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

**REVENUE LEGISLATION AMENDMENT BILL 2006 (NO 2)
EXPLANATORY STATEMENT**

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Revenue Legislation Amendment Bill 2006 (No 2)

Summary

The 2005-06 ACT Budget included an initiative to improve the services of the ACT Revenue Office by allowing certain clients to process and pay certain duty transactions electronically, and also committed the ACT Revenue Office to close its public shopfront. This Bill amends the *Duties Act 1999* and the *Taxation Administration Act 1999* to facilitate the introduction of an electronic lodgment and payment service for certain duty transactions. The electronic lodgment and payment system removes the need for the lodging of documents at the ACT Revenue Office, or the physical stamping of documents by the Commissioner for ACT Revenue.

Overview

To accommodate electronic lodging and stamping, this Bill amends the Duties Act so that the users of the electronic lodgment and payment system are not required to lodge with the commissioner a written statement or written instrument. In these cases, documents are ‘taken to be lodged’ when an application is made for an electronic assessment by an approved person. The Bill also omits the definitions of ‘impressed stamps’ and ‘duly stamped’ as these concepts have been replaced by a new definition for the ‘meaning of stamped’ which allows for the electronic authorisation of dutiable instruments.

The Bill introduces a new provision to allow the commissioner to approve applicants to use the electronic lodgment and payment system. The approval will be conditional and will control the types of transactions available to each approved person and may include, amongst other things, how payment must be made. This process provides flexibility for approved persons as each approval can be amended to allow for changes without the requirement to seek approval again. The approval can also be suspended or cancelled by the commissioner in cases where an approved person has breached the conditions of the approval.

The Bill amends the *Taxation Administration Act 1999* in relation to record keeping. The current record keeping requirements are imposed on a person who is the taxpayer. This Bill extends this to require an ‘approved person’, that is someone who acts on behalf of the taxpayer, to keep the appropriate records. As documents will no longer be physically lodged at the ACT Revenue Office the approved person must retain the relevant documentation to enable the tax liability for a particular transaction or instrument to be properly assessed for audit and compliance purposes.

With the introduction of the electronic lodgment and payment service and the closure of the ACT Revenue Office Shopfront, cash payments will no longer be accepted. The Bill amends provisions so that cash payments can no longer be made at an office of the commissioner. A variety of payment methods, including cheque and electronic means, are available to ensure that taxpayers can conveniently make payments to the ACT Revenue Office.

Financial Implications

The Bill amends legislation to enable the implementation of a 2005-06 Budget initiative and costs have been fully factored into the 2005-2006 Budget.

Details of the Bill are attached.



Details of the Revenue Legislation Amendment Bill 2006 (No 2)

Part 1 Preliminary

Clause 1 - Name of Act.

This Act is the *Revenue Legislation Amendment Act 2006 (No 2)*.

Clause 2 - Commencement.

This Act commences on the day after notification.

Part 2 Duties Act 1999

Clause 3 - Legislation amended – pt2.

This Act amends the *Duties Act 1999*.

Clause 4 - New Section 15 (2).

This clause removes the need to lodge a written instrument with the commissioner when electronic application for assessment is made. This is as a consequence of the changes made in paragraph 233 (2) which states that an instrument is taken to have been lodged with the commissioner for stamping if a person approved under section 239 lodges an electronic application for assessment of duty with the commissioner.

Clauses 5 & 6 - Section 228.

Paragraphs (3) and (4) have been amended to substitute the term *duly stamped* with *stamped*. This is consequential to the new meaning of *stamp* in Clause 7.

Clause 7 - Sections 233 to 241 are substituted.

The **new section 233 (1)** introduces a new definition for the meaning of *stamp*. This replaces the concept of an *impressed stamp* and introduces the endorsement of instruments by the commissioner. It also introduces the concept that an instrument is *stamped* if it is given a unique authorisation number by the commissioner under the new section 239.

The **new section 233 (2)** confirms that an electronic assessment application by an approved person under section 239 is taken to have been lodged with the commissioner for stamping. This leads to the consequential change made by Clause 4.

New section 234 combines the provisions of the previous sections 234, 235 and 237. It omits any reference to *duly stamped* and *impressed stamp* as a consequence of the new meaning of *stamp* in section 233.

New section 235 includes the provisions of the previous section 236 and the only amendment is to omit any reference to the terms *duly stamped*, *impressed stamp* and approved style, and replaces these with the new meaning of *stamp*.

New section 238 has been amended to omit any reference to the term *duly stamped*.

New Section 239 has been inserted to facilitate the introduction of an electronic lodgement and payment service. **Section 239 (1)** requires a person who wishes to use this electronic service to apply to the commissioner for approval to make assessment applications and pay duty electronically. A person applying must be a legal entity (a business name or partnership could not be an approved applicant under this section).

Section 239 (2) requires the commissioner to either approve or refuse to approve such an application and **section 239 (3)** allows the approval to be conditional. Any conditions imposed must be stated in the approval and they may include conditions about the type of transactions that can be lodged electronically, and how payment must be made.

Section 239 (4) allows the commissioner to amend, suspend or cancel approvals in writing. The ability to amend an approval provides flexibility to, for example, change the types of transactions that can be lodged electronically. If an approved person breaches the conditions of the approval, it may be suspended or cancelled.

Section 239 (5). When the commissioner receives an electronic assessment application, the commissioner is required to make an assessment and give the person written notice of the assessment stating the amount of duty payable (or that no duty is payable). If the person accepts the assessment and makes full payment of duty, the commissioner must give the person a unique authorisation number for the transaction or instrument. The *Note* reminds a person who is given the notice of assessment that they must keep the records required under the Taxation Administration Act, section 57 (2) as per Clause 18 below.

Section 241 has been amended to take into account that a unique authorisation number given under section 233 is a new definition for the meaning of *stamp* and it is an offence to stamp without authority. The terms *impressed stamp* and approved style have also been removed.

Clauses 8 & 13 - Section 246 (3) & Sections 250 (1) (a) and (3).

The terms *duly stamped* and *impressed stamp* are substituted with the new term *stamped*.

Clauses 9 & 11 - Sections 248 (2) (aa) & 249 (2) (aa).

The term *impressed stamp* has been replaced with the new meaning of *stamp*, and the subparagraph moved so that the instrument is not required to ‘bear’ a stamp (ie be physically stamped).

Clauses 10 & 12 - Sections 248 (2) (a)(i) & 249 (2) (a) (i).

The subparagraphs are omitted. They have been replaced by subparagraphs (2) (aa) as in Clauses 9 and 11 above.

Clauses 14 & Clause 15 - Dictionary

The definitions of *duly stamped* and *impressed stamp* have been omitted from the dictionary.

Clause 16 - Dictionary, definition of stamped.

A new definition of *stamped* is at section 233.

Part 3 Taxation Administration Act 1999

Clause 17 - Legislation amended.

The legislation amended is the *Taxation Administration Act 1999*.

Clause 18 - Requirement to keep proper records.

Section 57 is substituted. New section 57 (1) rewords the paragraph in the same style as the new paragraph (2), but is otherwise unchanged. Paragraph (2) extends the record keeping requirements to the approved person in section 239, and requires the person who is given the notice under section 239 (5) (b) to keep proper records in relation to transactions or instruments.

Clause 19 - Means and time of payment.

Section 122 (1) is substituted. The new section 122 (1) requires duty payable under an approval in section 239 to be made by the electronic means as stated in the approval.

Section 122 (1A) states the methods of payment that can be made at an office of the commissioner, excluding cash from the acceptable means of payment.