

1991

**THE LEGISLATIVE ASSEMBLY OF THE
AUSTRALIAN CAPITAL TERRITORY**

STAMP DUTIES AND TAXES (AMENDMENT) BILL 1991

EXPLANATORY MEMORANDUM

**Circulated by the Authority of the
Chief Minister and Treasurer
Ms Rosemary Follett**

STAMP DUTIES AND TAXES (AMENDMENT) BILL 1991

This Bill abolishes stamp duty on residential tenancy agreements and shifts the liability for the payment of stamp duty on commercial lease agreements from the lessee to the lessor.

The shifting of liability from lessee to lessor will bring within the stamp duty net buildings leased to Government and Government authorities located in the ACT which are not currently liable for stamp duty.

This Bill also introduces transitional provisions to prevent lessors being disadvantaged financially where the terms of a lease have been agreed upon with the Commonwealth or the Territory prior to the announcement of the changes on 17 September 1991 but the lease agreement has not been executed.

Financial Implications

By making the lessor liable for the payment of stamp duty it is expected that additional revenue of \$400,000 will be raised in a full year. The abolition of duty on residential lease agreements will result in the savings of one Administrative Service Officer Class 3 position. Although the abolition will involve revenue loss of \$250,000, the abolition is considered justifiable in light of the disproportionate amount of time and effort involved in collecting what is essentially a low yield duty.

Details of the Bill are attached.

DETAILS OF THE STAMP DUTIES AND TAXES (AMENDMENT) BILL 1991

Short title

Clause 1 - provides for the short title of this Act to be the Stamp Duties and Taxes (Amendment) Act 1991.

Commencement

Clauses 2 (1), (2) and (3) are to commence on the day of Gazettal. Clause (5) shall be taken to have commenced on 1 October 1991.

Principal Act

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

Interpretation

Clause 4 - Introduces the definition of "lessor", being the person by whom a lease is to be granted under an agreement to lease.

Instruments subject to duty

Clause 5 - Excludes residential lease agreements from instruments subject to duty under subsection 17(1) of the Act.

Person liable for duty

Clause 6 - Makes the lessor liable for the payment of duty on lease agreements other than for a Crown lease. This was formerly the liability of the lessee.

Refund if lease determined early

Clause 7 - Is a consequential amendment to ensure that persons who pay duty whether they are the lessee or lessor are eligible for a refund if the lease is determined early.

Transitional arrangements

Clause 8 - Is a transitional provision which empowers the Commissioner for ACT Revenue to exempt from duty those leases to the Commonwealth or the Territory where he is satisfied that agreement to the terms of the lease was reached prior to 17 September 1991 but a lease agreement had not been executed before the Act comes into force.