

This Bulletin sets out the recent amendments to the *Duties Act 2000* made by the *Duties and Land Tax Acts (Amendment) Act 2005*.

Duties Act Bulletin

FEB 06

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The *Duties and Land Tax Acts (Amendment) Act 2005* received Royal Assent on 29 November 2005 and made the following changes to the *Duties Act 2000* (the Act):

1. Added a new exemption for equity release programs;
2. Amended the land rich provisions;
3. Clarified the motor vehicle Duty provisions;

1. New exemption for equity release programs

Section 55 has been inserted into the Act stating that no Duty is chargeable in respect of a transaction under an equity release program that results in a change in beneficial ownership of dutiable property. The effect of section 55 is to provide elderly Victorians with the means of accessing equity in their homes by taking up equity release programs being offered by various financial institutions.

Under the equity release program, the financial institution and the homeowner enter into a contract of sale of land whereby the financial institution acquires a part interest in the homeowner's principal place of residence. The exemption applies to all transactions entered into from 15 June 2005.

Section 55(4) of the Act requires an application for the exemption be lodged with the State Revenue Office (SRO) in the approved form and accompanied by a copy of the contract of sale. The application form will be available on the SRO website shortly.

2. Amendments to the land rich provisions

In the main, the amendments to the land rich provisions clarify the application of the provisions and remove opportunities for avoidance.

The main changes are made to following terms in the land rich provisions:

- Widely Held Trusts – The definition was amended to remove ambiguity of the term "beneficially entitled".

The definition now focuses on registered unit holders and not unit holders beneficially entitled to units.

- Acquisition of Interests – A provision was included to expressly provide that a change in the beneficial ownership of an interest is a method by which a party may acquire an interest for the purposes of the land rich provisions.
- Aggregation of Interests – Provisions were amended to clarify that interests acquired by a person in an associated transaction can be aggregated with the interests held by associated persons.
- Private Companies and Listed Trusts – The definitions were amended to allow the Commissioner of State Revenue (the Commissioner) to disregard the listed status of a company or trust if the listing was done as part of scheme or arrangement for avoiding or reducing duty payable under the provisions.
- Uncompleted Agreements – The provisions were extended to cover the acquisition of property by way of simultaneous put and call options and to make it clear that a nominated party under an uncompleted agreement is deemed to be entitled to the property from the date of nomination.
- Qualified Investors – The definition was amended to include Investor Directed Portfolio Services and wholly owned subsidiaries of overseas entities that would be considered as qualified investors. Also a provision was included to ensure that qualified investors cannot be considered associated persons of other qualified investors in regards to wholesale unit trust schemes.
- Trust Registrations – Provisions were included to allow the Commissioner to impose conditions for registration as a declared public unit trust scheme or declared wholesale unit trust scheme and penalties in respect of breaches of such conditions.

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Recent amendments to the *Duties Act 2000*

3. Clarifications of the motor vehicle Duty Provisions

The amendments to motor vehicle Duty provisions are as follows:

- The Duty position was clarified where there is a repossession of a motor vehicle on default or where possession is restored to a person on settlement of a debt;
- In the interests of clarity and transparency, all the motor vehicle Duty exemptions that were applicable by reference to Regulations administered by VicRoads were brought directly into the *Duties Act 2000* itself; and
- The ability of the SRO to charge penalty from the date an application for transfer of motor vehicle registration is executed was confirmed as it has always been the intent.

Further information

Further information on these changes please contact the State Revenue Office:

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