

2010

**The Legislative Assembly for
Australian Capital Territory**

Revenue Legislation Amendment Bill 2010

Explanatory Statement

**Circulated by authority of
Treasurer
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Revenue Legislation Amendment Bill 2010

Summary

This Bill amends the *Duties Act 1999*, the *Rates Act 2004* and the *Payroll Tax Act 1987*.

Overview

The *Duties Act 1999* is amended to exempt from duty the transfer of dutiable property to a Special Disability Trust in circumstances only where the subject property of the transaction will be the principal place of residence of the beneficiary of the trust.

The *Social Security Act 1991 (C'wlth)* Part 3.18A provides details of the specific requirements that need to be complied with in order for a Special Disability Trust to be established and maintained.

Section 1209L of the *Social Security Act 1991 (C'wlth)* lists the following requirements:

- a. The beneficiary requirements (see section 1209M);
- b. The trust purpose requirements (see section 1209N);
- c. The trust deed requirements (see section 1209P);
- d. The trustee requirements (see section 1209Q);
- e. The trust property requirements (see section 1209R);
- f. The reporting requirements (see section 1209S);
- g. The audit requirements (see section 1209T).

Note: The [Social Security Act 1991 \(C'wlth\)](#) has specific trust property requirements that the trust must not be used to purchase property from a family member even if the property is to be used for the beneficiary's accommodation.

The *Rates Act 2004* is amended to define an eligible person as a special disability trust. The amendments to the *Rates Act 2004* will allow a trustee of a special disability trust to apply to the Commissioner for a rebate and deferral of rates as the owner of the property held in trust for a beneficiary of a special disability trust.

The *Payroll Tax Act 1987* is amended to provide an exemption from payroll tax on wages paid or payable to an employee who takes part in emergency service activities as a volunteer member, or casual volunteer of the rural fire service, the SES, a community fire unit, or as a casual volunteer generally.

Volunteers appointed as 'casual volunteers' include but are not limited to CAD mappers.

Commencement Date

The Bill's amendments will be effective from the day after its notification.



Details of the Revenue Legislation Amendment Act 2010

Part 1 Preliminary

Clause 1 – Name of Act

This clause provides that the Act is named the *Revenue Legislation Amendment Act 2010*.

Clause 2 – Commencement

This clause provides that the Act will commence on the day after it is notified on the ACT Legislation Register.

Part 2 Duties Act 1999

Clause 3 – Legislation amended – pt 2

This clause provides that this part of the Act makes amendments to the *Duties Act 1999*.

Clause 4 – New Section 73B

This clause inserts a new section that will allow the transfer or grant of dutiable property to a special disability trust to be exempt from duty, if the commissioner is satisfied that the property is the principal place of residence of the beneficiary of the trust.

A definition of special disability trust has been added and makes reference to the *Social Security Act 1991* (C'wlth) section 1209L.

Part 3 Payroll Tax Act 1987

Clause 5 – Exempt wages – New Section 2F (1) (aa)

This clause inserts a new section to exempt wages that are paid or payable in relation to volunteer members of the Rural Fire Service, State Emergency Service (SES), community fire units, casual volunteers or emergency services support volunteer under the *Emergencies Act 2004*.

Clause 6 – Section 2F (2) and note

This clause substitutes the current subsection 2 and provides that the wages mentioned in (1) (aa) that are paid or payable as annual leave, long service leave or sick leave will still be liable for payroll tax.

Clause 7 – Dictionary, note 2, new dot points

This clause inserts 2 new dot points that are defined in the dictionary of the *Legislation Act 2001*.

Part 4 Rates Act 2004

Clause 8 – Legislation amended – pt 2

This clause provides that this part of the Act makes amendments to the *Rates Act 2004*.

Clause 9 – Definitions for pt 7

Section 45, definition of eligible person, new paragraph (d)

Special disability trust has been added to the definition of eligible person.

Clause 10 – Section 45, definition of owner, new subparagraph (a) (ia)

A new definition has been added to include a special disability trust as an owner of a parcel of land that is held in trust for the beneficiary of a special disability trust.

Clause 11 – Section 45, new definition of special disability trust

This clause inserts into the definitions the term ‘special disability trust’. It refers to the *Social Security Act 1991* which is a Commonwealth Act.

Clause 12 – Determination for deferral of rates on application

New section 46 (2) (aa)

This clause inserts a new definition to allow a special disability trust to apply to the commissioner for a deferral of rates as the owner of a parcel of land.

Clause 13 – New section 46 (8)

This clause inserts a new section that if an application for a deferral of rates is made by a special disability trust then the applicant is taken to be the beneficiary of the trust.

Clause 14 – Determination for deferral of rates without application

New section 47 (4A)

This is a new section that states the reference to the owner in section 47 4 (b) is a reference to the beneficiary of the trust. It also states that a reference to the owner in subsection (4) (b) (ii) is taken to be a reference to the trust.

Clause 15 – Rebate of rates - capped

Section 64 (4A)

This is a new section that states if the person applying for a rebate of rates is a special disability trust, section 64 (2) (b) will be satisfied if the parcel of land is the trust beneficiary’s principal place of residence.

Clause 16 – Change in circumstances

New section 67 (1A)

This is a new section which provides certain changes in circumstances which would require notifying the commissioner. The commissioner must be notified within 30 days after the trust stops being the owner of the principal place of residence of the trust beneficiary, or if the beneficiary’s principal place of residence changes.

