

REVENUE CIRCULAR

RC-GEN-008:

2008-09 BUDGET AMENDMENTS

Purpose

This Circular provides information on amendments to the *Taxation Administration Act*, the *Stamp Duty Act* and the *First Home Owner Grant Act* that implement the 2008-09 Budget revenue measures announced by the Treasurer on 6 May 2008.

Conveyance stamp duty rates reduced

From 6 May 2008, the conveyance stamp duty rates will be reduced resulting in savings on all types of conveyances. This includes transactions involving homebuyers, investors (both residential and commercial) and businesses.

The new minimum conveyance stamp duty rate will be 1.5 per cent (previously 2.1 per cent). The maximum conveyance stamp duty rate will be 4.95 per cent (previously 5.4 per cent) applying to conveyances with a dutiable value of \$525 000 or more (previously \$500 000).

Stamp duty first home owner concession (FHOC) threshold increased

From 6 May 2008 the FHOC will be increased from the first \$350 000 of a property's value to the first \$385 000 of a property's value (a stamp duty concession of up to \$15 515.50).

There are measures to ensure that conveyances secured prior to 6 May 2008, including by a contract or an option agreement, will not be eligible for the reduced conveyance stamp duty rate or the increased FHOC. These transitional provisions will cause the higher conveyance stamp duty rate and the lower FHOC in force prior to 6 May 2008 to apply to a conveyance executed on or after 6 May 2008 where:

- that conveyance replaces a conveyance executed before 6 May 2008 for the same or substantially similar property; or
- the conveyee entered into a contract or option, before 6 May 2008, to purchase the property, or substantially similar property, to which the conveyance relates; or
- the conveyor had an option, granted before 6 May 2008, to require the conveyee to purchase the property, or substantially similar property, to which the conveyance relates.

Abolition of nominal \$20 stamp duty on most deeds

From 1 July 2008, nominal \$20 stamp duty will only apply to deeds that constitute a trust, vary a trust in any way, deal with actual, potential or contingent interests or entitlements under a trust or extinguish a trust. As a result, all other deeds will no longer be required to be stamped by the Territory Revenue Office (TRO) unless they are subject to stamp duty on another basis (e.g. as a conveyance of dutiable property).

Exploration licences and exploration retention licences

From 1 July 2008, the definition of 'land' has been extended to cover rights to explore for resources, including exploration licences and exploration retention licences under the *Mining Act*. This will result in a conveyance or an agreement to convey these rights being treated in the same way as a conveyance of land (which already included other mining tenements).

Similarly, an acquisition of a significant or further interest in a land-holding corporation or unit trust will take into account the value of any exploration rights in determining the value of the land to which the corporation or trust is entitled.

A stamp duty concession will be provided when exploration licences and exploration retention licences are conveyed pursuant to a farm-in agreement. A farm-in agreement is a written agreement under which a person is entitled to acquire an interest in (but not full ownership of) a mining tenement by carrying out, or contributing to the cost of exploration work, after the date of the agreement. The concessionary stamp duty treatment does not extend to mining tenements in general, but is limited to exploration licences and exploration retention licences.

The dutiable value of the interest acquired pursuant to a farm-in agreement is the greater of:

- the unencumbered value of the interest at the date the farm-in agreement was executed; or
- the consideration for the interest, less the reasonable cost of the exploration work. Where the consideration consists of a contribution to the cost of exploration work, the consideration is reduced by the portion of the reasonable cost of exploration work that relates to the amount being contributed for the conveyance.

The stamp duty treatment of exploration rights that applied before 1 July 2008 will continue to operate for conveyances of exploration rights first executed before 1 July 2008. The pre-1 July 2008 rules will also apply to conveyances made before 1 July 2009 pursuant to an agreement (including a farm-in agreement) entered into before 1 July 2008. A similar position applies to a relevant acquisition in a land-holding corporation or unit trust.

This approach recognises that an agreement to convey exploration rights may have been made prior to this measure commencing and that it would be inappropriate to impose conveyance stamp duty on exploration rights transferred pursuant to such an agreement.

Stamp duty on the conveyance of a mining tenement

From 1 July 2008, a technical shortcoming will be rectified that resulted in a transfer of, or an agreement to transfer, a mining tenement not being subject to conveyance stamp duty until it has been registered in the mining register under the *Mining Act*.

The amendments will ensure that any instrument, agreement, transaction or arrangement entered into on or after 1 July 2008 that would operate as a conveyance but for a statutory condition requiring Ministerial approval or registration will be treated as a conveyance for stamp duty purposes.

Other measures that align the operation of the first home owner grant (FHOG) with the FHOC

The following measures apply from 1 July 2008 to better align the administration of the FHOG with the administration of the FHOC and stamp duty principal place of residence rebate (PPRR).

The measures amend the *First Home Owner Grant Act* (FHOG Act) to:

- a) allow five years to commence prosecution action for alleged FHOG offences. The amendments only apply to offences alleged to have been committed from 1 July 2008, with the previous three-year period continuing to apply to offences alleged to have been committed prior to 1 July 2008;
- b) adopt the statutory interest rate regime under the *Taxation Administration Act* for FHOG debts. The statutory interest rate comprises a premium rate (8 per cent from 1 July 2008) and a market rate (currently 6.37 per cent). The market rate is reviewed annually in line with movements in market interest rates. The rate of interest applied to FHOG debts will vary from year to year in accordance with interest rate movements; and
- c) ensure that it is an offence under the FHOG Act in all circumstances where materially misleading information is provided and allow a defence where the misleading aspect of the information is identified and corrected, to the extent the person can reasonably do so.

Consequential amendments resulting from the introduction of the *Taxation Administration Act*

The following measures are made as a consequence of the introduction of a new *Taxation Administration Act* from 1 January 2008. As such, the first two measures apply from 1 January 2008, as they relate to the operation of the *Taxation Administration Act* and *Stamp Duty Act* from that date. The other measures will commence from 1 July 2008. The measures:

- a) clarify that any member of a group under a taxation law is jointly and severally liable for the tax of any other group member;
- b) reinstate the requirement that a stamp duty exemption is only available on the conveyance of property from a trustee of a non-discretionary trust to a beneficiary of the trust if no valuable consideration is given by the beneficiary for that conveyance;

- c) clarify that revenue related information can be provided to the Northern Territory Police, the Director of Public Prosecutions and other Territory law enforcement agencies;
- d) exempt a conveyee from the residence requirements of the FHOC or PPRR, provided there are special reasons and where there are two or more conveyees and at least one will comply with the residence requirements. For more detailed information please refer to Commissioner's Guideline CG-HI-003: *Commissioner's discretion to exempt or vary compliance with the eligibility criteria*; and
- e) make minor consequential amendments to update references in various Territory laws with terms introduced in the *Taxation Administration Act*.

Commissioner's Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Circular. All Circulars and Guidelines are available from TRO's website.

Refer to the Revenue Law Reform (Budget Initiatives) Bill 2008 and explanatory statement for precise details of the amendments.



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