

1997

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

STAMP DUTY AND TAXES (AMENDMENT) BILL 1997

EXPLANATORY MEMORANDUM

Circulated by the authority of the Chief Minister and Treasurer

Kate Carnell MLA

Stamp Duties and Taxes (Amendment) Bill 1997

Summary

The *Stamp Duties and Taxes Act 1987* (the Act) provides for the regulation and taxing of certain instruments having a nexus with the Australian Capital Territory.

The Stamp Duties and Taxes (Amendment) Bill 1997 amends the Act to -

- a) provide a concessional rate of stamp duty on the transfer of assets from superannuation funds to pooled superannuation trusts and between pooled superannuation trusts; and
- b) provide that in certain circumstances persons in domestic relationships may transfer property and pay only a concessional rate of duty.

Financial implications

- The stamp duty involved in a) above is roughly estimated at \$1.2m. However, this cannot be regarded as an estimate of lost revenue because it is unlikely that such asset transfers would take place without the concession.
- Currently the concessional treatment of transfers complying with the *Domestic Relationships Act 1994* is provided by waiver or ex gratia relief under the *Financial Management Act 1996*. Two waivers totalling \$3,342.00 were provided in the financial year ended 1997. Therefore the financial effect of this change is not expected to be significant.

Details of the Bill are attached.



Details of the Stamp Duties and Taxes (Amendment) Bill 1997

Title

Clause 1 provides for the short title for this Act to be the *Stamp Duties and Taxes (Amendment) Act 1997*.

Commencement

Clause 2 provides for this Act to commence on the day it is notified in the Gazette

Principal Act

Clause 3 refers to the Principal Act being amended as the *Stamp Duties and Taxes Act 1987*.

Interpretation

Clause 4 amends section 4 of the Principal Act by omitting the definition of “spouse” and substituting a new definition, and inserting definitions for “complying superannuation fund”, “pooled superannuation trust” and “solicitor”.

Instruments qualifying for concessional rates of duty

Clause 5 inserts after section 18 of the Principal Act a new section 18A. This section provides for a concessional rate of stamp duty of \$200.00 to be paid on the transfer or the agreement to transfer certain property, as referred to in subclauses (a), (b) and (c). For the provision to apply the conditions of subclauses (d), (e) and (f), as to the transfer of assets from superannuation funds to pooled superannuation trusts and between pooled superannuation trusts for the purpose of diversifying investments must be met

Subclause 2 provides that section 17 of the Principal Act relating to instruments subject to the determined rate of stamp duty and section 27 (2) of the *Taxation (Administration) Act 1987* relating to charging duty separately, on separate and distinct matters, do not apply to these instruments, so that a fixed duty of \$200.00 is only charged once on each instrument

Transfers of marketable securities

Clause 6 amends section 46 of the Principal Act by inserting in subsection (1A) “(other than in paragraph (s))” after “Schedule 4” This allows a concessional rate of stamp duty of \$20.00 to be charged on the transfer of the marketable securities referred to in paragraph (s) of subclause (c) of clause 8 of this Bill

Schedule 1

Clause 7 expands the concessional rate of duty provided in Schedule 1 to include agreements made pursuant to a domestic relationship agreement or a termination agreement within the meaning of the *Domestic Relationships Act 1994*, subject to the

agreement meeting the conditions outlined in subclauses (i), (ii) and (iii) as to the agreement being in writing, signed by both parties, and with each party advised independently of the other party of the full effects of the agreement.

Schedule 4

Schedule 4 applies concessional duty on certain transfers of marketable securities. Clause 8 extends this concessional treatment to the transfers detailed in paragraph (s) subclause (c) of this Bill.

