

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Duties Amendment Bill 2006

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(Treasurer)

Duties Amendment Bill 2006

A Bill for

An Act to amend the *Duties Act 1999*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Duties Amendment Act 2006*.

2 Commencement

This Act commences on 1 July 2006.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Duties Act 1999*.

**4 Dutiable property
Section 10 (1) (g), (h) and (i)**

substitute

(g) an interest in a partnership that holds dutiable property mentioned elsewhere in this section (a *partnership interest*);

Note Former paragraphs (g) and (h) (covering certain business assets and statutory licences and permissions) were removed from the definition of *dutiable property* by the *Duties Amendment Act 2006*. For transitional provisions applying to these paragraphs, see s 400.

5 Section 10 (1) (j) to (l)

renumber as section 10 (1) (h) to (j)

6 New section 10 (3)*insert*

(3) In this section:

holds—a partnership ***holds*** dutiable property if (but not only if)—

(a) the partners hold the property for the partnership; or

(b) the partnership has an indirect interest in the property.

indirect interest—a partnership has an ***indirect interest*** in dutiable property if—

(a) through a partnership interest or trust interest there is a connection between the partnership and dutiable property of the other partnership or trust; or

(b) through a series of partnership interests or trust interests, or a combination of any of them, there is a connection between the partnership and dutiable property of a partnership in the series.

**7 What is the *dutiable value* of dutiable property?
Section 20 (2)***omit***8 What is the consideration for the transfer of dutiable property?
Section 21 (3)***omit***9 What is the *unencumbered value* of dutiable property?
Section 22 (2)***omit*

1 **10 Apportionment—business assets in this and other**
2 **jurisdictions**
3 **Section 27**

4 *omit*

5 **11 Certain business assets**
6 **Section 33 (1)**

7 *substitute*

8 (1) Duty is chargeable at the determined rate on a dutiable transaction
9 so far as it is in relation to—

10 (a) a partnership interest so far as it is not—

11 (i) an interest in property mentioned in section 10 (1) (a), (b)
12 or (c); or

13 (ii) an interest in property mentioned in section 10 (1) (j) that
14 is dutiable property mentioned in section 10 (1) (a), (b) or
15 (c); or

16 (b) an interest in property mentioned in section 10 (1) (j), other
17 than an interest in dutiable property mentioned in section 10
18 (1) (a), (b), or (c).

19 **12 Section 33 (2)**

20 *omit*

21 subsection (1) (c)

22 *substitute*

23 subsection (1) (a)

13 Definitions for ch 5
Section 133, definition of *lease*, paragraph (c)

substitute

(c) a franchise arrangement held in relation to a place or area located in the ACT that is granted for—

(i) a term of longer than 30 years; or

(ii) an initial term of 30 years or less, but with an option for renewal for 1 or more terms that would, taken together with the initial term, result in a term of longer than 30 years;

Note For transitional provisions applying in relation to paragraph (c) as in force on 30 June 2006, see s 401.

14 General rate—franchise arrangements
Section 141A (2)

omit

15 New chapter 14

insert

Chapter 14 Transitional—Duties
Amendment Act 2006

400 Application of ch 2 to certain transfers and transactions

(1) In this section:

repealed provisions means section 10 (1) (g) and (h) as in force on 30 June 2006.

Note 1 On 30 June 2006, section 10 (1) (g) and (h) provided as follows:

(1) ***Dutiable property*** is any of the following:

- 1 (g) a business asset, being, at any relevant time—
2 (i) the goodwill of a business if, during the previous 12 months, a
3 sale of goods or services, or goods and services, has been made
4 to a territory customer of the business; or
5 (ii) intellectual property that has been used or exploited in the ACT
6 during the previous 12 months, but only if the intellectual
7 property is the subject of a dutiable transaction that is, or forms
8 part of, a sale of a business; or
9 (iii) a statutory license or permission under a Commonwealth law, if
10 the rights under the licence or permission have been exercised,
11 during the previous 12 months, in respect of the ACT or in an
12 area that includes the ACT or a part of the ACT;
13 (h) a statutory licence or permission under a territory law;

14 *Note 2* Section 27 (Apportionment—business assets in this and other
15 jurisdictions) (as in force before 1 July 2006) applied in relation to
16 property mentioned in section 10 (1) (g) and section 33 (Certain
17 business assets) (as in force before 1 July 2006) provided for the rate of
18 duty chargeable in relation to the property.

19 ***transaction*** means a transaction mentioned in section 7 (1) (b).

- 20 (2) Despite the repeal of the repealed provisions by the *Duties*
21 *Amendment Act 2006*, chapter 2 as in force on 30 June 2006 applies
22 to a transfer or transaction in relation to dutiable property mentioned
23 in the repealed provisions if—

- 24 (a) the transfer or transaction is a transfer or transaction that
25 replaces a transfer or transaction that—
26 (i) included the dutiable property; and
27 (ii) was made before 1 July 2006; or
28 (b) the transfer or transaction is a transfer or transaction under
29 which a party had an option to purchase the dutiable property,
30 or a party had an option to require another party to purchase
31 the dutiable property, if the option was granted before
32 1 July 2006 and is exercised on or after 1 July 2006; or

(c) another arrangement was made before 1 July 2006 the only or main purpose of which was to defer the making of the transfer or transaction until 1 July 2006 or later so that chapter 2 would not apply to it.

(3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

401 Application of ch 5 to certain franchise arrangements

(1) In this section:

previous provision means section 133, definition of *lease*, paragraph (c) as in force on 30 June 2006.

Note On 30 June 2006, the definition of *lease*, paragraph (c) provided as follows:

(c) a franchise arrangement that is held in respect of a place or area located in the ACT;

(2) Despite the replacement of the previous provision by the *Duties Amendment Act 2006*, chapter 5 (Lease instruments) as in force on 30 June 2006 applies to a lease instrument mentioned in the previous provision if—

(a) the lease instrument replaces a lease instrument evidencing or effecting the franchise arrangement that was made before 1 July 2006; or

(b) another arrangement was made before 1 July 2006 the only or main purpose of which was to defer the execution of, or a variation to, the lease instrument until 1 July 2006 or later so that chapter 5 would not apply to the lease instrument.

(3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

1 **402 Transitional regulations—ch 14**

2 (1) A regulation may prescribe transitional matters necessary or
3 convenient to be prescribed because of the enactment of the *Duties*
4 *Amendment Act 2006*.

5 (2) A regulation may modify this chapter to make provision in relation
6 to anything that, in the Executive's opinion, is not, or is not
7 adequately or appropriately, dealt with in this chapter.

8 (3) A regulation under subsection (2) has effect despite anything
9 elsewhere in this Act.

10 (4) A regulation under subsection (2) expires 12 months after the day it
11 commences.

12 **403 Expiry—ch 14**

13 This chapter expires on 1 July 2011.

14 **16 Dictionary, definition of *partnership interest***

15 *substitute*

16 *partnership interest*—see section 10 (1) (g).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.