



Australian Capital Territory

Revenue Legislation Amendment Act 2017

A2017-1

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended—sch 1	2
Schedule 1	Legislation amended	3
Part 1.1	Civil Law (Sale of Residential Property) Act 2003	3
Part 1.2	Duties Act 1999	3
Part 1.3	Land Rent Act 2008	45

J2015-782

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

Contents

		Page
Part 1.4	Land Tax Act 2004	45
Part 1.5	Land Titles Act 1925	45
Part 1.6	Land Titles (Unit Titles) Act 1970	51
Part 1.7	Payroll Tax Act 2011	51
Part 1.8	Planning and Development Act 2007	52
Part 1.9	Rates Act 2004	52
Part 1.10	Retirement Villages Act 2012	52
Part 1.11	Taxation Administration Act 1999	53
Part 1.12	Unlawful Gambling Act 2009	56
Part 1.13	Unlawful Gambling Regulation 2010	56



Australian Capital Territory

Revenue Legislation Amendment Act 2017

A2017-1

An Act to amend legislation about revenue collection, and for other purposes

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

1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2017*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (2) If this Act has not commenced before 1 January 2018, it automatically commences on that day.
- (3) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Civil Law (Sale of Residential Property) Act 2003

[1.1] Section 15 (7), note

substitute

Note See the *Duties Act 1999*, s 50 in relation to any liability for duty payable in relation to the contract.

Part 1.2 Duties Act 1999

[1.2] Section 6, new definition of *cancelled*

insert

cancelled—

- (a) means rescinded, annulled or otherwise terminated without completion; and
- (b) includes abandoned.

[1.3] Section 7 (3), definition of *transfer*, note

omit

charged

substitute

payable

[1.4] Section 8 (1)

omit

is to be charged

substitute

is payable

[1.5] Section 8 (2)

omit

charging

substitute

paying

[1.6] Section 11

substitute

11 When does a liability for duty arise?

- (1) A liability for duty payable under this chapter arises—
- (a) when a transfer of dutiable property occurs; or
 - (b) if a transfer of dutiable property is effected by an instrument—when the instrument is first executed.

Note **First executed**, for an instrument—see s 243.

- (2) However, a liability for duty payable under this chapter must not be paid until it becomes payable under section 16 (When does duty become payable?).

[1.7] Section 15 (2)

substitute

- (2) Subsection (1) does not apply in relation to a dutiable transaction if—
- (a) the registrar-general must tell the commissioner about the transaction under the *Land Titles Act 1925*, section 178B (Registrar-general may give information about certain dutiable transactions and instruments to revenue commissioner); or
 - (b) an electronic application for assessment of duty in relation to the transaction is lodged with the commissioner by a person approved under section 239 (Electronic assessment and payment of duty) within the 90-day period.
- (3) If an agreement for the sale or transfer of dutiable property is cancelled to give effect to a subsale, the purchaser or transferee must, within 14 days after the date the agreement is cancelled (or any longer time determined by the commissioner), lodge with the commissioner the instrument effecting the cancelled agreement.
- (4) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

[1.8] Sections 16 and 16A

substitute

16 When does duty become payable?

- (1) The duty payable under this chapter in relation to a dutiable transaction mentioned in column 2 of an item in table 16 becomes payable at the time mentioned in the item, column 3.

Table 16

column 1 item	column 2 dutiabale transaction	column 3 when duty becomes payable
1	transfer of dutiable property	when the transfer is registered with the registrar-general
2	agreement for sale or transfer	when the transfer is registered with the registrar-general after the agreement is completed
3	declaration of trust	when the declaration is made
4	grant of a Crown lease (or declared land sublease)	when the lease is registered with the registrar-general
5	grant of a commercial lease with premium	when the lease is registered with the registrar-general
6	cancelled agreement for which duty is payable under s 50	when the cancelled agreement is lodged with the commissioner under s 15 (3)

Note Liability for duty payable under pt 3.2 arises when a relevant acquisition is made (see s 85). Duty must be paid within 90 days after the relevant acquisition is made (see s 88).

- (2) A tax default does not happen for the [Taxation Administration Act](#) if duty payable under this chapter in relation to a dutiable transaction mentioned in column 2 of an item in table 16 is paid within 14 days, or any longer time determined by the commissioner, after the duty becomes payable.

- (3) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

[1.9] Section 17 (1) to (5)

substitute

- (1) If a dutiable transaction is effected by more than 1 instrument, duty under this chapter—
 - (a) is payable in relation to the first executed instrument effecting the transaction; but
 - (b) is not payable in relation to the other instruments.

Note **First executed**, for an instrument—see s 243.

- (2) Duty under this chapter is not payable in relation to a transfer of dutiable property made in conformity with an agreement for the sale or transfer of the property.
- (3) Subsection (3A) applies if—
 - (a) a transfer of dutiable property is not made in conformity with an agreement for the sale or transfer of the property; and
 - (b) the transfer would be in conformity with the agreement if the transferee was the purchaser under the agreement; and
 - (c) the purchaser under the agreement and the transferee under the transfer were related people at the time the agreement was entered into.
- (3A) Duty under this chapter—
 - (a) is payable in relation to the agreement for the sale or transfer of the dutiable property; but
 - (b) is not payable in relation to the transfer of the dutiable property.
- (4) Duty under this chapter is not payable in relation to a transfer to a trustee of dutiable property subject to a declaration of trust if ad valorem duty has been paid on the declaration of trust in relation to the same dutiable property.

- (5) Duty under this chapter is not payable in relation to a declaration of trust that declares the same trusts as those on and subject to which the same dutiable property was transferred to the person declaring the trust if ad valorem duty has been paid on the transfer.

[1.10] Section 17 (7) (b)

substitute

- (b) the transfer is not exempt from duty under any of the following:
- (i) section 232G (Transactions under Family Law Act 1975 (Cwlth), s 90B, s 90C or s 90D financial agreements);
 - (ii) section 232H (Transactions under Family Law Act 1975 (Cwlth), pt VIIIAB financial agreements);
 - (iii) section 232I (Transactions under Domestic Relationships Act 1994, s 33 (1) (d)).

[1.11] Section 18

omit

charged

substitute

payable

[1.12] Section 18, new note

insert

Note Exemptions from duty payable under this chapter are dealt with in pt 2.5.

[1.13] Section 19

omit

[1.14] Section 24 (5)

omit

charged

substitute

payable

[1.15] Section 24 (6) and (7)

omit

[1.16] Section 26 (1)

omit

it is chargeable with duty under this chapter

substitute

duty is payable under this chapter in relation to the dutiable transaction

[1.17] Section 26 (2)

omit first mention of

chargeable

substitute

payable

[1.18] Section 26 (2)

omit

the dutiable transaction is chargeable with duty under this chapter

substitute

duty is payable under this chapter in relation to the dutiable transaction

[1.19] Section 29 (4)

omit

[1.20] Section 33 (2)

omit

that is chargeable with duty

substitute

for which duty is payable

[1.21] Section 49

omit

[1.22] Section 50

substitute

50 Cancelled agreements

Duty under this chapter is payable in relation to an agreement for the sale or transfer of dutiable property that is cancelled only if the agreement was cancelled to give effect to a subsale.

[1.23] Section 50A (1)

omit everything before paragraph (a), substitute

- (1) Duty under this chapter is not payable in relation to a transfer of dutiable property by instrument if the commissioner is satisfied that—

[1.24] Section 50A (2) (a)

substitute

- (a) duty under this chapter is not payable in relation to the transfer because of this section; and

[1.25] Section 50A (4)

omit

[1.26] Section 51 (1)

omit

Duty of \$20 is chargeable

substitute

Duty under this chapter is not payable

[1.27] Section 53 (2)

omit

less an amount of \$20

[1.28] Part 2.5 heading

substitute

Part 2.5 Exemptions

[1.29] Section 54 (2)

omit

Duty of \$20 is chargeable in respect of

substitute

Duty under this chapter is not payable in relation to

[1.30] Section 54 (2)

omit

the transfer is chargeable with the same duty

substitute

the same duty is payable in relation to the transfer

[1.31] Section 54 (3)

omit

Duty of \$20 is chargeable in respect of

substitute

Duty under this chapter is not payable in relation to

[1.32] Section 54 (4)

omit

Duty of \$20 is also chargeable

substitute

Duty under this chapter is also not payable

[1.33] Section 55

substitute

55 Transfer to custodian of managed investment scheme

Duty under this chapter is not payable in relation to a transfer of dutiable property if the commissioner is satisfied that the transfer is—

- (a) from a responsible entity of a managed investment scheme or a trustee of the responsible entity; and
- (b) to a custodian or agent of the responsible entity.

[1.34] Section 55A

omit

Duty of \$20 is chargeable for the transfer of dutiable property—

substitute

Duty under this chapter is not payable in relation to a transfer of dutiable property if the commissioner is satisfied that the transfer is—

[1.35] Section 55B (1)

substitute

- (1) Duty under this chapter is not payable in relation to a transfer of dutiable property if the commissioner is satisfied that the transfer is by a trustee of a registered scheme to a custodian or agent of the responsible entity of the scheme as custodian or agent of the scheme.

[1.36] Section 55B (2)

after

if

insert

the commissioner is satisfied that

[1.37] Section 56 (1)

substitute

- (1) Duty under this chapter is not payable in relation to—
 - (a) a declaration of trust made by an apparent purchaser in relation to identified dutiable property if the commissioner is satisfied—
 - (i) that the property is vested in the apparent purchaser on trust for the real purchaser who provided the money for the purchase of the dutiable property; or
 - (ii) that—
 - (A) the property is to be vested in the apparent purchaser on trust for the real purchaser; and
 - (B) the money for the purchase of the dutiable property has been or will be provided by the real purchaser; or
 - (b) a transfer of dutiable property from an apparent purchaser to the real purchaser if the commissioner is satisfied that the dutiable property is vested in an apparent purchaser on trust for the real purchaser who provided the money for the purchase of the dutiable property.

[1.38] Section 57 (1)

omit everything after paragraph (b), substitute

duty under this chapter is not payable in relation to the transfer of the dutiable property back to the transferor.

[1.39] Section 57 (2)

substitute

- (2) If duty is not payable under subsection (1) on the transfer of dutiable property back from the trustee to the transferor—
 - (a) duty is not payable in relation to the initial transfer from the transferor to the trustee; and
 - (b) the commissioner must reassess the initial transfer and refund any duty paid on application for a refund made within 5 years after the initial assessment, or 12 months after the transfer back to the transferor, whichever is later.

[1.40] Section 58

substitute

58 Property passing to beneficiaries

- (1) Duty under this chapter is not payable in relation to a transfer for no consideration of dutiable property to a beneficiary made under and in conformity with the trusts contained in a declaration of trust.

- (2) However, subsection (1) applies—
- (a) only to the extent that the property being transferred is property that the commissioner is satisfied is—
 - (i) wholly or substantially the same as the dutiable property the subject of the declaration and that—
 - (A) duty payable under this Act has been paid in relation to the declaration of trust over that property; or
 - (B) duty is not payable under this Act in relation to the declaration of trust; or
 - (ii) dutiable property representing the proceeds of reinvestment of property mentioned in paragraph (a); or
 - (iii) property to which both paragraphs (a) and (b) apply; and
 - (b) only if the commissioner is satisfied that the transferee was a beneficiary when the liability for duty in relation to the declaration of trust arose.

[1.41] Section 60

substitute

60 Declaration of trust relating to managed investment scheme

Duty under this chapter is not payable in relation to a declaration of trust if the commissioner is satisfied that the declaration is made—

- (a) by a trustee in relation to dutiable property that, immediately before the trust is declared, is held by the trustee as trustee of the responsible entity of a managed investment scheme; and
- (b) for the purpose of holding the dutiable property on trust for the responsible entity of the managed investment scheme.

[1.42] Section 62 (1)

after

if

insert

the commissioner is satisfied that

[1.43] Section 62 (2) to (6)

substitute

- (2) Duty under this chapter is not payable in relation to a transfer to which this section applies.

[1.44] Section 63 (1) to (3)

substitute

- (1) Duty under this chapter is not payable in relation to the following transactions:
- (a) a transfer of, or an agreement to transfer, dutiable property from a trustee of a relevant fund or trust to a custodian of the trustee of the fund or trust, if the commissioner is satisfied that there is no change in the beneficial ownership of the property;
 - (b) a transfer of, or an agreement to transfer, dutiable property from a custodian of a trustee of a relevant fund or trust to a trustee of the fund or trust, if the commissioner is satisfied that there is no change in the beneficial ownership of the property;
 - (c) a transfer of, or an agreement to transfer, dutiable property from a custodian of a trustee of a relevant fund or trust to another custodian of the trustee of the fund or trust, if the commissioner is satisfied that there is no change in the beneficial ownership of the property.

[1.45] Sections 64, 65 and 66

substitute

65 Transfer of land under Fair Work (Registered Organisations) Act 2009 (Cwlth)

Duty under this chapter is not payable in relation to a transfer of land if the commissioner is satisfied that the transfer is made in accordance with the *Fair Work (Registered Organisations) Act 2009* (Cwlth), section 82.

66 Conveyances to prescribed people

Duty under this chapter is not payable in relation to a grant or transfer of land to a person if the commissioner is satisfied that the person is a prescribed person.

[1.46] Section 67

omit

The duty chargeable on the transfer of a unit within the meaning of the *Unit Titles Act 2001* is \$20 if the commissioner is satisfied that—

substitute

Duty under this chapter is not payable in relation to the transfer of a unit within the meaning of the *Unit Titles Act 2001* if the commissioner is satisfied that—

[1.47] Section 68 (1)

omit

- (1) Duty of \$20 is chargeable for the grant of a new Crown lease to the lessee under a previous Crown lease because of the surrender of the previous lease if the surrender was only for 1 or more of the following purposes:

substitute

- (1) Duty under this chapter is not payable for the grant of a new Crown lease to the lessee under a previous Crown lease because of the surrender of the previous lease if the commissioner is satisfied that the surrender was only for 1 or more of the following purposes:

[1.48] Section 68 (2)

omit everything before paragraph (a), substitute

- (2) Duty under this chapter is not payable for the grant of new Crown leases to a lessee under a previous Crown lease because of the surrender of the previous lease if the commissioner is satisfied that the surrender was only for—

[1.49] Section 68 (3)

omit everything before paragraph (a), substitute

- (3) Duty under this chapter is not payable for the grant of a new Crown lease to a lessee under 2 or more previous Crown leases because of the surrender of the previous leases if the commissioner is satisfied that the surrender was only for—

[1.50] Section 69

omit

[1.51] Section 71

omit

Duty of \$20 is chargeable in respect of a dutiable transaction if—

substitute

Duty under this chapter is not payable in relation to a dutiable transaction if the commissioner is satisfied that—

[1.52] Section 72 (1), except note

substitute

- (1) Duty under this chapter is not payable in relation to a transfer by someone to the person's partner of dutiable property consisting of an interest in property if the commissioner is satisfied that, at the date of transfer of the interest, the property is used as their principal place of residence.

[1.53] Part 2.6 heading

omit

[1.54] Section 73

omit

[1.55] Section 73A (1)

omit

- (1) No duty is chargeable under this chapter on a dutiable transaction that is a transfer or grant of a residential lease if—

substitute

- (1) Duty under this chapter is not payable in relation to a dutiable transaction that is a transfer or grant of a residential lease if—

[1.56] Section 73B (1)

omit

- (1) No duty is chargeable under this chapter on a dutiable transaction that is a transfer or grant of a residential lease if—

substitute

- (1) Duty under this chapter is not payable in relation to a dutiable transaction that is a transfer or grant of a residential lease if—

[1.57] Section 74 (1)

omit

- (1) A dutiable transaction is exempt from duty under this chapter if it is—

substitute

- (1) Duty under this chapter is not payable in relation to a dutiable transaction if it is—

[1.58] Section 74A

omit

No duty is chargeable under this chapter on—

substitute

Duty under this chapter is not payable in relation to—

[1.59] Section 74B

omit

[1.60] Section 75AB (2) and (3)

substitute

- (2) The application must be made at the same time as the instrument effecting the dutiable transaction is lodged with the registrar-general under the *Land Titles Act 1925*, section 47C (Registration of instruments effecting dutiable transaction).
- (3) If there is more than 1 transferee or purchaser of the property, each transferee or purchaser must be an eligible person.

[1.61] Section 75AD (1) (a) and (b)

omit

the day of the dutiable transaction

substitute

the day duty becomes payable in relation to the dutiable transaction

[1.62] Section 77

omit

This chapter charges duty on

substitute

Duty is payable under this chapter in relation to

[1.63] Section 91

omit

[1.64] Section 93 (1)

omit

chargeable with ad valorem duty

substitute

in relation to which ad valorem duty is payable

[1.65] Section 95 (1)

substitute

- (1) Subsection (1A) applies if—
 - (a) the person lodging an acquisition statement under this part in relation to the acquisition of an interest in a landholder tells the commissioner when the statement is lodged that the acquisition is effected for the purpose of securing financial accommodation; and
 - (b) the commissioner is satisfied that the acquisition is effected for that purpose.
- (1A) Duty under this Act is not payable in relation to the statement so far as it relates to the acquisition, except as provided by subsection (2).

[1.66] Section 95 (2)

omit

The statement is chargeable with duty

substitute

Duty is payable in relation to the statement

[1.67] Section 108

omit

The share allotment or unit issue by which a person acquires a land use entitlement is chargeable with duty

substitute

Duty is payable in relation to the share allotment or unit issue by which a person acquires a land use entitlement

[1.68] Section 115F (1)

omit

A declaration to the commissioner under section 115B (2) is chargeable with duty

substitute

Duty is payable in relation to a declaration to the commissioner under section 115B (2)

[1.69] Division 3.7.1

substitute

Division 3.7.1 Exempt transactions—general

115H Ch 3 transactions—exemptions

- (1) Duty is not payable in relation to a chapter 3 transaction made by operation of law on the bankruptcy of a person or the winding-up of a company.
- (2) Duty is not payable in relation to a chapter 3 transaction if the land that is the subject of the interest concerned could have been acquired by the person in a way that results in no duty being chargeable under any of the following provisions:
 - (a) section 54 (Change in trustees);
 - (b) section 55 (Transfer to custodian of managed investment scheme);
 - (c) section 55A (Transfers in relation to managed investment schemes);
 - (d) section 55B (Transfers in relation to registered schemes);
 - (e) section 56 (Property vested in apparent purchaser);
 - (f) section 57 (1) (Transfers back from nominee), if the initial transfer from the transferor to the trustee was a chapter 3 transaction;

Note No duty is chargeable for the initial transfer (see s (3)).
 - (g) section 58 (Property passing to beneficiaries);
 - (h) section 62 (Transfer of property from one superannuation fund to another);
 - (i) section 63 (1) (Transfers between trustees and custodians of superannuation funds or trusts).

- (3) If duty is not payable under subsection (2) (f) for a chapter 3 transaction consisting of a transfer back from a trustee to a transferor—
- (a) duty is not payable in relation to the initial transfer from the transferor to the trustee; and
 - (b) the commissioner must reassess the initial transfer and refund any duty paid on application for a refund made within 5 years after the initial assessment, or 12 months after the transfer back to the transferor, whichever is later.
- (4) Duty is not payable in relation to a chapter 3 transaction if the land that is the subject of the interest concerned could have been acquired by the person in a way that results in no duty being chargeable under section 63 (1).

[1.70] Section 174

omit

charged on

substitute

payable in relation to

[1.71] Sections 177 (1) and 183

omit

This part charges duty on

substitute

Duty is payable under this part in relation to

[1.72] Section 204

omit

This chapter charges duty on

substitute

Duty is payable under this chapter in relation to

[1.73] Section 205

omit everything after

unless

substitute

no duty is payable under this chapter in relation to the application.

[1.74] Sections 209, 210, 212 and 213

omit

[1.75] Section 224

omit

Duty of \$20 is chargeable

substitute

Duty is not payable

[1.76] Sections 227 to 229A

substitute

229 Minimum amount of duty

- (1) This section applies to an amount of duty payable under this Act, other than chapter 8 (Insurance) or chapter 9 (Motor vehicle registration), in relation to a transaction or instrument.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) Despite any other provision of this Act, if the amount of duty payable under this Act in relation to a transaction or instrument would, apart from this section, be less than \$20, duty under this Act is not payable.

[1.77] New part 11.1 heading

insert

Part 11.1 Exemptions from duty—general

[1.78] Section 232A (1)

omit

Duty under this chapter is not chargeable

substitute

Duty under this Act is not payable

[1.79] Section 232A (5), definition of *dutiable transaction*

omit

[1.80] New sections 232B to 232D and part 11.2

in chapter 11, insert

232B Hospitals and schools

- (1) Duty under this Act is not payable if the commissioner is satisfied that the duty would be payable by a hospital or school or a trustee who holds property in trust for the hospital or school.

Note **Hospital**—see the dictionary.

- (2) In this section:

government school—see the [Education Act 2004](#), dictionary.

property held by a trustee in trust for a hospital or school includes the following:

- (a) land granted or transferred to the trustee;
- (b) property transferred to the trustee under a chapter 3 transaction;
- (c) a motor vehicle for which an application to register the vehicle has been made.

registered non-government school—see the [Education Act 2004](#), dictionary.

school means a government school or registered non-government school.

232C Commonwealth, States and Territories

- (1) Duty under this Act is not payable if the commissioner is satisfied the duty would be payable by any of the following:
- (a) the Commonwealth;

- (b) a State or another Territory;
- (c) a prescribed authority of the Commonwealth, a State or another Territory;
- (d) a non-commercial Commonwealth authority.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (2) In this section:

non-commercial Commonwealth authority means a body corporate (other than an incorporated company, society or association) that—

- (a) is incorporated for a public purpose by or under a law of the Territory or the Commonwealth; and
- (b) does not have as its sole or principal function the carrying on of an activity in the nature of a business, whether or not for profit.

232D Deceased estates

- (1) Duty under this Act is not payable in relation to the following:
- (a) a transfer of dutiable property not made for valuable consideration by the legal personal representative of a deceased person to a beneficiary if the commissioner is satisfied that the transfer is—
 - (i) a transfer made under and in conformity with the trusts contained in the will of the deceased person or arising on an intestacy; or
 - (ii) a transfer of property the subject of a trust for sale contained in the will of the deceased person;
 - (b) a consent by a legal representative of a deceased person if the commissioner is satisfied that the consent is to a transmission application by a beneficiary;

- (c) a transmission application to a devisee if the commissioner is satisfied the devisee is also the sole legal representative;
 - (d) a chapter 3 transaction made consequent on the death of a person if the transferor is the executor of the will of the deceased person, the administrator of the estate of the deceased person or a beneficiary of the will or estate of the deceased person;
 - (e) an application to register a motor vehicle made by—
 - (i) a person in whom an interest in the vehicle has vested as a personal representative of a deceased person in whose name the vehicle was registered in the ACT; or
 - (ii) a person who has become beneficially entitled to the vehicle following the death of a person in whose name the vehicle was registered in the ACT; or
 - (iii) a person who has become beneficially entitled to the vehicle by a right of survivorship following the death of a former joint owner if, at the time of the death of the former joint owner, the vehicle was registered in the ACT.
- (2) Subsection (3) applies to a transfer of dutiable property in relation to which duty is payable under chapter 2 (Transactions concerning dutiable property) if the commissioner is satisfied that the transfer is made under, but only partly in conformity with, a trust contained in the will of a deceased person or arising on an intestacy (the *trust*).

- (3) The dutiable value of the property is worked out as follows:

$$X - Y$$

X means, if all the dutiable property were transferred in conformity with the trust, the unencumbered value of the property.

Y means the unencumbered value of the express beneficial interest in the property transferred in conformity with the trust.

Example—dutiable value

Under a will, Brad is entitled to a $\frac{2}{3}$ share in a house and Josh is entitled to a $\frac{1}{3}$ share. The unencumbered value of the house is \$480 000. Josh and Brad agree that Brad will buy Josh's share in the house. With the consent of Josh and Brad, the legal personal representative of the deceased person under the will transfers the whole of the interest in the house to Brad. The commissioner determines that the unencumbered value of the express beneficial interest in the property transferred to Brad in conformity with the trust under the will is \$320 000. The dutiable value of the transfer is \$160 000.

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) For subsection (3), a person does not have an *express beneficial interest* in property the subject of a discretionary trust.
- (5) In this section:
- interest*—
- (a) means a proprietary interest; and
 - (b) includes an entitlement to a proprietary interest under the will, or on the intestacy, of a deceased person.

Part 11.2 Exemptions from duty—certain personal relationships

232E Definitions—pt 11.2

In this part:

de facto relationship—see the *Family Law Act 1975* (Cwlth), section 4AA.

motor vehicle transfer application means an application to transfer the registration of a motor vehicle.

spouse party—see the *Family Law Act 1975* (Cwlth), section 4.

transaction means any of the following:

- (a) a transfer of dutiable property;
- (b) a motor vehicle transfer application following a transfer of property in the vehicle to the applicant;
- (c) a chapter 3 transaction.

232F Transactions under certain court orders

Duty under this Act is not payable in relation to a transaction made under—

- (a) an order of a court under the *Family Law Act 1975* (Cwlth) or the *Married Persons Property Act 1986*; or
- (b) any other order of a court for the distribution of property consequent on the end of the relationship between partners.

Note The dictionary defines *partner* as a person's spouse or someone with whom the person has a domestic relationship. *Domestic relationship* is defined in the dictionary to have the same meaning as in the *Domestic Relationships Act 1994*, s 3.

232G Transactions under Family Law Act 1975 (Cwlth), s 90B, s 90C or s 90D financial agreements

- (1) Duty under this Act is not payable in relation to a transaction made under a financial agreement made under the *Family Law Act 1975* (Cwlth), section 90B, section 90C or section 90D that is binding on the parties under that Act, if—
 - (a) the commissioner is satisfied that the transaction is consequent on the dissolution, annulment or irretrievable breakdown of a marriage; and
 - (b) the property that is the subject of the transaction is matrimonial property; and
 - (c) for a transfer of dutiable property or property in a motor vehicle, the transfer is—
 - (i) to the parties to the marriage, or to either of them; or
 - (ii) to a child or children of either of them, or to a trustee for the child or children; and
 - (d) for a chapter 3 transaction, the parties to the transaction are—
 - (i) the parties to the marriage, or either of them; or
 - (ii) a child or children of either of them, or a trustee for the child or children.
- (2) For subsection (1) (a), in deciding whether a transaction is consequent on the irretrievable breakdown of a marriage, the commissioner must have regard to any statement made by a party to the marriage to the effect that—
 - (a) the party intends to apply for dissolution or annulment of the marriage; or

- (b) the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed.

Note 1 The commissioner may require a person to provide information, attend and give evidence before the commissioner or an authorised officer and produce a record or other document to the commissioner (see [Taxation Administration Act](#), s 82).

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

232H Transactions under Family Law Act 1975 (Cwlth), pt VIIIAB financial agreements

- (1) Duty under this Act is not payable in relation to a transaction made under, a part VIIIAB financial agreement made under the [Family Law Act 1975](#) (Cwlth), section 90UB, section 90UC or section 90UD that is binding on the parties under that Act, if—
- (a) the commissioner is satisfied that the transaction is consequent on the end of the de facto relationship between the parties; and
 - (b) the property that is the subject of the transaction is relationship property; and
 - (c) for a transfer of dutiable property or property in a motor vehicle, the transfer is—
 - (i) to the parties to the relationship, or to either of them; or
 - (ii) to a child or children of either of them, or to a trustee for the child or children; and
 - (d) for a chapter 3 transaction, the parties to the transaction are—
 - (i) the parties to the relationship, or either of them; or
 - (ii) a child or children of either of them, or a trustee for the child or children.

- (2) For subsection (1) (a), in deciding whether a transaction under a part VIIIAB financial agreement is consequent on the end of a de facto relationship, the commissioner must have regard to any separation declaration made by a spouse party to the agreement under the *Family Law Act 1975* (Cwlth), section 90UF.

Note The commissioner may require a person to provide information, attend and give evidence before the commissioner or an authorised officer and produce a record or other document to the commissioner (see [Taxation Administration Act](#), s 82).

**232I Transactions under Domestic Relationships Act 1994,
s 33 (1) (d)**

- (1) Duty under this Act is not payable in relation to a transaction made under a domestic relationship agreement or termination agreement under the *Domestic Relationships Act 1994*, if—

- (a) the agreement is in writing and signed by each party; and
(b) the agreement is endorsed with, or accompanied by, the certificates mentioned in that Act, section 33 (1) (d) for each party; and

Note The certificates relate to independent legal advice about the agreement.

- (c) the commissioner is satisfied that the transaction is consequent on the end of the domestic relationship between the parties; and
(d) the property that is the subject of the transaction is relationship property; and
(e) for a transfer of dutiable property or property in a motor vehicle, the transfer is—
 (i) to the parties to the relationship, or to either of them; or
 (ii) to a child or children of either of them, or to a trustee for the child or children; and

- (f) for a chapter 3 transaction, the parties to the transaction are—
- (i) the parties to the relationship, or either of them; or
 - (ii) a child or children of either of them, or a trustee for the child or children.
- (2) For subsection (1) (c), in deciding whether a transaction under a domestic relationship agreement is consequent on the end of a relationship, the commissioner must have regard to any statement made by a party to the relationship to the effect that—
- (a) the relationship has ended; or
 - (b) if the relationship is a civil union—the party has given, or intends to give, a termination notice to the registrar-general under the *Civil Unions Act 2012*; or
 - (c) if the relationship is a civil partnership—the party has given, or intends to give, a termination notice to the registrar-general under the *Domestic Relationships Act 1994*.

Note The commissioner may require a person to provide information, attend and give evidence before the commissioner or an authorised officer and produce a record or other document to the commissioner (see [Taxation Administration Act](#), s 82).

[1.81] Part 12.1 heading

omit

[1.82] Sections 233 to 238

omit

[1.83] Section 239 (5) (c), except note

omit

[1.84] Section 241

omit

[1.85] Section 243 (3)

omit

[1.86] Sections 244 to 246

substitute

244 Certificate of duty and other charges

- (1) A person may apply to the commissioner for a certificate of—
- (a) the duty payable under this Act in relation to a dutiable transaction, including the amount payable under a deferral arrangement (if any) under part 2.6A (Deferred payments—home buyers); and
 - (b) the amount of duty and any other amounts immediately payable to the Territory under this Act in relation to the dutiable transaction.

Note 1 If a form is approved under the [Taxation Administration Act](#), s 139C for an application, the form must be used.

Note 2 A single application form may be approved for this section and the [Land Rent Act 2008](#), s 31, the [Land Tax Act 2004](#), s 41 and the [Rates Act 2004](#), s 76 (see [Legislation Act](#), s 255 (7)).

- (2) The commissioner must give the applicant the certificate.
- (3) The certificate is conclusive proof for an honest buyer for value of the matters certified.

Note The certificate may include a certificate of amounts payable under the [Land Tax Act 2004](#) and the [Rates Act 2004](#) in relation to the parcel (see [Legislation Act](#), s 49).

- (4) For this section, duty and other amounts payable are taken to be payable immediately even though any necessary time after service of a notice has not ended.

[1.87] Part 12.2 heading

omit

[1.88] Section 247

omit

[1.89] Section 250

substitute

250 Receiving instruments in evidence

- (1) This section applies to an instrument if—
- (a) the instrument effects a dutiable transaction; or
 - (b) duty under this Act is payable in relation to the instrument.
- (2) The instrument is available for use in law or equity for any purpose, and may be presented in evidence in a court or tribunal exercising civil jurisdiction, if—
- (a) it is marked by, or in a way approved by, the commissioner; or
 - (b) any duty payable in relation to the instrument, including any penalty tax or interest, has been assessed and paid.
- (3) If the instrument is not marked by, or in a way approved by, the commissioner, or if any duty payable in relation to the instrument, including any penalty tax or interest, has been not assessed or paid, a court or tribunal may admit it in evidence if—
- (a) the instrument is, after its admission, sent to the commissioner in accordance with arrangements approved by the court or tribunal; or

- (b) if the person producing the instrument is not the person liable to pay the duty in relation to the instrument—the instrument and the name and address of the person liable to pay the duty are sent to the commissioner in accordance with arrangements approved by the court or tribunal.
- (4) A court or tribunal may admit in evidence an unexecuted copy of the instrument if the court or tribunal is satisfied that—
- (a) the instrument is marked in a way approved by the commissioner; or
 - (b) any duty payable in relation to the instrument, including any penalty tax or interest, has been assessed and paid.

[1.90] Part 12.3 heading

omit

[1.91] Section 252 (d), (e), (j), (k), (s) and (t)

omit

[1.92] New section 252 (z) to (zb)

insert

- (z) under section 232G (1) (a) that a transaction is not consequent on the dissolution, annulment or irretrievable breakdown of a marriage; or
- (za) under section 232H (1) (a) that a transaction is not consequent on the end of a de facto relationship; or
- (zb) under section 232I (1) (c) that a transaction is not consequent on the end of a domestic relationship.

[1.93] New chapter 19

insert

Chapter 19 Transitional—Revenue Legislation Amendment Act 2017

470 Definitions—ch 19

In this chapter:

amending Act means the *Revenue Legislation Amendment Act 2017*.

commencement day means the day the amending Act, schedule 1 commences.

471 Application of ch 2 and ch 12 to pre-commencement day transactions

- (1) This section applies to the following dutiable transactions:
 - (a) an agreement for the sale or transfer of dutiable property;
 - (b) a declaration of trust over dutiable property;
 - (c) a grant of a Crown lease;
 - (d) a grant of a declared land sublease;
 - (e) a grant of a commercial lease with premium.
- (2) Chapter 2 and chapter 12, as in force immediately before the commencement day, apply to a dutiable transaction mentioned in subsection (1) if—
 - (a) a liability for duty charged by chapter 2 in relation to the transaction arose before the commencement day; and

- (b) immediately before the commencement day, the duty had not been paid.

472 Application of ch 12 to pre-commencement day instruments

Chapter 12, as in force immediately before the commencement day, applies to an instrument that effects a dutiable transaction or an instrument chargeable with duty if—

- (a) a liability for duty charged in relation to the instrument arose before the commencement day; and
- (b) immediately before the commencement day, the duty had not been paid.

473 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the amending Act.
- (2) A regulation may modify this chapter (including in its operation in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with by this chapter.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act.

474 Expiry—ch 19

This chapter expires 5 years after the commencement day.

[1.94] Dictionary, note 2

insert

- child

[1.95] Dictionary, new definitions

insert

cancelled, for chapter 2 (Transactions concerning dutiable property)—see section 6.

de facto relationship, for part 11.2 (Exemptions from duty—certain personal relationships)—see section 232E.

motor vehicle transfer application, for part 11.2 (Exemptions from duty—certain personal relationships)—see section 232E.

spouse party, for part 11.2 (Exemptions from duty—certain personal relationships)—see section 232E.

[1.96] Dictionary, definition of *stamped*

omit

[1.97] Dictionary, new definition of *transaction*

insert

transaction, for part 11.2 (Exemptions from duty—certain personal relationships)—see section 232E.

[1.98] Further amendments, mentions of *chargeable*

omit

chargeable

substitute

payable

in

- sections 31 and 33 (1)
- section 51 (2)
- section 53 (1)

- section 68A (1)
- section 89 (1)
- section 90 (1) and (2)
- section 105
- section 115E
- section 115L (2) (a) and (c)
- section 178
- section 185
- section 195 (1)
- sections 209A to 209C
- sections 211 and 211A
- section 214
- sections 215 to 219
- section 221 (1) (e)
- sections 230 (1) and 231
- section 242

[1.99] Further amendments, mentions of *charged by*

omit

charged by

substitute

payable under

in

- section 5
- section 8 (1)
- sections 12 and 13
- section 17 (6)
- section 29 (5)

- section 85
- section 103 (1)
- section 115C

Part 1.3 Land Rent Act 2008

[1.100] Section 31 (1), note 3

substitute

Note 3 A single application form may be approved for this section and the [Duties Act 1999](#), s 244, the [Land Tax Act 2004](#), s 41 and the [Rates Act 2004](#), s 76 (see [Legislation Act](#), s 255 (7)).

Part 1.4 Land Tax Act 2004

[1.101] Section 41 (1), note 3

substitute

Note 3 A single application form may be approved for this section and the [Duties Act 1999](#), s 244, the [Land Rent Act 2008](#), s 31 and the [Rates Act 2004](#), s 76 (see [Legislation Act](#), s 255 (7)).

Part 1.5 Land Titles Act 1925

[1.102] New section 47C

insert

47C Registration of instruments effecting dutiable transaction

- (1) This section applies to an instrument that effects a dutiable transaction, other than the following:
- (a) a declaration of trust over dutiable property;

(b) a cancelled agreement for the sale or transfer of dutiable property;

(c) a grant of a commercial lease with premium.

(2) The transferee must lodge the instrument with the registrar-general for registration.

Note 1 The registrar-general must register an instrument lodged in registrable form (see s 48 (1)).

Note 2 If a form is approved under s 140 for registration of an instrument, the form must be used.

Note 3 A fee may be determined under s 139 for this provision.

(3) If the instrument is an agreement for the transfer of dutiable property in conformity with the agreement, it must be lodged with the registrar-general within 14 days after the day the agreement is completed, or any longer time determined by the commissioner.

(4) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

(5) In this section:

commercial lease with premium—see the [Duties Act 1999](#), section 6A.

dutiable property—see the [Duties Act 1999](#), section 10.

dutiable transaction—see the [Duties Act 1999](#), section 7 (2).

transfer—see the [Duties Act 1999](#), dictionary.

[1.103] Section 58 (1) (f)

before

rates,

insert

duty,

[1.104] New section 139 (1) (ca)

insert

(ca) the *Duties Act 1999*;

[1.105] New section 140 (1) (ba)

insert

(ba) the *Duties Act 1999*;

[1.106] New section 178B

insert

178B Registrar-general must give information about certain transactions and instruments to revenue commissioner

- (1) This section applies if any of the following transactions or instruments are lodged for registration:
 - (a) a transfer of dutiable property;
 - (b) a grant of a Crown lease;
 - (c) a grant of a declared land sublease;
 - (d) a grant of a commercial lease with premium;
 - (e) a transaction or instrument prescribed by regulation.
- (2) The registrar-general is authorised to collect the following information in relation to the transaction or instrument:
 - (a) the date any agreement in relation to the transaction or instrument was first executed;
 - (b) the date any agreement in relation to the transaction or instrument was completed;
 - (c) the date the transaction or instrument was executed;

- (d) the date the transaction or instrument was registered;
- (e) the name of the person lodging the transaction or instrument for registration;
- (f) the dutiable value of the property that is the subject of the transaction or instrument;
- (g) the location of the property;
- (h) whether the property is vacant land or land with improvements;
- (i) whether the property is or will be used for commercial purposes, residential purposes or the purposes of primary production;
- (j) the purchaser's name;
- (k) any details prescribed by regulation about the proof of identity for the purchaser;
- (l) the kind of entity the purchaser is;

Examples—entity

trust, trustee, corporation, individual, government

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).

- (m) if the purchaser is a trustee—the name of the trust administered by the purchaser;
- (n) if the purchaser is a corporation—
 - (i) the place where the purchaser is incorporated; and
 - (ii) the place where the purchaser is registered; and
 - (iii) if the purchaser is incorporated in Australia—the purchaser's ACN and ABN; and

- (iv) if the purchaser is a foreign company—the unique identifying number given to the company for identification;
 - (o) whether the purchaser holds the property as a joint tenant, tenant in common, sole proprietor or tenant in common in unequal shares;
 - (p) the name of the vendor, transferor or lessor;
 - (q) the GST payable in relation to the transaction or instrument;
 - (r) the percentage of the interest in the property that is transferred to the purchaser;
 - (s) whether the purchaser has applied, or intends to apply, for deferred duty under the *Duties Act 1999*, section 75AB;
 - (t) details of any concessions or exemptions from duty applying to the transaction or instrument;
 - (u) the following details for the purchaser:
 - (i) a telephone number;
 - (ii) an email address;
 - (iii) a home address or other address for service of notices by the commissioner for revenue;
 - (v) if the purchaser has an agent—the agent’s name and email address.
- (3) The registrar-general must give any information collected under subsection (2) to the commissioner for revenue.

Note The Territory privacy principles apply to the registrar-general and the commissioner for revenue (see *Information Privacy Act 2014*, sch 1).

- (4) The registrar-general must not include in the register information that is collected only under this section.

Note Some information mentioned in s (2) that is collected under other provisions of this Act may be included in the register.

- (5) In this section:

commercial lease with premium—see the *Duties Act 1999*, section 6A.

commercial purposes—see the *Duties Act 1999*, section 6.

declared land sublease—see the *Planning and Development Act 2007*, section 312C.

dutiable property—see the *Duties Act 1999*, section 10.

dutiable value—see the *Duties Act 1999*, section 20.

first executed, for an instrument—see the *Duties Act 1999*, section 243.

foreign company—see the *Corporations Act*, section 9.

incorporated in Australia, in relation to a purchaser that is a corporation—see the *Corporations Act*, section 9.

primary production—see the *Duties Act 1999*, section 6.

purchaser, in relation to a transaction or instrument mentioned in subsection (1), means a purchaser, transferee or lessee.

[1.107] Dictionary, note 2

insert

- GST
- home address

Part 1.6 Land Titles (Unit Titles) Act 1970

[1.108] New section 7 (1) (e) (iii)

before the note, insert

- (iii) no duty or other amounts assessed as payable under the *Duties Act 1999* are outstanding at the time the units plan is to be registered.

[1.109] Section 7 (1) (e), note

substitute

Note A person may apply for a certificate of duty and other charges under the *Duties Act 1999*, s 244, and a certificate of land tax and other charges under the *Land Tax Act 2004*, s 41, and a certificate of rates and other charges under the *Rates Act 2004*, s 76.

Part 1.7 Payroll Tax Act 2011

[1.110] New section 83 (2A)

insert

- (2A) However, if the difference payable by an employer under subsection (2) is less than \$20, the commissioner must determine that the difference is \$0.

Part 1.8 Planning and Development Act 2007

[1.111] Section 272B (2) (a)

before

rates

insert

duty,

Part 1.9 Rates Act 2004

[1.112] Section 76 (1), note 3

substitute

Note 3 A single application form may be approved for this section and the [Duties Act 1999](#), s 244, the [Land Rent Act 2008](#), s 31 and the [Land Tax Act 2004](#), s 41 (see [Legislation Act](#), s 255 (7)).

Part 1.10 Retirement Villages Act 2012

[1.113] Section 57 (11), note 2

omit

Part 1.11 Taxation Administration Act 1999

[1.114] New section 4 (ha)

insert

- (ha) the *Land Titles Act 1925*, section 47C (Registration of instruments effecting dutiable transaction) and section 178B (Registrar-general must give information about certain transactions and instruments to revenue commissioner);

[1.115] New section 27

insert

27 No interest imposed if amount would be small

- (1) No interest is payable under a tax law if the amount that would otherwise be payable is less than \$20.
- (2) This section does not apply to the following tax laws:
 - (a) the *Land Rent Act 2008*;
 - (b) the *Land Tax Act 2004*;
 - (c) the *Rates Act 2004*.

[1.116] New section 35

insert

35 Minimum amount of penalty tax

No penalty tax is payable if the amount that would otherwise be payable is less than \$20.

[1.117] Section 42 (2)

omit

[1.118] Section 43 (2)

omit

[1.119] Section 44 (2) (f)

omit

[1.120] Section 47

omit

[1.121] New section 56F (aa)

before paragraph (a), insert

(aa) the *Duties Act 1999*;

[1.122] Section 56G (1), definition of *owner*, new paragraph (f)

insert

(f) for a parcel of land that is property transferred under a dutiable transaction—the transferee in relation to the dutiable transaction.

[1.123] Section 56G (1), definition of *parcel*, new paragraph (c)

insert

(c) in relation to a dutiable transaction—property transferred under the dutiable transaction.

[1.124] Section 56G (1), new definition of *tax payable*

insert

tax payable, in relation to a parcel of land, includes duty payable in relation to a dutiable transaction.

[1.125] Section 56G (2), new definitions

insert

dutiable transaction—see the *Duties Act 1999*, section 7 (2).

property transferred—see the *Duties Act 1999*, section 8 (2) (a).

transferee, in relation to property transferred—see the *Duties Act 1999*, section 8 (2) (b).

[1.126] New section 56H (3) (a) (ia)

before subparagraph (i), insert

- (ia) for tax payable under the *Duties Act 1999*—the *Duties Act 1999*, section 244 (Certificate of duty and other charges); or

[1.127] Section 67 (3)

omit

[1.128] Section 71 (1) (c)

omit

[1.129] Section 122 (2)

substitute

- (2) Any other tax may be paid to the commissioner by the means, including electronic means, approved by the commissioner.

Part 1.12 Unlawful Gambling Act 2009

[1.130] Section 3, note 1

substitute

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*gaming equipment*—see the Control Act, dictionary.’ means that the term ‘gaming equipment’ is defined in that dictionary and the definition applies to this Act.

[1.131] Dictionary, definition of *charitable organisation*

substitute

charitable organisation means an organisation, society, institution or body carried on for a religious, educational, benevolent or charitable purpose, other than one carried on for securing financial benefits to its members.

Part 1.13 Unlawful Gambling Regulation 2010

[1.132] Section 4 (2), note

omit

(see *Duties Act 1999*, dict)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 December 2016.

2 Notification

Notified under the [Legislation Act](#) on 22 February 2017.

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 2017, which originated in the Legislative Assembly as the Revenue Legislation Amendment Bill 2016 (No 2) and was passed by the Assembly on 14 February 2017.

Clerk of the Legislative Assembly

© Australian Capital Territory 2017