



Australian Capital Territory

Revenue Legislation Amendment Act 2006 (No 3)

A2006-37

Contents

	Page
Part 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
Part 2	
Duties Act 1999	
3 Legislation amended—pt 2	3
4 Section 15	3
5 Replicas Section 228 (3)	3
6 Replicas Section 228 (4), definition of replica, paragraph (c)	4
7 Sections 233 to 241	4
8 Deferred payments for certain stamped instruments Section 246 (3)	7

J2006-156

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Contents

	Page
9	Registration of transfers of shares
	New section 248 (2) (aa) 7
10	Section 248 (2) (a) (i) 7
11	Registration of transfers of units
	New section 249 (2) (aa) 8
12	Section 249 (2) (a) (i) 8
13	Receipt of instruments in evidence
	Section 250 (1) (a) and (3) 8
14	Dictionary, definition of <i>duly stamped</i> 8
15	Dictionary, definition of <i>impressed stamp</i> 8
16	Dictionary, new definition of <i>stamped</i> 8
Part 3	Taxation Administration Act 1999
17	Legislation amended—pt 3 9
18	Section 57 9
19	Means and time of payment
	Section 122 (1) 9



Australian Capital Territory

Revenue Legislation Amendment Act 2006 (No 3)

A2006-37

An Act to amend the *Duties Act 1999* and the *Taxation Administration Act 1999*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2006-156

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2006 (No 3)*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Part 2 Duties Act 1999

3 Legislation amended—pt 2

This part amends the *Duties Act 1999*.

4 Section 15

substitute

15 Lodging written instrument etc with commissioner

- (1) A transferee who is liable to pay duty in relation to a dutiable transaction must, within 90 days after the day the liability arises lodge with the commissioner—
 - (a) the written instrument that effects the dutiable transaction or, if there is more than 1 written instrument that effects the transaction, each of them; or
 - (b) the written statement made in accordance with section 14.
- (2) This section does not apply in relation to a dutiable transaction if, within the 90-day period, an electronic application for assessment of duty in relation to the transaction is lodged with the commissioner by a person approved under section 239.

5 Replicas Section 228 (3)

omit

duly stamped

substitute

stamped

6 Replicas
Section 228 (4), definition of *replica*, paragraph (c)

omit

duly stamped

substitute

stamped

7 Sections 233 to 241

substitute

233 Meaning of *stamp* etc

- (1) An instrument is *stamped* if—
 - (a) the instrument is endorsed by the commissioner to indicate that—
 - (i) an amount of duty has been paid; or
 - (ii) duty is not payable; or
 - (b) a unique authorisation number in relation to the instrument is given by the commissioner under section 239.
- (2) If an electronic assessment application in relation to an instrument has been made to the commissioner by a person approved under section 239, the instrument is taken to have been lodged with the commissioner for stamping.

234 Stamping instruments

If an instrument in relation to which duty is chargeable under this Act, or that effects or evidences a dutiable transaction, is lodged with the commissioner for stamping, the commissioner must—

- (a) if the instrument is chargeable with duty, or effects or evidences a dutiable transaction, and the duty and any interest or penalty tax under the Taxation Administration Act, part 5 is paid in full—stamp the instrument indicating the amount of duty paid; or
- (b) if the instrument is not chargeable with duty, or no duty is chargeable for the transaction effected or evidenced by the instrument—stamp the instrument indicating that duty is not payable.

235 Stamping duplicates or counterparts of instruments

If an instrument is stamped and a duplicate or counterpart of the instrument has been lodged with the commissioner in accordance with section 227 (1), the commissioner must stamp the duplicate or counterpart of the instrument.

238 Stamp defaced or removed

If an instrument has been stamped as mentioned in section 233 (1) (a), the instrument is taken to have been stamped even if the stamp is defaced or removed from the instrument.

239 Electronic assessment and payment of duty

- (1) A person may apply to the commissioner, in writing, for approval to make assessment applications and pay duty electronically.

Note If a form is approved under the Taxation Administration Act, s 139C for this provision, the form must be used.

- (2) On application under subsection (1), the commissioner must—
 - (a) approve the application; or
 - (b) refuse to approve the application.
- (3) An approval may be given subject to conditions stated in the approval.

Examples

- 1 a condition about the kinds of transactions to which the approval applies
- 2 a condition about how payment must be made

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) The commissioner may amend, suspend or cancel an approval given to a person under this section by written notice given to the person.
- (5) If the commissioner receives an electronic assessment application in relation to a transaction or instrument in accordance with an approval under this section, the commissioner must—
 - (a) make an assessment of the duty payable in relation to the transaction or instrument; and
 - (b) give the person written notice of the assessment stating—
 - (i) the amount of duty payable; or
 - (ii) that duty is not payable; and
 - (c) if the person accepts the assessment, and the full amount of any duty payable is paid—give the person a unique authorisation number for the transaction or instrument.

Note A person given a notice under s (5) (b) must keep the records required under the Taxation Administration Act, s 57 (2).

241 Offence to stamp without authority

A person other than the commissioner commits an offence if the person—

- (a) endorses an instrument in a way that purports to indicate that the instrument has been stamped by the commissioner as mentioned in section 233 (1) (a); or
- (b) does something that purports to indicate that a unique authorisation number in relation to the instrument has been given by the commissioner as mentioned in section 233 (1) (b).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**8 Deferred payments for certain stamped instruments
Section 246 (3)**

omit

duly stamped

substitute

stamped

**9 Registration of transfers of shares
New section 248 (2) (aa)**

before section 248 (2) (a), insert

(aa) is stamped; or

10 Section 248 (2) (a) (i)

omit

**11 Registration of transfers of units
New section 249 (2) (aa)**

before section 249 (2) (a), insert

(aa) is stamped; or

12 Section 249 (2) (a) (i)

omit

**13 Receipt of instruments in evidence
Section 250 (1) (a) and (3)**

omit

duly stamped

substitute

stamped

14 Dictionary, definition of *duly stamped*

omit

15 Dictionary, definition of *impressed stamp*

omit

16 Dictionary, new definition of *stamped*

insert

stamped—see section 233.

Part 3 Taxation Administration Act 1999

17 Legislation amended—pt 3

This part amends the *Taxation Administration Act 1999*.

18 Section 57

substitute

57 Requirement to keep proper records

- (1) A person must keep the records that are necessary to enable the person's tax liability under a tax law to be properly assessed.
- (2) A person who is given a notice under the *Duties Act 1999*, section 239 (5) (b) (Electronic assessment and payment of duty) in relation to a transaction or instrument must keep the records necessary to enable liability for duty in relation to the transaction or instrument to be properly assessed.
- (3) This section does not affect a provision of any other tax law about the keeping of records.

19 Means and time of payment Section 122 (1)

substitute

- (1) Duty payable under an approval mentioned in the *Duties Act 1999*, section 239 (Electronic assessment and payment of duty) must be paid to the commissioner by electronic means in accordance with the approval.

- (1A) Any other tax may be paid to the commissioner—
- (a) by a bank cheque or postal money order delivered to an office of the commissioner; or
 - (b) by any other means, including electronic means, approved by the commissioner.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 August 2006.

2 Notification

Notified under the Legislation Act on 26 September 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Revenue Legislation Amendment Bill 2006 (No 3), which originated in the Legislative Assembly as the Revenue Legislation Amendment Bill 2006 (No 2) and was passed by the Assembly on 19 September 2006.

Clerk of the Legislative Assembly