

Serial 3
Taxation
(Administration)
Amendment
Mr Coulter

NORTHERN TERRITORY OF AUSTRALIA
TAXATION (ADMINISTRATION) AMENDMENT BILL 1994

TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Principal Act
4. Interpretation
5. When instruments lodged and duty payable
6. Registration of instruments not duly stamped
7. Instruments on which no duty is payable
8. Instruments to be stamped or lodged for assessment
9. Repeal
10. Corporations to which this Division applies
11. Meaning of "interest", "majority interest" and "further interest"
12. When conveyances are to be duly stamped
13. Duty payable by conveyee
14. New Division:

"Division 12 - SCH-Regulated Transfers

"70. APPLICATION OF SCH - REGULATED TRANSFER PROVISIONS OF *STAMP DUTIES ACT 1920 OF NEW SOUTH WALES*"

15. Application
16. Payment of duty on statements in absence of dutiable instrument
17. Amended assessment
18. Regulations

○

○

○

○



NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Taxation (Administration) Act*

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 1994*.

2. COMMENCEMENT

This Act shall come into operation on 1 July 1994.

3. PRINCIPAL ACT

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

4. INTERPRETATION

Section 4 of the Principal Act is amended -

(a) by inserting in the definition of "conveyance" after "dutiabale property" the words "or a marketable security"; and

(b) by omitting the definition of "secondary mortgage market" and substituting the following:

"'SCH-regulated transfer' has the same meaning as in section 9 of the Corporations Law;".

Taxation (Administration) Amendment

5. WHEN INSTRUMENTS LODGED AND DUTY PAYABLE

Section 9(1A) of the Principal Act is amended -

- (a) by omitting "cause it to be duly stamped";
- (b) by omitting from paragraph (a) "upon execution" and substituting "cause it to be duly stamped upon execution"; and
- (c) by omitting from paragraph (b) all words before subparagraph (i) and substituting the following:
 - "(b) in any other case, lodge the instrument with the Commissioner for assessment -".

6. REGISTRATION OF INSTRUMENTS NOT DULY STAMPED

Section 9A of the Principal Act is amended by adding at the end the following:

"(3) This section does not apply to a SCH-regulated transfer if the transfer document is taken to be duly stamped under the provisions of the *Stamp Duties Act 1920* of the State of New South Wales as referred to in section 70."

7. INSTRUMENTS ON WHICH NO DUTY IS PAYABLE

Section 17 of the Principal Act is amended by inserting after subsection (5A) the following:

"(5B) Notwithstanding subsection (5A), a conveyance shall be in conformity with an agreement to convey dutiable property or a marketable security notwithstanding that the conveyee is not the person named in the agreement, where the Commissioner is satisfied that the purchaser under the agreement to convey -

- (a) was, at the time the agreement was executed, acting as the agent for the conveyee in the conveyance made pursuant to the agreement and -
 - (i) the Commissioner endorses the agreement accordingly; and
 - (ii) the agreement to convey is duly stamped; or
- (b) entered into the agreement intending to convey the dutiable property or the marketable security purchased to -
 - (i) a corporation that the purchaser intended to incorporate or acquire or was in the process of incorporating or acquiring; or

Taxation (Administration) Amendment

- (ii) a trust that the purchaser intended to constitute or was in the process of constituting,

and the agreement to convey is duly stamped,

and the Commissioner is satisfied that there has not been a sub-sale or other dutiable dealing in the property before the execution of the conveyance."

8. INSTRUMENTS TO BE STAMPED OR LODGED FOR ASSESSMENT

Section 52 of the Principal Act is amended by omitting subsection (1).

9. REPEAL

Section 56B of the Principal Act is repealed.

10. CORPORATIONS TO WHICH THIS DIVISION APPLIES

Section 56N(2) of the Principal Act is amended -

- (a) by omitting from paragraph (a) "\$1,000,000" (twice occurring) and substituting "\$500,000"; and
- (b) by omitting from paragraph (b) "80%" and substituting "60%".

11. MEANING OF "INTEREST", "MAJORITY INTEREST" AND "FURTHER INTEREST"

Section 56Q(2) of the Principal Act is amended by omitting "greater than 50%" and substituting "of 50% or greater".

12. WHEN CONVEYANCES ARE TO BE DULY STAMPED

Section 67 of the Principal Act is amended by omitting "transferee" and "transfer" (wherever occurring) and substituting "conveyee" and "conveyance" respectively.

13. DUTY PAYABLE BY CONVEYEE

Section 68 of the Principal Act is amended by omitting "transfer" and "transferee" and substituting "conveyance" and "conveyee" respectively.

14. NEW DIVISION

The Principal Act is amended by inserting in Part III, after Division 11B, the following:

Taxation (Administration) Amendment

"Division 12 - SCH-Regulated Transfers

"70. APPLICATION OF SCH - REGULATED TRANSFER PROVISIONS OF
STAMP DUTIES ACT 1920 OF NEW SOUTH WALES

"(1) Subject to this Act and the Regulations, the provisions of the *Stamp Duties Act 1920* of the State of New South Wales, as in force from time to time, relating to SCH - regulated transfers apply, with the necessary changes, as a law of the Territory as if those provisions were enacted as part of this Act.

"(2) Where duty is payable on a SCH-regulated transfer under a law of the Territory, a person shall be deemed to have complied with that law if the person has complied with the provisions of the *Stamp Duties Act 1920* of the State of New South Wales as applying as a law of the Territory by virtue of subsection (1).

"(3) A person who contravenes or fails to comply with a provision of the *Stamp Duties Act 1920* of the State of New South Wales, as applying as a law of the Territory by virtue of subsection (1), is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$2,000."

15. APPLICATION

Section 83A of the Principal Act is amended -

(a) by omitting from subsection (1) "transaction" and substituting "transaction, other than a transaction referred to in Division 10, 11B or 12"; and

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

"(1A) In subsection (1), dutiable property has the meaning given in section 4 and, in addition, includes -

(a) a marketable security that is registered on a register kept in the Territory; and

(b) property prescribed, or of a class prescribed, for the purposes of this subsection."

16. PAYMENT OF DUTY ON STATEMENTS IN ABSENCE OF DUTIABLE INSTRUMENT

Section 83B(1)(b) of the Principal Act is amended by omitting "Transfer" and substituting "Conveyance".

Taxation (Administration) Amendment

17. AMENDED ASSESSMENT

Section 97 of the Principal Act is amended by adding at the end the following:

"(5) Where duty has been paid under the *Stamp Duty Act* and the Commissioner is satisfied that the person who paid the duty was entitled to a concession under section 8B of that Act, the Commissioner shall refund to the person an amount equal to the concession that the person was entitled to have received under that section."

18. REGULATIONS

Section 129 of the Principal Act is amended by inserting after paragraph (b) the following:

"(ba) providing for the modification or amendment of the provisions of the *Stamp Duty Act 1920* of the State of New South Wales as apply as a law of the Territory by virtue of section 70 and making provision for the administration or regulation of SCH - regulated transfers;"

