

This Bulletin sets out recent changes to the *Duties Act 2000* and *National Taxation Reform (Consequential Provisions) Act 2000*.

Changes to State Taxes – June 2012

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The *State Taxation Acts Amendment Act 2012* (the Amending Act) received Royal Assent on 27 June 2012 and introduces changes to the *Duties Act 2000* (the Duties Act) and *National Taxation Reform (Consequential Provisions) Act 2000*.

Duties Act 2000

All of the amendments to the Duties Act discussed in this Bulletin commence on 28 June 2012 other than the increase in the rate of motor vehicle duty, which takes effect from 1 July 2012.

Motor Vehicle Duty on the registration of new or near new passenger cars

As announced in the Victorian Government's State Budget Update in December 2011, duty on an application for registration of a new or near new passenger car will increase from 2.5 per cent to 3 per cent (that is, from \$5 to \$6 per \$200 or part thereof) for cars valued under the Commonwealth's luxury car tax threshold. Please refer to our website, www.sro.vic.gov.au for the motor vehicle duty rates.

Extension of the incapacitated war veterans' motor vehicle duty exemption

The exemption from motor vehicle duty available to certain incapacitated war veterans (section 233E of the Duties Act) has been extended to those war veterans assessed as eligible for certain categories of pension under the *Military Rehabilitation and Compensation Act 2004* (Cth).

Exception from the aggregation of certain transactions

The aggregation provisions in the Duties Act aggregate dutiable transactions involving separate items of dutiable property if they occur within a 12 month period and the transactions form what is substantially one arrangement. The aggregated transactions are treated as a single dutiable transaction and the duty payable is calculated on its total value.

The Amending Act replaces the Commissioner of State Revenue's (the Commissioner) discretion not to aggregate dutiable transactions in certain circumstances with a specific exception from the operation of the aggregation provisions. The exception will apply so that, where a registered builder buys vacant blocks of land with the

intention of building residential premises for sale to the public, those transactions will not be aggregated.

However, in certain circumstances, the Commissioner can reassess the particular transactions as if they had been aggregated. This will occur where the builder:

- on-sells the vacant land without building residential premises;
- constructs premises other than residential premises on the vacant land (e.g. a shop); or
- retains the vacant land but does not construct any residential premises (on the vacant land) that are ready for occupation within 5 years.

Transactions treated as sub-sales of land - parallel arrangements

The current sub-sales provisions are, broadly speaking, intended to apply where a person enters into a contract of sale to buy property but prior to completion of the contract, on-sells their interest to someone else for a profit. As a result of the on-sale of the interest under the contract, the person receives 'additional consideration'. When a transaction is treated as a sub-sale, it is dutiable as two separate transactions, rather than duty only being imposed on the transfer of land to the ultimate purchaser.

The Amending Act clarifies that the sub-sales provisions apply to 'parallel' land and building arrangements. These are arrangements where the original purchaser under a contract of sale for land on-sells its interest in the land to a home buyer, and around the same time enters into a second, separate contract with the home buyer to build a home on that land. Entry into the building contract by the home buyer is crucial to the home buyer obtaining the rights under the land contract.

The amendment to the sub-sales provisions ensures that, where a homebuyer enters into a parallel arrangement, the home buyer is taken to have given consideration under that arrangement in order to obtain the rights under the land contract. As a result, the original purchaser will be taken to have received additional consideration and the sub-sales provisions will apply to impose duty on the arrangement as two separate transactions.



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A parallel arrangement entered into prior to the commencement of these provisions will be subject to duty where the transfer of land under that arrangement occurs after the provisions commence.

Removal of exemption for grants of Crown land

As announced in the Victorian Government's 2012-13 Budget, the Amending Act removes the duty exemption for any grant of Crown land by the Crown in right of Victoria. This amendment is directed at certain large commercially orientated leasing arrangements that may have previously, through a technicality, benefited from the duty exemption where the land involved is Crown land. However, it does not affect genuine grants of Crown land as these are not dutiable transactions under the Duties Act in the first place.

National Taxation Reform (Consequential Provisions) Act 2000

The *National Taxation Reform (Consequential Provisions) Act 2000* requires state government entities to pay a GST-equivalent amount (notional GST) to the Commonwealth on all supplies of property. The Amending Act clarifies that penalty tax and interest may be charged when a state government entity fails to meet its notional obligations under the GST legislation (that is, where the entity makes a late notional GST payment or incorrectly pays less than required).

This amendment, which commences on 1 July 2012, is intended to provide greater certainty on the application of penalty tax and interest to notional GST liabilities. In support of the principle of competitive neutrality, this amendment also ensures that state government entities are subject to the same GST treatment as private entities.

Further information

For further information on these changes, please contact the SRO:

Web	www.sro.vic.gov.au
Email	contact@sro.vic.gov.au
Phone	13 21 61
Fax	03 9628 6222
Mail	State Revenue Office GPO Box 1641 MELBOURNE VIC 3001 or DX 260090 MELBOURNE

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