

1993

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Stamp Duties and Taxes (Amendment) Bill (No.2) 1993

EXPLANATORY MEMORANDUM

Circulated by the Authority of the Chief Minister and Treasurer

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## **STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO.2) 1993**

### **Summary**

The Stamp Duties and Taxes Act 1987 (the Act) provides for the imposition of stamp duties and other similar taxes in the Australian Capital Territory.

New provisions are to be inserted into the Act imposing a \$20 duty on previously exempt documents which are required to be lodged with the ACT Revenue Office for assessment. This measure is primarily intended to provide for the recovery of part of the cost of processing exempt documents and will only apply to those documents lodged in relation to conveyances and the transfer and registration of marketable securities.

The provisions relating to refunds of stamp duty in respect of conveyances of real property are to be amended to provide that requests for refunds, where an agreement has been rescinded, are to be lodged within 30 days of assessment of duty. Extensions of the 30 day limit may be granted in certain circumstances where the purchaser is acquiring a property which is intended to be used as that person's principal place of residence.

The definition of a "lease" within the Act is also to be amended to allow lease renewal options to be also dutied where that option extends a lease or sublease over 15 years.

### **Financial Implications**

The imposition of a minimum \$20 duty is expected to return revenue of \$240,000 in a full year. The amendments in relation to refunds and leases will decrease the possibility of revenue avoidance, but the effect is difficult to quantify.

Details of the bill are attached.

**DETAILS OF THE STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO.2)  
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**Short title**

Clause 1 - Provides for the short title of this Act to be the Stamp Duties and Taxes (Amendment) Act (No.2) 1993 (the Act).

**Commencement**

Clause 2 - Provides that sections 4 and 6 commence on 15 September 1993. All other sections commence on day of gazettal.

**Principal Act**

Clause 3 - Provides that the 'Principal Act' is the Stamp Duties and Taxes Act 1987.

**Interpretation**

Clause 4 - Amends the definition of lease to include a lease renewal option where the sum of the term of lease and any renewal options exceeds 15 years.

**Substitution: Duty on Schedule 1 instruments**

Clause 5 - Substitutes a new section 18. This provides for duty of \$20 on those conveyances set out in Schedule 1. These items were previously exempt from duty.

#### **Refund if agreement not completed**

Clause 6 - Amends section 28 of the Principal Act to provide, in new subsection (3A), that where an agreement for the sale of a Crown lease or an estate in fee simple is rescinded an application for a refund of any duty paid must be made within 30 days of assessment.

New subsection (3B) provides that where it can be shown that the purchaser is buying their principal place of residence the Commissioner for ACT Revenue may extend the 30 day limit if there is a genuine reason for rescinding the contract.

#### **Substitution: Duty on Schedule 4 transfers**

Clause 7 - Substitutes a new section 41. This provides for duty of \$20 on those transfers of marketable securities set out in Schedule 4. These items were previously exempt.

#### **Substitution: Duty on registration of Schedule 5 transfers**

Clause 8 - Substitutes a new section 51. This provides for duty of \$20 on those registrations of marketable securities set out in Schedule 5. These items were previously exempt.

#### **Prerequisites for registration**

Clause 9 - Repeals subsection 56(c). This paragraph provided for transfers of marketable securities to be registered on the company's share register if the transfer involved an exempt document. As documents which were previously exempt are now levied a \$20 duty subsection 56(c) is repealed.

#### **Schedule 1**

Clause 10 - Amends the heading of Schedule 1. This reflects the situation that these instruments are no longer exempt but are dutied at \$20.

#### **Schedule 4**

**Clause 11 - Amends the heading of Schedule 4. This reflects the situation that these items are no longer exempt but are dutied at \$20.**

#### **Schedule 5**

**Clause 12 - Amends the heading of Schedule 5. This reflects the situation that these items are no longer exempt but are dutied at \$20.**

#### **Application**

**Clause 13 - Provides that the new refund provisions as set out in new subsection 28(3A) will only affect those transfers entered into after 15 September 1993. This will ensure that the refund rights of taxpayers who had entered into agreements before this date are not affected.**