



REVENUE CIRCULAR

RC-GEN-001: 2005-06 Budget amendments

Purpose

This Circular provides information on amendments to the *Taxation (Administration) Act* ('TAA'), the *Stamp Duty Act* ('SDA') and the *Pay-roll Tax Act* ('PTA') that implement a range of revenue measures announced by the Treasurer on 3 May 2005 as part of the 2005-06 Budget.

Summary of measures

Commencing on 3 May 2005:

- a) the stamp duty First Home Owner Concession is increased from the first \$125 000 of a property's value (a concession of up to \$3 640.60) to the first \$200 000 of a property's value (a concession of up to \$6 800.00);
- b) the 'family farm' stamp duty exemption is extended to allow the conveyance of a broader range of primary production land between family members, family companies and family trusts subject to the conditions detailed below; and
- c) the Commissioner of Taxes will extend the time for lodgement and payment of duty on eligible conditional contracts.

Commencing on 1 July 2005:

- a) electronic debit transaction duty is abolished;
- b) a refund of stamp duty will be allowed on contracts where duty was assessed on 'contingent' consideration, where that consideration has not been and will not be paid;
- c) the stamp duty exemption for motor vehicles registered in the name of a totally and permanently incapacitated war veteran is extended to include extreme disabled adjustment war veterans; and
- d) the payroll tax grouping provisions have been amended to clarify that the provisions apply to companies carrying on a business as the trustee of a trust.

First Home Owner Concession ('FHOC')

The FHOC is increased from the first \$125 000 of a property's value (a stamp duty exemption of up to \$3 640.60) to the first \$200 000 of a property's value (an exemption of up to \$6 800.00) for instruments executed on or after 3 May 2005.

There are measures to ensure that conveyances secured prior to 3 May 2005, either by a contract or an option agreement, will not be eligible for the increased concession. These transitional provisions will cause the lower FHOC of up to \$3 640.60 in force prior to 3 May 2005 to apply in relation to instruments effecting a conveyance that are executed on or after 3 May 2005 if:

- (a) that instrument replaces an instrument executed before 3 May 2005 to effect the conveyance of the same or substantially similar land;
- (b) the conveyee had an option, granted before 3 May 2005, to purchase the land (whether or not that option is exercised); or
- (c) the conveyor had an option, granted before 3 May 2005, to require the conveyee or conveyees to purchase the land (whether or not that option is exercised).

For more detailed information on the FHOC, please refer to Commissioner's Guideline CG-HI-001: *First Home Owner Concession and Principal Place of Residence Rebate*.

'Family farm' exemption

From 1999, section 8E of the SDA has provided a stamp duty exemption for conveyances of interests in **pastoral properties** between natural person **family members**. A similar exemption from 'land-rich' stamp duty also exists. The exemption does not apply to property used for other types of primary production such as mango farms or aquaculture enterprises.

The exemption has been limited to pastoral property since it was introduced, due to the significant capital costs associated with that industry and the relatively low returns on that investment. However, this reasoning applies equally to other land-based primary producers and, accordingly, the amendments extend the 'family farm' exemption to property used for other forms of land-based primary production.

The exemption was also limited to conveyances between natural person family members and excluded land held in other structures such as companies and trusts. This does not address the commercial reality of how such property is generally held. For instance, primary production land may be held in a company or under a trust as a form of asset protection.

To overcome this limitation, the amendments allow the exemption to apply to conveyances where the conveyor and conveyee (or shareholders in the case of a conveyee that is a company or beneficiaries in the case of a conveyee that is a trustee) are family members and where certain other rules are followed.

For more detailed information on how the 'family farm' stamp duty exemption operates and the procedure for claiming the exemption, please refer to Commissioner's Guideline CG-SD-003: *Stamp duty exemption for transfers of 'family farms'*.

Extension of time to lodge and pay for conditional contracts

Section 117 of the TAA, allows the Commissioner to, among other things, extend the time for lodging instruments and paying the stamp duty on those instruments. These amendments allow the Commissioner to grant general extensions of time to classes of people without having to serve an instrument on each affected individual.

Commissioner's Guideline CG-SD-002 has been issued which details a general extension of time for lodging and paying stamp duty on instruments that are eligible conditional agreements, including off-the-plan conveyances of property. An eligible conditional agreement is where the completion of the agreement is conditional upon the happening of an event that the parties (or a person related to the parties) to the agreement do not have any control over except to the extent that they are required to use their best endeavours to secure the event happening.

Generally speaking, the time for lodging and paying the stamp duty on such agreements is extended to 60 days after the agreement becomes unconditional, unless at an earlier time the conveyee becomes entitled to possession of the property, there is a sub-sale of the property or the Commissioner serves a written notice requiring the lodgement of the agreement.

Furthermore, even where the agreement has not become unconditional, there is a maximum extension of time of 12 months after the date of first execution of the agreement or 24 months after the date of first execution of the agreement in the case of agreements in respect of conveyances of property 'off-the-plan' or for the purposes of subdivision. The Commissioner may, in appropriate circumstances, further extend the time to lodge and pay.

For more detailed information on the extension of time to lodge and pay stamp duty on conditional agreements, please refer to Commissioner's Guideline CG-SD-002: *Eligible conditional agreements – extension of time to lodge instrument and pay duty*.

Abolition of electronic debit transaction duty

Electronic debit transaction duty is a stamp duty of \$0.10 on each debit entered in an account kept with a financial institution in the Territory as a result of a withdrawal made directly by electronic means. From 1 July 2005, electronic debit transaction duty is abolished, which means that it is not payable in respect of withdrawals made on or after that date.

The transitional provisions provide for the continued operation of the TAA in respect of withdrawals made prior to 1 July 2005. The most important effect of these provisions is that registered financial institutions will still be required to submit their June returns by the due date of 15 July 2005 and pay duty on those returns. Furthermore, the record keeping provisions require registered financial institutions to keep records in respect of liable debits for five (5) years. The Commissioner retains all investigation powers to audit financial institutions in respect of electronic debit transaction duty.

Refunds on contracts where 'contingent' consideration is not paid

Conveyances of dutiable property and marketable securities are assessed for stamp duty on the unencumbered value of the property or the consideration paid or payable, whichever is greater. Consideration includes any ascertainable amount that may only be payable on a contingency arising from the occurrence of a future event.

However, this may in some situations lead to a person paying duty based on a greater amount of consideration than was ultimately paid. This is because an event on which part of the consideration was contingent does not occur. Previously, the conveyee was not entitled to a refund of the amount of duty paid in respect of the contingent consideration that was not paid.

The TAA has been amended to enable an assessment to be amended in respect of conveyances of dutiable property or marketable securities where the assessment was based on consideration payable that was in whole or part contingent on the occurrence of a future event.

An assessment will be amended where a conveyance was assessed based on contingent consideration, and

- (a) the contingent consideration has not been paid;
- (b) the event did not occur or did not occur within the time specified in the instrument; and
- (c) either –
 - (i) the event cannot occur in the future; or
 - (ii) the time for the occurrence of the event, as specified in the instrument, has passed or expired and cannot be extended.

The amended assessment is made by reducing the total consideration by the amount of the unpaid contingent consideration. However, the amended assessment is still based on the greater of the unencumbered value or the amended consideration, so where the unencumbered value of the property is greater than the amended consideration, that value will be used in calculating the amended assessment.

An amended assessment must be made by lodging the appropriate form (F-SD-026) with Territory Revenue Management (TRM) within three (3) years after the date of the assessment.

War veterans stamp duty exemption for motor vehicle certificates of registration

The SDA provides an exemption from stamp duty on a motor vehicle certificate of registration issued to a totally and permanently disabled war veteran eligible for the special rate of pension under section 24 of the Commonwealth *Veterans' Entitlement Act 1986*. This exemption has been extended so that it also applies to veterans eligible for the extreme disabled adjustment special rate of pension under section 22(4) of the Commonwealth *Veterans' Entitlement Act 1986*.

Application of grouping provisions to trustee companies

Following a decision of the Administrative Decisions Tribunal in New South Wales, some doubt was cast on the application of the payroll tax grouping provisions to group corporations carrying on a business as the trustee of a trust. It was always intended that these provisions would apply to all corporations that carried on a business, whether as a trustee or in the corporation's own right.

To clarify the operation of these provisions, section 17A of the PTA is amended to confirm that the activity of a trustee in carrying out its trustee duties is a business for the purposes of the grouping provisions of the PTA.

2004-05 Budget amendments commencing 1 July 2005

The following amendments were made as part of the 2004-05 Budget, and commence from 1 July 2005.

(a) Payroll tax threshold increased to \$1 million

From 1 July 2005, the payroll tax general exemption threshold is increased to \$1 million. Consequently, an employer's fixed monthly general exemption threshold will increase from a maximum of \$66 667 to a maximum of \$83 333. Further, an employer who pays total Australian wages in excess of \$19 230 in a week (where some of those wages are Territory wages) is required to register with TRM as an employer.

Where the total Australian wages of an employer (or designated group employer for a group) exceed the general exemption threshold, payroll tax is payable on the Territory component of the wages (currently at a rate of 6.2 per cent). Where an employer pays wages in the Territory only, payroll tax is only payable on the component of the wages that exceed the general exemption threshold. Where an employer pays wages in the Territory and interstate, the threshold is reduced proportionately based on the employer's ratio of local to interstate wages. For example, if an employer pays 30 per cent of its wages in the Territory and 70 per cent interstate, the threshold is reduced proportionately (that is the threshold is reduced by 70 per cent).

For more information on the calculation of payroll tax, the general exemption threshold or registration as an employer, see I-PRT-001: *Employers guide to payroll tax in the NT*.

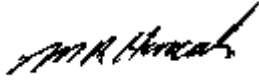
(b) Abolition of debits tax

As part of the Territory's commitments under the national tax reform arrangements, the *Debits Tax Act* is amended to provide that no debits tax liability will arise in respect of a debit made to an account held with a financial institution on or after 1 July 2005.

The transitional provisions provide for the continued operation of the *Debits Tax Act* in respect of debits made prior to 1 July 2005. The most important effect of these provisions is that financial institutions will still be required to submit their June returns by the due date of 14 July 2005 and pay duty on those returns. Furthermore, the records keeping provisions require financial institutions to keep records in respect of liable debits for five (5) years. The Commissioner retains all investigation powers to audit financial institutions in respect of debits tax.

Commissioner's Guideline CG-GEN-01, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline.

Refer to the *Taxation (Administration) Amendment Act 2005*, the *Stamp Duty Amendment Act 2005* and the *Pay-roll Tax Amendment Act 2005* for precise details of the amendments. For general information, please contact TRM on 1300 305 353.



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