the threshold amount:
- (i) the unencumbered value of the home;
 - (ii) the unencumbered value, at the date the contract is made, of the relevant interest in the land on which the home is built or to be built;
- (d) a comprehensive home building contract if the total of the following amounts is more than the threshold amount:
- (i) the consideration for the transaction (including any GST payable in relation to it);
 - (ii) the unencumbered value, at the date the contract is made, of the relevant interest in the land on which the home is to be built;
- (e) the building of a home by an owner builder if the total of the following amounts, at the date the home is ready for occupation as a place of residence, is more than the threshold amount:
- (i) the unencumbered value of the home;
 - (ii) the unencumbered value of the relevant interest in the land on which the home is built.
- (2) However, subsection (1)(a) does not apply if the Commissioner declares the contract to be an eligible transaction.
- (3) The Commissioner may make the declaration only if the Commissioner is satisfied the contract does not have the effect of

circumventing limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant imposed by or under this Act.

(4) In this section:

encumbrances includes a debt or liability that might give rise to a right of recourse against the property.

unencumbered value, of a home or relevant interest in land, is the full value of the home or interest (without regard to encumbrances), and includes the amount of any GST payable in relation to the supply of the home or relevant interest.

9 Amendment of section 17 (Commissioner to decide applications)

After section 17(2)

insert

(2A) In addition, the Commissioner may authorise the payment of a first home owner grant before completion of the eligible transaction if satisfied the interests of the Territory can be adequately protected by conditions requiring repayment of the grant should it not be an eligible transaction under section 13AA(1)(b), (c), (d) or (e).

10 Amendment of section 41 (Power to recover amount paid in error etc.)

Section 41(1) and (2)

omit, substitute

- (1) This section applies to a person on whose application a first home owner grant was paid if:
- (a) the person was not entitled to the grant under section 7; or
 - (b) the grant is paid before completion of a transaction and on completion the consideration for it results in it not being an eligible transaction under section 13AA(1)(b) or (d); or
 - (c) the grant was paid in anticipation of compliance with the residence requirements and the person fails to comply with the requirements; or
 - (d) the Commissioner imposed a condition on the grant under section 5(5) or 20 and the person breaches the condition; or

- (e) an overpayment of the amount to which the person was entitled occurs.
- (2) The person must, within the required time mentioned in subsection (2A):
- (a) give written notice to the Commissioner of the non-entitlement, ineligibility, failure, breach or the overpayment; and
 - (b) pay to the Commissioner the amount of the grant or overpayment.
- (2A) The required time is:
- (a) for non-entitlement mentioned in subsection (1)(a) – 30 days after the grant was paid; or
 - (b) for ineligibility mentioned in subsection (1)(b) – 30 days after the earlier of the following:
 - (i) completion of the transaction;
 - (ii) the date on which it first became apparent that the transaction would not be an eligible transaction; or
 - (c) for failure to comply with the residence requirements mentioned in subsection (1)(c) – 30 days after the earlier of the following:
 - (i) the date by which the person was to have occupied the home;
 - (ii) the date on which it first became apparent that the residence requirements would not be complied with during the period allowed for compliance; or
 - (d) for breach of a condition or an overpayment mentioned in subsection (1)(d) or (e) – 30 days after the breach or overpayment occurred.

11 New section 45A

After section 45

insert

45A Valuation of property

- (1) For determining whether a transaction is an eligible transaction, the Commissioner may:

- (a) by written notice given to a relevant person, require the person to lodge a written valuation of property within the time stated in the notice; or
 - (b) obtain a valuation from the Valuer-General or another valuer.
- (2) If the Commissioner is not satisfied with the valuation lodged by the relevant person, the Commissioner may obtain a valuation from the Valuer-General or another valuer.
- (3) The Commissioner may recover the cost of obtaining the valuation as a debt due to the Territory by the relevant person.
- (4) In this section:

property means:

- (a) a home; or
- (b) land; or
- (c) a relevant interest in land.

relevant person, for a transaction, means an applicant or former applicant for a first home owner grant in relation to the transaction.

valuer means a certified practising valuer who is a member of the Australian Property Institute, and includes a person who, in the Commissioner's opinion, has equivalent qualifications.

12 **New section 53**

After section 52

insert

53 **Application of limit on eligibility of transactions before commencement of *Revenue Legislation Amendment Act 2009***

- (1) This Act continues to apply in relation to a relevant application as if it had not been amended by Part 2, Division 3 of the amending Act.
- (2) In this section:

amending Act means the *Revenue Legislation Amendment Act 2009*.

pre-amending Act transaction means an eligible transaction for which the commencement date is earlier than the commencement of Part 2, Division 3 of the amending Act.

relevant application means an application for a first home owner grant that relates to a pre-amending Act transaction.

Part 3 Amendment of Stamp Duty Act

Division 1 Preliminary matter

13 Act amended

This Part amends the *Stamp Duty Act*.

Division 2 Amendment commencing 1 October 2008

14 Amendment of Schedule 2 (Exemptions from duty)

Schedule 2, after item 22, under heading "Insurance"

insert

22A A life policy issued by a life insurer that is a first home saver account under the *First Home Saver Accounts Act 2008* (Cth).

Division 3 Amendments commencing on introduction day

15 Amendment of section 4 (Interpretation)

Section 4(1)

insert (in alphabetical order)

entity A, for a merger vesting of property, see section 4E(2).

entity B, for a merger vesting of property, see section 4E(4).

listed corporation, for Part 3, Division 8A, see section 56C(1).

listed unit trust scheme, for Part 3, Division 8A, see section 56C(1).

merger vesting, of property, see section 4E.

merging entities, for a merger vesting of property, see section 4E(2) or (3).

merging entity or entities, for a merger vesting of property, see section 4E(4).

relevant entity, for a merger vesting of property, see section 4E(5).

unlisted unit trust scheme, for Part 3, Division 8A, see section 56C(1).

16 New section 4E

After section 4D, in Part 1

insert

4E Merger vesting of property

- (1) This section prescribes circumstances in which there is a **merger vesting** of property.
- (2) A merger of 2 or more relevant entities (the **merging entities**) in circumstances where another relevant entity (**entity A**) results as a consequence of the merger is taken to be a merger vesting of all of the property of the merging entities in entity A.
- (3) A merger of 2 or more relevant entities (the **merging entities**) with and into each other in circumstances where each of the merging entities continues in existence is taken to be a merger vesting in the merging entities, jointly, of 50% (in value) of all of the property of the merging entities.
- (4) The merger of 1 or more relevant entities (the **merging entity or entities**) with and into another entity (**entity B**) in any other circumstances is taken to be a merger vesting of all of the property of the merging entity or entities in entity B.
- (5) In this section:

relevant entity means a company or unit trust scheme.

17 Amendment of section 56C (Interpretation)

- (1) Section 56C(1)

omit

In this Division, unless the contrary intention appears –

substitute

In this Division:

- (2) Section 56C(1), definition **private unit trust scheme**

omit

(3) Section 56C(1)

insert (in alphabetical order)

listed corporation means a corporation that is on the official list of a recognised financial market if the listing is not a tax avoidance scheme or part of a tax avoidance scheme.

listed unit trust scheme means a unit trust scheme that is on the official list of a recognised financial market if the listing is not a tax avoidance scheme or part of a tax avoidance scheme.

unlisted unit trust scheme means a unit trust scheme that is not a listed unit trust scheme.

(4) Section 56C(1), definition **acquire**, after paragraph (ce)

insert

(cf) a merger vesting of shares;

(5) Section 56C(1A)

omit

(6) After section 56C(13)

insert

(14) The following provisions apply to a merger vesting of shares in a land-holding corporation:

(a) for a merger vesting mentioned in section 4E(2):

- (i) a 100% shareholding in each of the merging entities is taken to be the shareholding acquired; and
- (ii) entity A is taken to be the person who acquired the shareholding; and
- (iii) the acquisition is taken to have occurred when the merger is completed;

(b) for a merger vesting mentioned in section 4E(3):

- (i) a 50% shareholding in each of the merging entities is taken to be the shareholding acquired; and
- (ii) the merging entities are taken together to be the persons who acquired the shareholding; and

- (iii) the acquisition is taken to have occurred when the merger is completed;
- (c) for a merger vesting mentioned in section 4E(4):
 - (i) a 100% shareholding in, or in each of, the merging entity or entities is taken to be the shareholding acquired; and
 - (ii) entity B is taken to be the person who acquired the shareholding; and
 - (iii) the acquisition is taken to have occurred when the merger is completed.

18 Amendment of section 56K (When statement to be lodged)

Section 56K(1A)

omit

19 Amendment of section 56M (Statement chargeable with duty)

- (1) Section 56M(2)(a)(ii), at the end

insert

and

- (2) Section 56M(2)(c)(i), (ii) and (viii)

omit

- (3) Section 56M(2)(c)(x)

omit

1 July 2006.

substitute

1 July 2006; and

- (4) After section 56M(2)(c)(x)

insert

- (d) the amount, if any, paid under Division 8B (but not refunded) for the part of the duty for a merger vesting of land within the relevant period in relation to the relevant acquisition.

20 Amendment of section 56Q (Interest and significant interest in corporation)

Section 56Q(4)

omit, substitute

- (4) A person has a significant interest in a corporation if the person's entitlement, as mentioned in subsection (3), is:
- (a) for a listed corporation or listed unit trust scheme:
 - (i) for a merger vesting of shares – 50% or more of all the property of the corporation or scheme; or
 - (ii) otherwise – 90% or more of all the property of the corporation or scheme;
 - (b) for another corporation or unit trust scheme – 50% or more of all the property of the corporation or scheme.

21 Repeal and substitution of Part 3, Division 8B heading

Part 3, Division 8B, heading

repeal, substitute

Division 8B Imposition of duty on statutory vesting and merger vesting of dutiable property

22 Amendment of section 56W (Duty on a statutory vesting of dutiable property)

- (1) Section 56W, heading

omit, substitute

56W Duty on statutory and merger vesting of dutiable property

- (2) Section 56W(1), after "statutory"

insert

or merger

- (3) Section 56W(2) and (3)

omit

body or person

substitute

relevant entity, person or body

Division 4 Amendments commencing on assent

23 Amendment of section 4 (Interpretation)

Section 4(1)

omit

In this Act, unless the contrary intention appears –

substitute

In this Act:

24 Amendment of section 56C (Interpretation)

(1) Section 56C(6), after "For the purposes of this Division,"

insert

and subject to section 56CA,

(2) Section 56C(6)(b), after "the person" (all references)

insert

(whether acting alone or together with related persons)

(3) Section 56C(7), after "For the purposes of this Division,"

insert

and subject to section 56CA,

25 New section 56CA

After section 56C

insert

56CA Arrangement relating to certain entitlement

(1) This section applies if the Commissioner is satisfied:

(a) any of the following entitlements of a person is reduced (including reduced to nil) as a direct or indirect result of an arrangement:

- (i) an entitlement in the distribution of the property of a corporation as a shareholder on the winding up of the corporation as described in section 56C(6);
 - (ii) an entitlement on the distribution of a trust as described in section 56C(7); and
 - (b) one of the following (a **relevant transaction**) occurs:
 - (i) an acquisition of an interest or shareholding by a person in a land-holding corporation;
 - (ii) an event that would be such an acquisition apart from the arrangement.
- (2) Unless the Commissioner is satisfied the arrangement is not a tax avoidance scheme or part of a tax avoidance scheme:
- (a) the arrangement must be disregarded for the purposes of this Act in relation to the relevant transaction; and
 - (b) the Commissioner may determine that, in relation to the relevant transaction, on a specified date:
 - (i) the person has made an acquisition of an interest or shareholding in the land-holding corporation that is 100% or a lesser specified percentage; or
 - (ii) the person has an entitlement to receive 100%, or a lesser specified percentage, of the unencumbered value of the property of the corporation or trust mentioned in subsection (1)(a).

Example for subsection (2)(a) and (b)(i)

An amendment of the constitution of a corporation has the effect of reducing to nil the entitlement of all of its shareholders to the distribution of its property on its winding up. The Commissioner considers the amendment is an arrangement covered by this section.

There has been a transfer of shares in the corporation (which is a relevant transaction in relation to a land-holding corporation mentioned in subsection (1)(b)). The reduction of the shareholders' entitlement must be disregarded for this Act in relation to the transfer under subsection (2)(a). In addition, the Commissioner determines under subsection (2)(b)(i) that, in relation to the transfer, a person has acquired a 90% interest in the corporation on a specified day. As a result, the person is liable to pay stamp duty in relation to the acquisition.

- (3) To avoid doubt, subsection (2) has effect in relation to the application of section 56C(6) and (7) for the purposes of this Act.

- (4) Without limiting subsection (1), an **arrangement** includes:
- (a) a scheme as defined in section 4B(1); and
 - (b) all or part of the constitution or rules of a corporation, or of the constituent document of a trust; and
 - (c) an amendment to the constitution, rules or constituent document.

26 Amendment of section 56P (Meaning of relevant acquisition)

- (1) Section 56P, all words from "An" to "Division –"

omit, substitute

- (1) An acquisition of an interest in a corporation by a person is a **relevant acquisition** for this Division:

- (2) After section 56P(1)

insert

- (2) In addition, the Commissioner may determine a person has made a relevant acquisition on a specified date of an interest in a corporation that is 100% or a lesser specified percentage if the Commissioner considers:

- (a) the person has acquired the control of the corporation; and
- (b) the control is acquired otherwise than by a relevant acquisition mentioned in subsection (1).

- (3) For subsection (2), a person acquires the control of a corporation if the person acquires the capacity to determine or influence the outcome of decisions about any of the corporation's financial and operating policies (whether directly or indirectly), taking into account all of the following:

- (a) any enforceable rights the person has over those policies;
- (b) any practical influence the person can exert over those policies;
- (c) any other practice or behaviour of the person that might affect those policies (whether or not the practice or behaviour involves a breach of an agreement or of a trust).

- (4) A reference to a person in subsections (2) and (3) includes a reference to a person acting alone or together with related persons.

27 New Part 7

After section 98

insert

**Part 7 Transitional matters for Revenue Legislation
Amendment Act 2009**

99 Application

- (1) Section 56C(6)(b) as amended by section 24(2) of the amending Act applies only to a calculation for the acquisition of an interest that occurs on or after the introduction day.
- (2) Section 56CA as inserted by section 25 of the amending Act, and section 56C(6) and (7) as amended by section 24(1) and (3) of the amending Act, apply as follows:
 - (a) the Commissioner may make a determination under section 56CA that takes effect from, and specifying, a date that is on or after the introduction day;
 - (b) the determination must relate to a relevant transaction mentioned in that section that occurred on or after the introduction day;
 - (c) the determination may relate to an arrangement mentioned in that section that is made on, or takes effect from, a date that is the introduction day or before or after that day.
- (3) Section 56P as amended by section 26 of the amending Act applies as follows:
 - (a) the Commissioner may make a determination under that section that takes effect from, and specifying, a date that is on or after the introduction day; and
 - (b) the determination must relate to the acquisition of the control of a corporation as mentioned in that section that occurs on or after the introduction day.
- (4) In this section:

amending Act means the *Revenue Legislation Amendment Act 2009*.

introduction day means the day on which the Bill for the amending Act is introduced in the Legislative Assembly.

28 Amendment of Schedule 2 (Exemptions from duty)

(1) Schedule 2, item 3

omit, substitute

3 Conveyance for the purposes of a compulsory transfer of business under Part 4 of the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cth).

(2) Schedule 2, item 22

omit, substitute

22 A policy of insurance issued in the course of a health insurance business by a person registered as a private health insurer within under Part 4-3 of the *Private Health Insurance Act 2007* (Cth).

(3) Schedule 2, item 23(j)(iv)

omit, substitute

(iv) registered under the *Motor Vehicles Act* as an enthusiast vehicle;

Division 5 Amendments commencing on 1 July 2009

29 Amendment of section 4 (Interpretation)

Section 4(1)

insert (in alphabetical order)

exempt entity, see section 4F(1).

exempt use, see section 4F(2) and (3).

interposed trust, for Part 3, Division 8A, see section 56C(1).

30 New section 4F

After section 4E, in Part 1

insert

4F Exempt entities and uses

(1) An **exempt entity** is:

(a) a public hospital; or

- (b) a public benevolent institution; or
 - (c) a religious institution; or
 - (d) a public education institution; or
 - (e) a council, society, organisation or other body established or carried on exclusively or principally for the promotion of the interests of a school (other than a school carried on for profit); or
 - (f) a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purpose.
- (2) An **exempt use**, of property by an exempt entity, is a use for purposes other than the carrying on of a commercial activity by or on behalf of the entity.
- (3) However, a use that competes with another entity in the conduct of the other entity's business undertaking is not an exempt use regardless of how the exempt entity uses any funds received from the use.

31 Amendment of section 9 (Time for lodgement of instrument etc.)

After section 9(3)

insert

- (3A) In addition, the obligation to lodge and pay duty on a dutiable instrument does not apply to a conveyance (other than a conveyance to which Division 8AB applies) or grant of a lease that does not proceed unless a subsequent sale or other disposition of the dutiable property the subject of the transaction (the **relevant transaction**):
- (a) is a sub-sale or transaction having the effect of a sub-sale, even if the subsequent conveyance is executed by the person who was the vendor in the relevant transaction; or
 - (b) is the result of a conveyance by direction, whether in writing or not, initiated by the conveyee in the relevant transaction.

32 Amendment of section 17A (Stamp duty on related instruments)

After section 17A(2)

insert

(2A) In addition, a transfer of dutiable property is to be stamped without payment (or further payment) of ad valorem duty if:

- (a) an agreement for the conveyance of the property is duly stamped; and
- (b) the purchaser under the agreement and transferee under the transfer:
 - (i) are related under subsection (2B) when the agreement is made and when it is completed or settled; and
 - (ii) except for the trustee of a family trust mentioned in subsection (2B)(c), will not hold the property as trustee; and
- (c) no valuable consideration is given by the transferee to the purchaser; and
- (d) the transfer occurs at the same time as, or proximately with, the completion or settlement of the agreement.

(2B) The purchaser and transferee are related if:

- (a) they are in a family relationship; or
- (b) one of them is an individual who is a shareholder of a family company and the other is the family company; or
- (c) one of them is an individual who is a beneficiary in a family trust and the other is a trustee of the family trust; or
- (d) they are related corporations.

33 Amendment of section 56A (Refund or remission of duty if transaction does not proceed etc.)

(1) Section 56A(1)

omit

, subject to subsection (2),

(2) After section 56A(1A)

insert

(1B) In addition, the Commissioner must remit the duty assessed (but not paid) on a dutiable instrument if, under section 9(3A), there is no obligation to pay duty on the instrument because the transaction does not proceed.

(3) After section 56A(5), after "subsection (1)"

insert

or (1B)

34 Amendment of section 56C (Interpretation)

Section 56C(1)

insert (in alphabetical order)

interposed trust, see section 124-1045 of the *Income Tax Assessment Act 1997* (Cth).

35 Amendment of section 56K (When statement to be lodged)

(1) After section 56K(5)

insert

(5A) Subsection (5B) applies if:

(a) an amount is deducted from duty chargeable on a statement prepared and lodged under subsection (1) for a relevant acquisition of an interest by a person in a land-holding corporation because of section 56M(2)(c)(i); and

(b) the interposed trust becomes an unlisted unit trust scheme at any time within 3 years after the scheme is completed.

(5B) Despite section 56M(3), the person must, within 60 days after the interposed trust becomes an unlisted unit trust scheme:

(a) relodge the statement; and

(b) pay duty (including interest and penalty tax) on it as if the deduction had never applied.

(2) Section 56K(6)

omit, substitute

- (6) A person who fails to comply with subsection (1), (2), (3) or (5B) commits an offence.

Maximum penalty: 100 penalty units.

36 Amendment of section 56M (Statement chargeable with duty)

Before section 56M(2)(c)(v)

insert

- (i) if each of the following applies:
- (A) the acquisition is made for giving effect to a scheme that would qualify as a roll-over under Subdivision 124-Q of the *Income Tax Assessment Act 1997* (Cth);
 - (B) when the scheme is completed, the interposed trust will not be an unlisted unit trust scheme;
 - (C) the acquisition is not a tax avoidance scheme or part of a tax avoidance scheme;

Note for subparagraph (i)

If the interposed trust becomes an unlisted unit trust scheme at any time within 3 years after the scheme is completed, the statement lodged under section 56K(1) is required to be relogged for the Commissioner to reassess and impose duty as if the deduction did not apply, see section 56K(5A) and (5B).

37 Amendment of Schedule 1 (Dutiable instruments and rates of duty)

Schedule 1, after item 1(6)

insert

- (6A) If the conveyance is made of dutiable property as mentioned in section 17A(2A), the duty payable on the transfer is \$5.

38 Amendment of Schedule 2 (Exemptions from duty)

(1) Schedule 2, item 14

omit, substitute

14 Conveyance of dutiable property to an exempt entity if the property is to be used solely by the entity for an exempt use.

(2) Schedule 2, item 15

omit, substitute

15 Lease that is a residence contract under the *Retirement Villages Act*.

(3) Schedule 2, item 18

omit, substitute

18 Lease of property to an exempt entity if the property is to be used solely by the entity for an exempt use.

(4) Schedule 2, item 23(h)

omit, substitute

(h) a motor vehicle certificate of registration issued in the name of an exempt entity;

(5) Schedule 2, item 23(j)(iv), at the end

insert

or

(6) Schedule 2, after item 23(j)(iv)

insert

(v) a trailer that has a gross vehicle mass of not more than 4.5 t;

Note for subparagraph (v)

*A caravan is a trailer within the meaning of the definition **trailer** in the Motor Vehicles Act.*

Division 6 Amendments commencing on future notification**39 Amendment of section 88 (Interpretation)**

Section 88(1)

*insert (in alphabetical order)***off-the-plan contract**, see section 13B of the *First Home Owner Grant Act*.**40 Amendment of section 89 (First home owner concession)**

(1) Section 89(1)(i)

omit

occupancy.

substitute

occupancy; and

(2) After section 89(1)(i)

insert

(j) either of the following applies:

- (i) if at the relevant time there is a home on the land or the conveyance is an off-the-plan contract – the dutiable value of the land does not exceed \$750 000;
- (ii) if at the relevant time there is no home on the land – the dutiable value of the land does not exceed \$385 000.

Part 4 Amendment of Taxation Administration Act**41 Act amended**This Part amends the *Taxation Administration Act*.**42 Amendment of section 158 (Collection and recovery of tax)**

Section 158(2)

omit, substitute

(2) However, Part 7, Division 3 applies only in relation to:

- (a) a tax liability incurred under a provision of the *Stamp Duty Act*, Part 3, Division 8A; or
- (b) a tax liability incurred before the date of transition, under a provision of an old law that corresponds to a provision mentioned in paragraph (a); or
- (c) a tax liability incurred on or after the date of transition.

Part 5 Expiry of Act

43 Expiry

This Act expires on the day after it commences.