

TAXATION (ADMINISTRATION) AMENDMENT BILL (NO.2) 2005
SERIAL NO. 4

EXPLANATORY STATEMENT

GENERAL OUTLINE

The purpose of this Bill is to put in place several revenue measures announced as part of the 2005-06 Budget. The Bill provides for:

- abolishing electronic debit transaction duty for transactions that occur after 30 June 2005, as well as for transitional matters;
- a refund where stamp duty has been assessed and paid on the basis of contingent consideration included in a contract executed on or after 1 July 2005, if the full amount of that consideration is not subsequently paid and will not be paid; and
- amendments consequential to the broadening of the family farm exemption by the Stamp Duty Amendment Bill (No.2) 2005 and to the Commissioner of Taxes granting general extensions of time to classes of people for lodging and paying duty on conditional contracts.

NOTES ON CLAUSES

PART 1 – PRELIMINARY MATTERS

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Taxation (Administration) Amendment Act 2005*.

Clause 2. Commencement

This clause provides for various Parts of the Bill commencing at different times.

Subclause (1) provides that Part 1 of the Bill (containing the preliminary provisions), except section 3, commences on the Administrator's assent being declared.

Subclause (2) provides that Parts 2 and 3 (relating respectively to family farms and conditional contracts) and section 3 are taken to have commenced on 3 May 2005.

Subclause (3) provides that Parts 4 and 5 (relating respectively to the abolition of duty on electronic debit transactions and assessments if contingent consideration is not paid) is taken to have commenced on 1 July 2005.

Clause 3. Principal Act amended

This clause provides that this Bill amends the *Taxation (Administration) Act*.

PART 2 – AMENDMENTS RELATING TO EXEMPTION FROM DUTY FOR CERTAIN LAND-OWNING CORPORATIONS

Clause 4. Amendment of section 56C (Interpretation)

This clause makes a consequential amendment to section 56C of the *Taxation (Administration) Act* as a result of clause 6 of the Stamp Duty Amendment Bill 2005. Clause 6 of the Stamp Duty Amendment Bill (No.2) 2005:

- extends the existing exemption for the transfer of pastoral property between family members to primary production property generally; and
- broadens the exemption by allowing it to be claimed where this property is transferred either to or from certain closely held family companies and trusts.

PART 3 – AMENDMENT RELATING TO VARIATIONS OR EXTENSIONS OF PERIODS OR TIMES

Clause 5. Repeal and substitution of section 117

This clause repeals section 117 of the *Taxation (Administration) Act* and inserts a new section 117. The new section 117 removes the requirement for the Commissioner to serve a notice on a taxpayer in order to extend the time for that taxpayer to do an act. However, written notice is still required.

The effect of this provision is to allow the Commissioner to exercise the power generally in respect of a group or class of persons without the need to serve instruments on each person. For example, the Commissioner may issue a notice providing that in respect of all contracts that contain conditions, the time for lodging the instrument and paying stamp duty is extended from 60 days after execution until 60 days after the contract becomes unconditional.

PART 4 – AMENDMENTS RELATING TO ABOLITION OF DUTY ON ELECTRONIC DEBIT TRANSACTIONS

Clause 6. Amendment of section 4 (Interpretation)

Clause 7. **Repeal of Part III, Division 3B**

Clause 8. Amendment of section 81 (Assessment)

Clause 9. **Amendment of section 123A (Regulatory offences)**

Clause 10. Amendment of section 126 (Books, accounts etc.)

Clause 11. **New Part X**

A new section 136 entitled “**Definition**” is inserted that defines the term “**amendment Act**” to mean this Bill. This term is used in new proposed section 137.

A new section 137 entitled “**Application of Act to certain electronic debit transactions made before 1 July 2005**” is inserted. New section 137 ensures that the *Taxation (Administration) Act* as in force immediately before 1 July 2005 continues to apply to any transactions liable to electronic debit transaction duty (that is transactions before 1 July 2005).

PART 5 – AMENDMENT RELATING TO ASSESSMENTS OF DUTY IF CONTINGENT CONSIDERATION NOT PAID

Clause 12. New section 97A

This clause inserts a new section 97A into the *Taxation (Administration) Act* entitled “**Amendment of assessments if contingent consideration not paid**”. New section 97A(1) provides that this section applies to an instrument executed on or after 1 July 2005 where consideration contingent on the occurrence of a future event has not and will not be paid.

New section 97A(2) requires the Commissioner to amend the assessment by disregarding the contingent consideration not paid. As a result, the Commissioner will refund any overpaid duty to the taxpayer.

New section 97A(3) requires the taxpayer to apply to the Commissioner for the amendment of the assessment, in an approved form, within 3 years after the date of the assessment. The 3-year period is consistent with section 97 of the *Taxation (Administration) Act*, which provides for amended assessments generally.

ALTERATION OF SECTION HEADING

This provision alters the heading of section 97 of the *Taxation (Administration) Act* by replacing the word “assessment” with “assessments generally”.