

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

STAMP DUTIES AND TAXES ORDINANCE 1987

No. 39 of 1987

Stamp duties and taxes in the Territory were previously imposed under the provisions of the following Acts:

- Taxation Administration Act 1953;
- Australian Capital Territory Taxation (Administration) Act 1969;
- Australian Capital Territory Stamp Duty Act 1969;
- Australian Capital Territory Tax (Cheques) Act 1969;
- Australian Capital Territory Tax (Hire-purchase Business) Act 1969;
- Australian Capital Territory Tax (Insurance Business) Act 1969;
- Australian Capital Territory Tax (Vehicle Registration) Act 1981;
- Australian Capital Territory Tax (Purchases of Marketable Securities) Act 1969;
- Australian Capital Territory Tax (Sales of Marketable Securities) Act 1969;
- Australian Capital Territory Tax (Transfers of Marketable Securities) Act 1986; and
- Australian Capital Territory Tax (Life Insurance Business) Act 1981.

The Stamp Duties and Taxes Ordinance 1987 provides for the imposition of stamp duties and other similar taxes in the Australian Capital Territory. It provides for stamp duties to be imposed on conveyances and for taxes on insurance premiums, the sale, purchase and transfer of marketable securities (excluding debentures) and the registration of vehicles. On the commencement of the Ordinance, those Acts listed above which duplicate matters in the Ordinance cease to impose taxation liability in the Territory.

As part of the 1986 Budget, the government decided to introduce a financial institutions duty into the Territory and at the same time to eliminate some of the existing stamp duty liabilities and similar taxes. Therefore, the Acts listed above, or the relevant parts of them, which relate to stamp duty on cheques, stamp duty on bills of exchange and promissory notes, loan security duty, stamp duty on hire-purchase arrangements and stamp duty on debentures are not replicated in the Ordinance.

Schedules 2 and 3 to the Taxation Laws Amendment Act (No. 2) 1987 provide that outstanding matters under the above Acts, (eg. recovery proceedings), pass to the Commissioner for Australian Capital Territory Revenue Collections.

The Commissioner for Australian Capital Territory Revenue Collections appointed under the Taxation (Administration) Ordinance 1987 has general administration of the Ordinance.

Details of the Ordinance are as follows:

PART 1 - PRELIMINARY

Short title

Section 1 cites the short title of the Ordinance as the Stamp Duties and Taxes Ordinance 1987.

Commencement

Section 2 provides for the commencement of the Ordinance.

Incorporation of Taxation (Administration) Ordinance 1987

Section 3 provides that the proposed Taxation (Administration) Ordinance 1987 is incorporated into and shall be read as one with the Ordinance.

Interpretation

Section 4 deals with matters of interpretation.

Administration

Section 5 provides that the Commissioner for Australian Capital Territory Revenue Collections has the general administration of the Ordinance.

General exemptions from stamp duty or tax

Section 6 provides for a general exemption from stamp duty or tax for instruments of a prescribed class executed by a prescribed authority of the Commonwealth or the Territory and for instruments which are counterparts or copies of another instrument which has been duly stamped.

PART 11 - DUTY AND TAX STAMPS

Section 7 provides for the making of stamps for denoting payment of stamp duty and tax.

Cancellation of adhesive stamps

Section 8 makes provision for the use and cancellation of adhesive stamps. The penalty for failure to comply is a maximum fine of \$1,000.

Duly stamped instruments

Subsection 9(1) sets out the circumstances in which an instrument shall be taken to have been duly stamped.

Subsection 9(2) provides that where two or more instruments together but not separately relate to the same matter, each instrument contains a reference to the other instrument or instruments and one of the instruments is duly stamped, each instrument shall be taken to be duly stamped.

Cancellation of adhesive stamps

Section 10 provides that where the Commissioner is satisfied that an instrument has been duly stamped he or she may put an impressed stamp on a counterpart or copy of the instrument.

Stamping instruments if no duty or tax payable

Section 11 provides that if the Commissioner is satisfied that no stamp duty or tax is payable in relation to an instrument he or she may put an impressed stamp on the instrument or a copy of that instrument.

Lodging certain instruments for assessment

Section 12 provides that a person by whom stamp duty is payable in relation to an instrument may within 30 days of the execution of the instrument lodge it with the Commissioner for assessment of the amount of stamp duty payable, notwithstanding that the Ordinance does not require that instrument to be lodged for assessment.

Spoilt, defaced or removed stamps

Section 13 makes provision for dealing with situations where an adhesive stamp has been spoilt, defaced or removed from an instrument.

Fraudulent use of stamps

Subsection 14(1) provides that it is an offence to, with intent to defraud:

- . deface an adhesive stamp;
- . remove an adhesive stamp from an instrument;
- . take an adhesive stamp from an instrument in relation to which stamp duty is payable and put it on another such instrument;
or
- . impress on an instrument a stamp that is or resembles an impressed stamp.

Subsection 14(2) provides that it is an offence to, with intent to defraud, remove from an adhesive stamp any writing put on it in order to cancel it in accordance with subsection 8(1). The offence is punishable on conviction by a fine of \$5,000 or imprisonment for 12 months, or both.

Counterfeit stamps

Section 15 provides that it is an offence to make, sell, use or have in one's possession without lawful authority a device for making or printing adhesive stamps or for making impressed stamps or a counterfeited adhesive stamp knowing it to be counterfeit. Such stamps or devices are forfeited to the Commonwealth. The penalty is a fine of \$10,000 or imprisonment for 2 years, or both.

Illegal stamping

Section 16 makes it an offence to impress a stamp in an approved style on an instrument without lawful authority or to impress a stamp on an instrument in a style that resembles or purports to be an approved style. The penalty is a fine of \$10,000 or imprisonment for 2 years, or both.

PART 111 - CONVEYANCES

Conveyances subject to stamp duty

Section 17 provides that stamp duty is payable at the determined rate on:

- a transfer or an agreement for a transfer of freehold land;
- a Crown lease;
- a transfer or an agreement for a transfer of a Crown lease;
- a lease of land which is not a Crown lease; or
- the transfer or assignment, or an agreement for a transfer or assignment, of a lease of land which is not a Crown lease.

Exempt conveyances

Section 18 provides that stamp duty is not payable on a conveyance of the kind specified in Schedule 1.

Chattels included in conveyance of Crown lease

Subsection 19(1) provides that for the purpose of calculating the amount of stamp duty payable on a conveyance of a Crown lease of land which provides for the land to be used for residential purposes only:

- . the value of any chattels which are transferred or agreed to be transferred because of the conveyance, or the transfer or agreement to transfer which is, in the opinion of the Commissioner, reasonably capable of being regarded as being one transaction with the conveyance, shall be taken to be part of the value of the land; and
- . the value of any consideration given or agreed to be given for the transfer or hiring of any chattels where the agreement for transfer or hire is because of the conveyance or the transfer or hiring or agreement to transfer or hire is, in the opinion of the Commissioner, reasonably capable of being regarded as being one transaction with the conveyance, then the value of the chattels shall be taken to be part of the total value of consideration given in respect of the conveyance.

Subsection 19(2) defines certain terms used in this section.

Agreements treated as original instruments

Section 20 provides that an agreement for a lease or for a transfer or assignment of a lease or a piece of freehold land shall be treated as the original of the lease, transfer or assignment for the purposes of this Part of the Ordinance where a lease, assignment or transfer is subsequently made to give effect to that agreement.

Denotation of payment

Section 21 provides that the payment of stamp duty on a conveyance shall be denoted by an adhesive stamp or impressed stamp in the case of a conveyance required to be lodged for assessment and in any other case by an adhesive stamp.

Person liable to pay stamp duty

Section 22 provides that stamp duty payable on:

- . a transfer of freehold land or a lease of land, or an agreement for such a transfer;
- . an assignment of a lease of land, or an agreement for such an assignment; or
- . a lease of land;

is payable by the transferee, assignee or lessee respectively.

Conveyances to be lodged for assessment

Section 23 provides that certain transfers, assignments and leases shall be lodged with the Commissioner for assessment within 30 days after their execution. Those documents are:

- . a dutiable transfer of freehold land or of a Crown lease for a term of one year or more or an agreement for such a transfer;
- . a dutiable transfer or assignment of a lease of land for which the total amount of consideration given is more than \$500;
- . a dutiable agreement for the transfer or assignment of a lease of land where the total amount of consideration agreed to be given is more than \$500; or
- . a dutiable lease of land for which the only consideration is rent of more than \$1,500, for which the consideration is not only rent, or that is for a term of more than 3 years.

The section provides that the transferee, assignee or lessee respectively shall lodge the transfer, assignment or lease for assessment.

Conveyances to be stamped

Section 24 provides that as soon as practicable after the execution of the instruments giving effect to the transactions referred to in the preceding section they shall be stamped by the person required to lodge the instruments with an adhesive stamp.

Interpretation of term of lease

Section 25 provides for interpretation of the term of leases.

Rent increases by instrument

Section 26 provides that the consideration for a lease shall be, where the instrument provides for an increase in rent, considered to be equal to the amount of additional rent provided for the remaining term of the lease.

Refund if lease determined early

Subsection 27(1) provides for a refund of stamp duty paid on a lease granted for 2 years or more which has been determined before the end of the term. The refund available is the amount of the difference between the stamp duty actually paid and the stamp duty that would have been payable on a lease for the term for which it actually ran.

Subsection 27(2) provides that a refund is not payable unless a written application is lodged within 90 days after the lease being determined. The application must contain such information as is required to enable the amount of the refund to be calculated.

Refund if agreement not completed

Subsection 28(1) makes provision for the refund of stamp duty paid in respect of an agreement for a transfer of freehold land or of a lease or for the assignment of a lease when the agreement is found to be void, unenforceable, is rescinded or comes to an end and the Commissioner is satisfied that no transfer or assignment has been or can reasonably be made pursuant to the agreement. Special provision is made for the situation where a person has gone into possession of the land in reliance of the agreement before the agreement is rescinded or comes to an end.

Subsection 28(2) provides for a refund in the circumstances provided for in the preceding subsection where an amount is included by virtue of section 19, which deals with chattels included in the conveyance of Crown leases.

Subsection 28(3) provides that a refund is not payable if it would only have been payable as a result of something done in connection with a tax avoidance scheme.

Subsection 28(4) provides that an application in writing, for a refund must contain such information as is required to enable the amount of the refund to be determined and must be lodged either within 12 months after the person applying for the refund became aware of the fact that the agreement was void or unenforceable or, if the agreement is rescinded or comes to an end, within 12 months after that date.

Subsection 28(5) provides that if after a refund is given in respect of an agreement a transfer or assignment is made pursuant to the agreement, the agreement shall be treated as if no stamp duty had ever been paid on it.

Subsections 28(6) and (7) contain interpretation provisions.

Refund if Crown lease surrendered

Subsection 29(1) provides a formula for calculating a refund of stamp duty paid on a grant of a Crown lease where a lease is surrendered or determined and part or all of the amount paid for the grant of the lease is refunded.

Subsection 29(2) provides that no refund is payable unless the person concerned lodges a written application within 12 months after the refund of the purchase price is made providing such information as is required to enable the amount of the stamp duty refund to be calculated.

PART IV - INSURANCE PREMIUMS

Premiums subject to tax

Section 30 provides that tax is payable at a rate determined by the Minister on life insurance premiums and on general insurance premiums.

Exempt premiums

Section 31 provides that tax is not payable on a life insurance premium which relates solely to the life of a person who was domiciled outside the Territory at the time the insurance policy was taken out, or in respect of which tax or stamp duty has been paid under a law of a State or another Territory, or if the Commissioner is satisfied that such tax or stamp duty will be paid. The section also provides that tax is not payable on a general insurance premium of the kind specified in Schedule 2.

Registers

Section 32 provides that the Commissioner is to keep a Register of Life Insurers and a Register of General Insurers.

Registration of insurers

Subsection 33(1) provides that a person who carries on or intends to carry on business as a life insurer or a general insurer and who receives or will receive taxable premiums may apply to the Commissioner in writing for registration as a life insurer or a general insurer respectively.

Subsection 33(2) provides that on receiving the application the Commissioner shall register the applicant as a life insurer or general insurer in Registers kept for those purposes.

Subsection 33(3) provides that notice of the registration shall be given to the applicant.

Subsection 33(4) makes provision for the cancellation of the registration on the application of the insurer, on the death or bankruptcy of the insurer, or if the insurer is a company, on it being wound up.

Returns

Section 34 provides that registered insurers shall within 21 days after the end of each month lodge a return showing particulars of each taxable premium received during that month and pay the tax payable in respect of each premium. The section contains an extended definition of premium.

Recovery of tax by insurer

Section 35 provides that a registered insurer may recover the amount of tax payable on a premium from the person by whom the premium is payable.

Refunds

Section 36 provides for a refund of tax if a policy of general insurance has been surrendered or cancelled before the end of the term expressed in the policy and the insurer has refunded to the person who paid the premiums the amount of the premiums paid in respect of the period between the surrender or cancellation and the end of the term of the policy. Tax is refundable on a pro-rata basis.

Unregistered insurers

Subsection 37(1) provides that it is an offence to receive taxable premiums in the course of carrying on business as a life insurer or general insurer while not being registered as a life insurer or general insurer, respectively. The section contains a continuing offence provision punishable by a fine on conviction not exceeding \$50.

Subsection 37(2) provides that the preceding subsection does not affect the liability of an insurer under a policy issued by an insurer carrying on business whilst not registered.

PART V - MARKETABLE SECURITIES

Division 1 - Sales and purchases of marketable securities

Transactions subject to tax

Subsection 38(1) provides that tax is payable at the rate determined by the Minister on each sale and each purchase by a broker of a marketable security which is listed for quotation in the official list of an Australian stock exchange or prescribed stock exchange if the sale or purchase is on the broker's own behalf, or is made in accordance with an order to sell or purchase given to the broker by or on behalf of a person who is not a broker and who is not acting on behalf of a broker.

Subsection 38(2) provides that an order for sale or purchase given to an agent or an employee of a broker shall be taken to be an order for sale or purchase given to the broker.

Subsections 38(3) and (4) provide that a sale or purchase by a broker on his or her own behalf to or from a person who is not a broker, or acting on behalf of a broker, shall be taken to be both a sale and purchase for the purposes of the Ordinance.

Exempt transactions

Section 39 provides that tax is not payable on the sale or purchase of a marketable security of the kind specified in Schedule 3.

Records

Section 40 provides that as soon as practicable after a taxable sale or purchase by a broker of a marketable security, the broker is to make a record of the particulars of the sale or purchase showing the date of the transaction, the name of the person for whom the broker was acting, the name of the other broker involved if there was one, a full description of the marketable security and the amount of tax payable. The section provides for the situation where marketable securities are sold or purchased in a parcel. The section further provides that a broker shall retain such records for at least 3 years.

Broker's statement on instruments

Subsections 41(1) and (2) provide that a broker who makes a taxable sale or purchase or makes an exempt sale or purchase of a marketable security shall make a statement on the instrument of transfer to the effect that stamp duty, if payable, has been or will be paid. The broker is required to date that statement and to impress on the instrument a stamp expressed to be the broker's stamp. Such a statement is not to be made before recording the particulars of the sale or purchase in accordance with section 40.

Subsection 41(3) provides that a person shall not impress a broker's stamp on an instrument without lawful authority or impress a stamp resembling or purporting to be a broker's stamp on an instrument. The subsection provides for a fine of \$10,000.

Returns

Section 42 provides that a broker shall within 14 days after the end of each month lodge a return showing particulars of any taxable sales and purchases made during that month or stating that no such sales or purchases were made during that month and pay the tax payable in respect of those sales and purchases.

Recovery of tax by broker

Section 43 provides that a broker may recover the amount of tax payable on a sale or purchase from the seller or purchaser respectively.

Division 2 - Transfers of marketable securities

Transfers subject to stamp duty

Section 44 provides that stamp duty is payable at the rate determined by the Minister on the transfer of a marketable security which was, immediately before the transfer was executed, registered in a register kept in the Territory by a company or unit trust.

Transferee's liability to pay stamp duty

Section 45 provides that stamp duty on a dutiable transfer of a marketable security is payable by the transferee.

Exempt transfers

Section 46 provides that stamp duty is not payable on transfers of marketable securities of the kind specified in Schedule 4.

Stamping instruments of transfer

Subsection 47(1) provides that where there is a dutiable transfer of a marketable security which is listed for quotation in the official list of an Australian stock exchange or prescribed stock exchange the transferee shall have the instrument stamped within 30 days after it is executed, if the transfer is executed in the Territory, or within 30 days after it is received in the Territory, if it was executed outside the Territory.

Subsection 47(2) applies to a dutiable transfer of a marketable security which is not listed for quotation in the official list of an Australian stock exchange or prescribed stock exchange. The transferee shall lodge the instrument with the Commissioner for assessment within 30 days after it is executed, if the transfer is executed in the Territory, or within 30 days after the transfer is received in the Territory, if it was executed outside the Territory.

Denotation of payment

Section 48 provides that the payment of stamp duty on a transfer of a marketable security listed for quotation on the official list of an Australian stock exchange or prescribed stock exchange shall be denoted on the instrument by an impressed stamp or by an adhesive stamp and that the payment of stamp duty on any other kind of marketable security shall be denoted by an impressed stamp.

Partition of marketable securities

Section 49 provides that stamp duty on a dutiable transfer which was executed in order to divide a parcel of marketable securities is payable on an amount equal to the unencumbered value of the securities transferred less the unencumbered value of the beneficial interest held in the securities by the transferee immediately before the transfer was executed.

Division 3 - Registration of transfers of marketable securities

Registrations subject to duty

Section 50 provides that tax is payable at the rate determined by the Minister on the registration, by a company incorporated in the Territory or in respect of a unit trust established in the Territory, of a transfer of a marketable security which was immediately before the transfer was executed registered in a register kept outside the Territory by the company or unit trust.

Exempt registrations

Section 51 provides that tax is not payable on a registration of a marketable security of the kind specified in Schedule 5.

Returns

Section 52 provides that a company or unit trust shall lodge a return with the Commissioner within 21 days after the end of each month in which it effected a taxable registration of a marketable security showing particulars of each such taxable registration effected in that month and pay the tax payable in respect of each registration.

Credit for tax paid outside Territory

Subsection 53(1) provides that a company or unit trust is entitled to a credit of an amount equal to the amount of any tax or stamp duty paid or payable under the Ordinance on the transfer under a corresponding law of the place where the register in which the marketable security was registered immediately before the transfer was kept.

Subsection 53(2) provides that the amount of credit allowed shall not exceed the amount of tax payable.

Subsection 53(3) provides that a company or unit trust is not entitled to a credit unless it lodges a written application, containing such information as is required to enable the amount of credit to be calculated, within 12 months after the time when the tax under the Ordinance became due and payable.

Subsection 53(4) provides that where a company or unit trust is entitled to a credit, the credit shall first be applied against tax remaining unpaid on the registration of the transfer, then against any other tax liability of the company or unit trust, and finally any remaining credit shall be refunded to the company or unit trust.

Recovery of tax by company or unit trust

Section 54 provides that a company or unit trust may recover from the transferee the amount of the tax payable.

Partition of marketable securities

Section 55 provides that tax on a registration of a transfer which was executed in order to divide a parcel of marketable securities is payable on an amount equal to the unencumbered value of the securities transferred less the unencumbered value of the beneficial interest held in the securities by the transferee immediately before the transfer was executed.

Prerequisites for registration

Section 56 provides that a transfer of a marketable security shall not be registered in the books of the company or unit trust to which it relates unless the instrument of transfer carries a statement to the effect that any stamp duty payable has been or will be paid, or the instrument has been duly stamped, or has a stamp indicating that no stamp duty is payable, or tax payable under the Ordinance has been paid or the registration is exempt from tax under the Ordinance.

PART VI - REGISTRATION OF VEHICLES

Registration subject to tax

Section 57 provides that tax is payable at a rate determined by the Minister on the registration of a vehicle under the Motor Traffic Ordinance 1936. It is payable by the person in whose name the vehicle is to be registered unless the vehicle has previously been registered under that Ordinance or a corresponding law and the last previous registration was in the name of that person.

Exempt registrations

Section 58 provides that tax is not payable on the registration of a vehicle solely in the name of a person of the kind specified in Schedule 6.

Further exemptions - successors of deceased persons

Section 59 provides for exemption from tax where a vehicle was owned by more than one person and one of the owners dies or where a vehicle owned by a person passes on the person's death to another person.

Further exemptions - hire purchases and leases

Section 60 provides that tax is not payable in respect of the registration of a vehicle into the name of the owner of the vehicle where the last previous registration was in the name of a hirer or lessee of the vehicle and the owner has regained possession of it by way of repossession or voluntary return under the hire purchase or lease agreement.

Prerequisites for registration

Section 61 provides that notwithstanding anything in the Motor Traffic Ordinance 1936 the Registrar of Motor Vehicles shall not register a vehicle unless:

- the Registrar is satisfied that the registration is exempt from tax because of previous registration in the name of the person seeking the registration;
- the application for registration is accompanied by a certificate of exemption issued under section 62 of the Ordinance;
- the registration is solely in the name of a person who certifies in writing that he or she is carrying on a business as a licensed dealer in motor vehicles and the vehicle is held as trading stock in the course of carrying on that business; or
- the applicant for registration tenders the amount of tax payable in respect of the registration and provides a statement in writing containing the amount which he or she believes to the best of his or her knowledge to be the market value of the vehicle, the purchase price of the vehicle and, if the stated market price differs from the purchase price, the reason for any difference between the two amounts.

Certificates of exemption

Section 62 provides that the Commissioner may issue a certificate of exemption from tax if he or she is satisfied that the registration of the vehicle in the name of the applicant is exempt from tax under sections 58, 59 or 60 or by virtue of the Diplomatic Privileges and Immunities Act 1967. The Commissioner shall give the applicant written notice of his or her decision in respect of the application.

Registrar's returns

Section 63 provides that the Registrar of Motor Vehicles shall, as soon as practicable after the end of each month, give to the Commissioner particulars of all certificates given, statements made and information given for the purposes of section 61 during that month.

Certificates as evidence

Section 64 provides that a certificate of the Registrar of Motor Vehicles to the effect that a specified vehicle was or was not registered in the name of a specified person on a particular date is evidence of those matters and the facts on which they are based.

Section 65 provides for a right of appeal to the Administrative Appeals Tribunal against a decision of the Commissioner refusing to issue a certificate of exemption from tax under this Part.

Section 66 provides that notification of a decision pursuant to section 62 shall include details of a person's appeal rights. However, the validity of a decision shall not be affected by a failure to comply with the requirements of this subsection.

PART VII - MISCELLANEOUS

Section 67 provides that the Minister may make regulations not inconsistent with the Ordinance.

Schedule 1

EXEMPT CONVEYANCES

Schedule 1 provides that the following conveyances are exempt:

- . a conveyance to the Commonwealth;
- . a conveyance by which an estate or an interest in land is transferred by way of mortgage, where the instrument of mortgage has been duly stamped, by way of discharge of mortgage; or consequent on the death, bankruptcy or insolvency of the holder of the estate or interest;
- . a conveyance of land on a sale by the Defence Service Homes Corporation under the Defence Service Homes Act 1918;
- . a conveyance in accordance with an order of a court under the Family Law Act 1975 or the Married Persons' Property Ordinance 1986;

- . a conveyance to, or to trustees on trust for, a charitable organisation, a hospital which is a recognised hospital under the Health Insurance Act 1973, or a school that is registered under the Education Ordinance 1937;
- . a conveyance which is a transfer or assignment of freehold land or a lease of land which is held on trust, where the transfer or assignment is made because of the appointment or retirement of a trustee or another change in the trustees and is not made in connection with a tax avoidance scheme;
- . a conveyance which is a transfer or assignment of a lease of land or a transfer of freehold land where the transfer or assignment is from a trustee to a person who contributed the purchase money for the conveyance to the trustee and is not made in connection with a tax avoidance scheme;
- . a conveyance of land held on trust where the conveyance is made by the trustee to a beneficiary of the trust (otherwise than for valuable consideration), any stamp duty on the conveyance of the land to the trustee has been paid and the conveyance is not made in connection with a tax avoidance scheme;
- . a conveyance of a Crown lease to a non-commercial Commonwealth authority;
- . a conveyance of a Crown lease granted to the lessee of a previous Crown lease because of the surrender of the previous Crown lease where the surrender was in connection with changing the purpose for which the land could be used, reducing the rent to 5 cents or less per year, granting a single lease of land which had previously been leased under that lease and other surrendered leases, granting separate leases in respect of separate parts of land to which previous Crown leases related, changing a covenant requiring the carrying out of works on or around the land to which the Crown lease relates, granting a lease for a longer term or correcting errors or omissions;
- . a conveyance of a Crown lease granted under the Australian Capital Territory Rental Housing Scheme; or
- . a conveyance which is a transfer or assignment or agreement for a transfer or assignment of a lease by or in the name of the Commonwealth.

Schedule 2

EXEMPT GENERAL INSURANCE PREMIUMS

Schedule 2 provides that the following general insurance premiums are exempt:

- third party insurance premiums;
- a premium in respect of workers compensation insurance under a law of the Territory;
- a premium in respect of the provision of benefits by a friendly society or trade union for its members or their dependants;
- a premium in respect of a scheme or arrangement for the provision of medical, hospital, provident, funeral, superannuation or retirement benefits for members of a fund or their dependants;
- a premium in respect of insurance by or on the property of a prescribed authority of the Commonwealth or of a State or Territory; or
- a premium in respect of insurance on the property of or property held in trust for, a charitable organisation, a hospital that is a recognised hospital under the Health Insurance Act 1973, or a school that is registered under the Education Ordinance 1937.

Schedule 3

EXEMPT SALES AND PURCHASES OF MARKETABLE SECURITIES

Schedule 3 provides that the following sales and purchases of marketable securities are exempt:

- a sale or purchase for consideration of less than the unencumbered value of the security;
- a sale or purchase of a marketable security issued by a municipal council or other local government body or by a public authority constituted under a law of the Commonwealth or a State or Territory;
- a sale or purchase by a prescribed authority of the Commonwealth or a Territory;
- a sale or purchase by, or by a trustee on trust for, a charitable organisation, hospital that is a recognised hospital under the Health Insurance Act 1973, or a school which is registered under the Education Ordinance 1937; or

- a sale or purchase by a broker on his or her own behalf of a security previously purchased or sold by the broker on the day of the sale or purchase or within 2 days before that day.

Schedule 4

EXEMPT TRANSFERS OF MARKETABLE SECURITIES

Schedule 4 provides that a transfer of a marketable security is exempt in the following cases:

- if the instrument of transfer carries a statement in respect of the sale and purchase of the marketable security to the effect that any stamp duty payable on the transfer has been or will be paid;
- the transfer of a marketable security issued by a municipal council or other local government body or by a public authority constituted under a law of the Territory or of the Commonwealth or a State or another Territory;
- the transfer to, or to trustees upon trust for, a charitable organisation, a hospital that is a recognised hospital under the Health Insurance Act 1973, or a school that is registered under the Education Ordinance 1937;
- a transfer of a marketable security held on trust where the transfer was made as a result of a change in the trustees and is not made in connection with a tax avoidance scheme;
- a transfer of a marketable security from an executor of a deceased person's will or administrator of a deceased person's estate to another executor or administrator;
- a transfer to a beneficiary entitled to the marketable security under a will or to a person entitled to the marketable security under an intestacy;
- a transfer from a trustee to a person who contributed the purchase money for the transfer by which the trustee acquired the marketable security, where tax on the first transfer has been paid or the instrument of transfer carries a statement that stamp duty on the sale or purchase has been paid or will be paid, or that no tax is payable in respect of the first transfer or the trustee acquired the marketable security on its first issue connection with the a tax avoidance scheme and the transfer is not made in;
- a transfer to a trustee to be held solely in trust for the transferrer without a change in the beneficial ownership and a transfer by way of re-transfer to the transferrer where the transfer is not made in connection with a tax avoidance scheme;

- a transfer made solely for the purpose of qualifying the transferee as the director of a company to act and vote as directed on behalf of another company, or re-transferring the marketable security from that director to the other company, where the other company controls the appointment or removal of a majority of the board of directors or controls more than half of the voting power or beneficially owns more than half the paid up capital of the first mentioned company;
- a transfer made solely for the purpose of rectifying a clerical error in an instrument of transfer;
- a transfer made solely by way of security or by way of re-transfer to a person from another person who held the marketable security by way of security; or
- by a broker to a person who is not a broker when that person had, in order to enable the broker to fulfil a contract to sell marketable securities in the ordinary course of business as a broker, transferred a marketable security of the same description to the broker on an undertaking by the broker to subsequently transfer a marketable security of the same description to that person.

Schedule 5

EXEMPT REGISTRATIONS OF TRANSFER OF MARKETABLE SECURITIES

Schedule 5 provides that registration of a transfer of a marketable security is exempt in all of the circumstances described in Schedule 4, or where it is a transfer of a kind prescribed for the purposes of the Schedule.

Schedule 6

EXEMPT REGISTRATIONS OF VEHICLES

Registration of a vehicle solely in the name or names of a person or persons of a following kind:

- a charitable organisation, a hospital that is a recognised hospital under the Health Insurance Act 1973, or a school that is registered under the Education Ordinance 1937, or a person taking registration on behalf of, or as a trustee for, one of those bodies;
- a person who as result of service in the Defence Force or other armed forces of Her Majesty has lost a leg or both arms or has a leg or both arms which are wholly useless, or who is in receipt of a pension under the Veterans' Entitlements Act 1986 in respect of similar disabilities where the vehicle is used for that person's own transportation;

- a person who has lost the use of one or both legs to such an extent that he or she is permanently unable to use public transport where the vehicle is for use in transporting that person to and from gainful employment; or
- a person carrying on a business as a licensed dealer of motor vehicles where the vehicle is held by the person as trading stock for resale in the course of carrying on that business.

Ord. 36/87