

2007

**The Legislative Assembly for
Australian Capital Territory**

Revenue Legislation Amendment Bill 2007

Explanatory Statement

**Circulated by authority of
Treasurer
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Summary

This Bill amends the *Duties Act 1999*, the *Land Tax Act 2004*, the *Payroll Tax Act 1987* and the *Rates Act 2004*.

Overview

The *Duties Act 1999* is amended to remove the duty liability on the grant of a crown lease to the Housing Commissioner. The Housing Commissioner will not be liable to duty under section 4 of the Act, which makes the Territory not liable to duty.

This Bill also amends the *Duties Act 1999* to clarify that an interstate motor vehicle dealer, that is licensed under a corresponding law to the *Sale of Motor Vehicles Act 1977*, is able to claim a duty exemption on the registration of motor vehicles that are used as demonstrators or trading stock. This amendment brings the treatment of interstate licensed motor vehicles dealers in line with the treatment of ACT licensed motor vehicle dealers.

The Bill amends the *Land Tax Act 2004* to clarify that where a land tax debt has been identified by the ACT Revenue Office after a parcel of land has been transferred to a new owner, and the new owner has obtained a clear Certificate of Rates, Land Tax and Other Charges from the ACT Revenue Office, that the owner of the parcel for the period to which the liability relates is liable to pay the land tax.

This Bill also makes two minor amendments to the *Payroll Tax Act 1987* which clarify current practice. The first amendment clarifies the reference period which applies to wages paid or payable in the ACT. Although payroll tax is an annual charge, the reference period for when wages are paid has been inferred from the legislative requirement to submit a monthly return for any wages paid in excess of the threshold for a month.

The second payroll tax amendment makes explicit that wages paid or payable in the ACT, for services performed or rendered in another country are liable to payroll tax. This is currently inferred from the wording contained in section 2D (1) (a).

In addition, the language of section 2D (1) (a) of the *Payroll Tax Act 1987* has been simplified to make the nexus provisions more understandable. These amendments make no change to the nexus provisions, which will continue to operate as they have been, but should help taxpayers in understanding what is to be included in their returns.

The final amendment contained in the Bill, amends the *Rates Act 2004* to correct an error in the formula contained in section 34 (3). The existing formula allows for different rating factors to be used for the determined commercial and residential percentages of the intended use of certain developments. However, an oversight resulted in the fixed charge component of the formula remaining unchanged when differential fixed charges were introduced for residential, rural and commercial land. To date, this issue has been dealt with administratively and the amendment to the formula will endorse this practice and is revenue neutral.

Details of the Revenue Legislation Amendment Bill 2007

Part 1 Preliminary

Clause 1 - Name of Act

This Act is the *Revenue Legislation Amendment Act 2007*.

Clause 2 – Commencement

This Act commences on the day after notification.

Part 2 Duties Act 1999

Clause 3 – Legislation amended – pt 2

This Part amends the *Duties Act 1999*.

Clause 4 – Transfer of land to certain authorities and other bodies Section 64 (1)

This clause removes the reference to the Housing Commissioner in section 64 (1) (a). As a result the Housing Commissioner will no longer be liable to pay concessional duty on the grant of a crown lease and instead will be exempt from duty on the grant and transfer of a crown lease under section 4 of the *Duties Act 1999*.

Clause 5 – Repossessed motor vehicles Section 216 (c)

Clause 5 removes the reference to a “licensed dealer under the *Sale of Motor Vehicles Act 1977*” and replaces it with the term “licensed vehicle dealer”. This amendment is consequential on the amendment to the dictionary definition of “licensed vehicle dealer” in Clause 7.

Clause 6 – Prerequisites for registration Section 221 (1) (c) (i)

Clause 6 is consequential on the amendment to the dictionary definition of “licensed vehicle dealer” in Clause 7.

Clause 7 – Dictionary, definition of *licensed vehicle dealer*

The dictionary definition of “licensed vehicle dealer” is amended by Clause 7 to extend it to licensed interstate dealers who hold a “similar license under a corresponding law” to the *Sale of Motor Vehicles Act 1977*.

Part 3 Land Tax Act 2004

Clause 8 - Legislation amended – pt 3

This part amends the *Land Tax Act 2004*.

Clause 9 – Payment of land tax New section 17 (2A)

This clause links the liability of a previous owner to pay land tax incurred by them to the conditions set out in section 20 (3). This section provides that unpaid land tax is not a charge on the land where an honest purchaser of a parcel of land obtains a Certificate of Rates, Land Tax and Other charges and the certificate is clear of any charge on the parcel. In these cases, where a liability is subsequently discovered by the ACT Revenue Office, it will attach to the owner of the parcel for the period to which the liability relates.

Part 4 Payroll Tax Act 1987

Clause 10 - Legislation amended – pt 4

This part amends the *Payroll Tax Act 1987*.

Clause 11 – Wages to which this Act applies Section 2D (1)

This clause clarifies section 2D (1) (a) which sets out the nexus provisions for ACT payroll tax. None of these amendments makes any change in current policy or practice when working out wages that are liable to ACT payroll tax.

Section 2D (1) is amended to ensure that it is clear that wages paid in a month or part of a month are included for the purposes of payroll tax. This has always been the case, but has been inferred from the requirement to lodge monthly payroll tax returns.

This section is also amended to spell out that wages paid or payable in the ACT for services that are performed or rendered overseas are captured for ACT payroll tax purposes. This again clarifies current practice, which is inferred from the wording of section 2D (1) (a).

Additionally, the language of sections 2D (1) has been simplified to make the intent of the nexus provisions clear.

Part 5 Rates Act 2004

Clause 12 - Legislation amended – pt 5

This part amends the *Rates Act 2004*.

Clause 13 – Imposition of rates – qualifying parcels of land Section 34 (3), formula

This clause substitutes a new formula for the purposes of this section which will allow the application of different fixed charges for the residential and commercial parts of a qualifying parcel of land.

Clause 14 – Section 34 (4), definition of FC

Subsection (4) describes the components used to calculate the rates for the formula contained in subsection (3). This clause replaces the fixed charge (FC) component with components for the fixed charge commercial (FCC) and fixed charge residential (FCR).

