

**2021**

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

**REVENUE LEGISLATION AMENDMENT BILL 2021**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004, s 37*)**

**Presented by  
Andrew Barr MLA  
Treasurer**

# REVENUE LEGISLATION AMENDMENT BILL 2021

The Bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

## OVERVIEW OF THE BILL

The Revenue Legislation Amendment Bill 2021 ('the Bill') is part of an ongoing series of bills to promote the effective and efficient administration and operation of the ACT tax system. Specifically, the Bill amends the following taxation legislation:

- *Duties Act 1999* (Duties Act);
- *Land Tax Act 2004* (Land Tax Act);
- *Land Titles (Unit Titles) Act 1970* (Unit Titles Act);
- *Payroll Tax Act 2011* (Payroll Tax Act);
- *Planning and Development Act 2007* (P&D Act);
- *Rates Act 2004* (Rates Act);
- *Taxation Administration Act 1999* (Taxation Administration Act); and
- *Taxation Administration Regulation 2004* (Taxation Administration Regulation).

The amendments in the Bill make provision for:

- the removal of the current expiry date of 30 June 2021 for the affordable community housing land tax exemption;
- conveyance duty concessions for pensioners who have a disability purchasing residential shares in not-for-profit supportive housing properties;
- the application of penalty tax provisions under the Taxation Administration Act to overdue and unpaid rates on land owned by corporations and trusts;
- a number of minor and technical amendments to clarify and simplify tax administration, including:
  - rectifying an error in drafting that applies duty to acquisitions of interests in short- and long-term commercial leases;
  - clarifying when duty must be paid on the acquisition of an option over dutiable property;
  - excluding corporations and trustees from exemptions on land tax involving an owner's principal place of residence consistent with the longstanding application of land tax to holdings of land by trusts;
  - requiring the payment of any deferred Lease Variation Charges (LVC) prior to registering a unit plan to support compliance;

- aligning payroll tax annual reconciliation requirements with New South Wales;
- changing the annual requirement to provide valuation advice to the Treasurer for codified LVC determinations to a three-year requirement;
- making clear that a notice of assessment reflects the LVC tax liability of the lessee, and that an obligation to pay that liability arises when a variation of a Crown lease is executed;
- aligning reporting requirements for the Commissioner to provide information on Airport rates with processes for rates in general;
- clarifying application requirements for the operation of provisions allowing for a parcel of mixed-use land for development to have rating factors applied based on the intended proportion of residential and commercial development;
- allowing the Minister to determine an alternate time period for property owners to lodge objections for valuations, consequential to actions to improve transparency of valuation processes;
- including land rent charges under ‘honest purchaser’ liability protections where a Certificate of tax and other charges is provided to a purchaser;
- improving the operation of debt recovery provisions relating to charges over land for tax debts by clarifying the separate operation of certain provisions, and confirming the creation of a statutory charge on ‘other’ land; and
- updating and facilitating permitted disclosures under secrecy provisions for entities to uphold the integrity of the tax system and to uphold the integrity of law enforcement.

## Duties Act

### *Duty concession*

This Bill amends the Duties Act to provide conveyance duty concessions to pensioners who have a disability purchasing residential shares in not-for-profit supportive housing properties.

This ensures that a person with a disability who would have been exempt from duty if acquiring a property directly, is not subject to duty (under part 3.4 of Duties Act) through indirect acquisitions of interests (for example, using company title) in supportive housing.

### *Short- and long-term leases*

The Bill amends the Duties Act to rectify an error in drafting that applies duty to acquisitions of interests in short- and long-term commercial leases. Amendments made in conjunction with the *Duties (Commercial Leases) Amendment Act 2014* were to remove the short- and long-term commercial leases and subleases (separate to commercial leases with premium) from the application of duty.

### *Duty payable on options*

The Bill amends the Duties Act to state a 90-day period within which duty must be paid for the acquisition of an option to purchase land in the ACT, a Crown lease or declared sublease. The prescribed period is consistent with that for dutiable transactions involving declarations of trust and grants of commercial leases with premium.

### Land Tax Act

#### *Affordable community housing*

This Bill amends the Land Tax Act by omitting the time limit of 30 June 2021 for affordable community housing land tax exemption (section 13A). This amendment implements (in part) Item 1 (viii), B. More and better Housing Options for all Canberrans of the Parliamentary and Governing Agreement for the 10th Legislative Assembly to provide for the ongoing operation of the exemption.

#### *Exemptions – exclusion of corporations and trusts*

The Bill amends exemptions from land tax, to exclude corporations and trusts in line with longstanding policy intent. Prior to the *Land Tax Amendment Act 2018*, there was an explicit application of land tax to residential land owned by a corporation or trustee (then section 9 (1) (b)).

While some current exemptions already exclude corporations and trusts, other exemptions under the Land Tax Act were thought to provide conditions that corporations or trusts could not satisfy – in particular, exemptions involving an owner being principally resident. Recent matters before the ACT Revenue Office have demonstrated a need to reaffirm the application of land tax on residential property owned by corporations or trusts on a number of exemptions.

### Unit Titles Act

This Bill amends the Unit Titles Act to require deferred LVC under the P&D Act to be paid as a prerequisite to registering a units plan via amendments to the Unit Titles Act.

### Payroll Tax Act

This Bill amends the Payroll Tax Act to extend the period for providing annual reconciliations from 21 days to 28 days, in support of payroll tax harmonisation with New South Wales.

## P&D Act

### *LVC annual update*

This Bill amends the P&D Act to amend the annual requirement to provide valuation advice to the Treasurer before making a codified LVC determination to a three-year requirement. This amendment provides scope for greater flexibility in administration.

### *Creation of a tax liability*

This Bill amends the P&D Act to ensure that the notice of assessment reflects the tax liability of the lessee for LVC, and that an obligation to pay that liability arises if a variation of Crown lease is executed. This amendment will ensure that LVC deferral arrangements can operate effectively.

## Rates Act

### *Penalty tax*

The Bill amends the Rates Act to provide that the Commissioner for ACT Revenue may apply the penalty tax provisions under division 5.2 of the Taxation Administration Act to unpaid overdue rates on land owned by a corporation or trust where appropriate. This amendment will support the integrity of tax administration.

It is expected that the ability to apply penalty tax will promote a change in taxpayer behaviour and encourage payment of overdue and unpaid rates amounts without necessarily requiring the imposition of the penalty. For other taxes, such as land tax, penalty tax under the Taxation Administration Act applies automatically with the occurrence of a tax default.

### *Airport information*

This Bill amends the Rates Act to change the time for the Commissioner for ACT Revenue to provide the Canberra Airport information to facilitate the calculation of the 'growth index' used in calculating the Airport's rates. By changing the timeframe to 31 July each year, it aligns with that for the determination of unimproved values for rateable land and rates more generally.

In addition, the Rates Act is amended so that information to be provided to the Canberra Airport is on the calculation of the growth index rather than limited to a component of the calculation.

### *Objections*

In response to the ACT Ombudsman Report, *Investigation into the transparency of commercial land valuation decisions in the ACT* (August 2020), the ACT Revenue Office is considering actions to provide further information on valuations of land (unimproved value) prior to objection processes. To support this effort this Bill amends the strict 60-day period for lodgement of valuation objections to allow for the Minister to determine alternate time periods. This will enable the recognition of the time required to receive any additional information.

### *Unit subdivision*

This Bill provides for two technical amendments to part 5, division 5.2 of the Rates Act. Firstly, it clarifies that the intended period for starting development is two years and, second, that a requirement to provide a copy of a Development Application (DA) does not apply to a parcel of land where a DA has not been given.

### Taxation Administration Act

#### *Certificate of tax and honest purchasers*

This Bill amends the Taxation Administration Act to include Land Rent Act charges under honest purchaser protections. This ensures that land rent charges do not have effect against a purchaser who obtained a certificate of charges at the time of purchase and was not notified of a liability.

#### *Debt recovery*

This Bill amends the Taxation Administration Act to clarify that certain debt recovery provisions (sections 56H and 56L), while both relate to charges over land for tax debts, operate separately.

Section 56L is also amended to distinguish the creation of a statutory charge from the registration of that charge under the Land Titles Act.

#### *Secrecy*

This Bill updates the Taxation Administration Act to include additional entities under the permitted disclosure arrangements to uphold the integrity of the tax system, law enforcement and other regulatory arrangements.

A further amendment allows for related disclosures as necessary to perform the function for which the initial disclosure is permitted. This operates separately from the existing section 98 of the Taxation Administration Act, which provides for secondary disclosures for other legitimate purposes for the enforcement of a law or protection of the public revenue.

## **CONSULTATION ON THE PROPOSED APPROACH**

Amendments for the ongoing operation of land tax exemption for affordable community housing and conveyance duty concession for supportive housing are the result of consultation with or representation from relevant stakeholders.

Amendments to the Payroll Tax Act follow the *Review of Payroll Tax Administration in New South Wales* (2018).

## **CONSISTENCY WITH HUMAN RIGHTS**

The Bill engages and limits the right to privacy and reputation under section 12 of the *Human Rights Act 2004* (HRA).

## **Rights engaged**

Section 12 of the HRA provides that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily and not to have his or her reputation unlawfully attacked. The proposed amendment to the secrecy provisions under division 9.4 of the Taxation Administration Act permits disclosure of taxpayer information to third parties. As taxpayer information is personal information, such disclosure engages the right of privacy under section 12.

## ***Rights Limited***

### **1. *Nature of the right and the limitation (s28(a) and (c))***

The key principle of the secrecy provisions under division 9.4 of the Taxation Administration Act is to limit the disclosure of taxpayer information to circumstances where the benefits of the disclosure would outweigh the interference with a person's privacy, for example to uphold the integrity of the taxation system and to uphold the integrity of law enforcement.

Clause 1.43, amending section 97 of the Taxation Administration Act, engages and limits the right to privacy. This clause updates the permitted disclosure arrangements under section 97 to include prescribed targeted agencies. Under the updated arrangements, taxation officers may disclose taxpayer information to prescribed targeted agencies for specified purposes, such as to uphold the integrity of the tax system and to uphold the integrity of law enforcement.

Clause 1.44 inserts section 97 (2) to extend the operation of permitted disclosures under new section 97 (1) (e) to persons relevant and necessary to undertake the function intended by the disclosure to the person prescribed under section 97 (1) (e) – 'the function measure'. This is in addition to both the existing section 97 (1) (e) which provides for the sub-authorisation of persons by persons who are authorised to receive permitted disclosures.

Section 98 of the Taxation Administration Act, which provides for secondary disclosures for other legitimate purposes for the enforcement of a law or protection of the public revenue continues to operate separately from the sub-authorisation processes under section 97.

### **2. *Legitimate purpose (s28(b))***

The purpose of the amendments is to limit disclosures of taxpayer information to prescribed targeted agencies in specified circumstances. With each prescribed targeted agency, the purpose of the permitted disclosure is detailed. The purpose varies from upholding the integrity of the tax system to upholding the integrity of law enforcement, thus ensuring the safety of the ACT community.

The updated permitted disclosure arrangements align with current enforcement activity within the ACT and disclosures under the Tax Administration Acts of the Commonwealth and other jurisdictions.

The disclosures allow taxpayer information to be disclosed where such disclosure is deemed necessary for specified purposes for public benefit (for example, upholding the integrity of the tax system, upholding the integrity of law enforcement and regulatory functions of agencies). This ensures that disclosures of taxpayer information are only permitted in limited circumstances where the public benefit derived from the disclosures outweighs the taxpayer's privacy. In relevant circumstances, the type of information that may be disclosed is also prescribed to further limit permitted disclosures (for example, information related only to property ownership may be provided).

The function measure under section 97 (2) facilitates the effective operation of the permitted disclosure provision to uphold the integrity of a prescribed agency to enable them to exercise relevant functions. Section 97 provides for authorised persons to sub-authorise others to receive permitted disclosures. This approach may not always be able to be applied and maintained in a manner that supports the timely disclosure of information. In the absence of specific sub-authorisation, disclosures of information have, in prior instances, been performed via subpoena rather than under the operation of section 97 (including for law enforcement purposes) resulting in delays and additional administration.

The new section 97 (2) is included to facilitate the operation of section 97 (1) (e), by allowing for permitted disclosures to secondary recipients where they are performing the function of the entity.

Section 184A of the *Legislation Act 2001* clarifies that a reference in a law to an entity "includes a reference to the person exercising a function of the entity, whether under a delegation, sub-delegation or otherwise". However, section 97 (1) (e) of the Taxation Administration Act specifically provides for permitted disclosure to the persons listed in that subsection or to a person authorised to receive the information by those persons. This means authorisation is required where a listed person needs to pass the information on to another to perform the function.

The new section 97 (2) will allow for a tax officer to undertake a permitted disclosure of information to person (the secondary recipient) by virtue of the secondary recipient undertaking the function of the first recipient. This compares to the current section 97 (1) (e) which requires a sub-authorisation of the permitted disclosure to the secondary recipient in addition to the delegation of the function.



Section 97 (2) also differs from section 98. The former limits the permitted disclosure to secondary recipients who undertake the function for or on behalf of the first recipient, while section 98 may allow for secondary disclosure for purposes that differ from the original with the consent of the commissioner or for enforcement of a law or protecting the public revenue.

### **3. *Rational connection between the limitation and the purpose (s28(d))***

The permitted disclosure arrangements are only to be used in circumstances where the benefit associated with the disclosure outweighs the need for taxpayer privacy.

Being able to disclose taxpayer information is necessary for the effective operation of regulatory and law enforcement agencies and to achieve the overarching purpose of upholding the integrity of the tax system and that of law enforcement. Without those provisions, these agencies may either not be able to access information relevant to the performance of their function or may need to spend a significant amount of time and resources to gain access to relevant information. This may have negative implications for the outcome of a range of regulatory and legal matters and may jeopardise the integrity of the agencies' activities and, more broadly, the tax system.

### **4. *Proportionality (s28 (e))***

Limiting taxpayer's right to privacy under the permitted disclosure arrangements is considered to be reasonable and proportionate, as this right is only to be limited for specified purposes, in circumstances where the benefit derived from the disclosures outweighs the taxpayer's privacy, for example, where disclosure of taxpayer information is required for criminal investigation by law enforcement or intelligence agencies, or for the performance of government services so as to uphold the integrity of the tax system and the integrity of law enforcement. An assessment has been made as to whether there is any less restrictive means available to achieve the purposes of the Act, such as: voluntary disclosure of information and agencies directly approaching individuals for information. Arrangements to prescribe permitted disclosures support the integrity of the tax system and that of law enforcement, as parties may not be incentivised to voluntarily disclose matters. The permitted disclosure arrangements provide a consistent and effective means to allow disclosure of taxpayer information in particular, to facilitate investigations into offences.

In the absence of any prescribed permitted disclosures, the secrecy provisions under the Taxation Administration Act, division 9.4 prohibit the disclosure of information about an individual taxpayer's affairs. Failure to respect confidentiality

may result in maximum penalties of 50 penalty units and/or imprisonment for 6 months, as outlined in section 95 of the Taxation Administration Act.

Section 98 further prohibits secondary disclosure of taxpayer information by imposing criminal penalty, maximum of 50 penalty units and/or imprisonment for 6 months, unless the disclosure is made with the consent of the commissioner or so as to enable the person to exercise a function given to the person by law for the enforcement of a law or protection of the public revenue.

The penalties would be applicable where a disclosure is made to a person who is not authorised to receive information (that is, not a permitted disclosure), where information is used for a purpose other than that specified, or if information is provided to person in an agency who was not required to perform the function for a permitted disclosure.

The current practice within the ACT Revenue Office provides additional safeguards for taxpayer information and privacy. Taxation officers are required to sign a form to acknowledge their understanding of the strict obligations imposed under the Taxation Administration Act in respect of confidentiality. They are aware that serious sanctions are imposed for breaches of these obligations (for example, penalties and/or imprisonment under sections 95 and 98). Tax officers are also required to attend mandatory training in handling taxpayer information. Where in doubt of the scope of disclosure, they must contact the information officer for further advice. As such, it is unlikely that tax officers would misuse their powers to disclose taxpayer information beyond the restricted scope and purposes.

Where permitted disclosures are made, the ACT Revenue Office advises parties of their obligation to maintain taxpayer secrecy and penalties for not doing so. As such, the impact on taxpayer's privacy is limited.

## Revenue Legislation Amendment Bill 2021

### *Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Revenue Legislation Amendment Bill 2021**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA  
Attorney-General

## CLAUSE NOTES

### Clause 1 Name of Act

This clause provides the name of the Act as the *Revenue Legislation Amendment Act 2021*.

### Clause 2 Commencement

This clause provides the Act commences:

- after the day of notification – other than schedule 1, amendment 1.11; and
- the earlier of the day after notification or 30 June 2021 – for schedule 1, amendment 1.11.

Amendment 1.11 to section 13A (7) of the *Land Tax Act 2004* (Land Tax Act) will commence on 30 June 2021. This provision may apply retrospectively if the Bill becomes effective after this date. In that case the retrospective effect is necessary to remove the expiry date of 30 June 2021 from the Land Tax Act before it takes effect, to allow for the ongoing operation of the affordable community housing land tax exemption.

The retrospective application will not operate to the disadvantage of a person by adversely affecting the person's rights, or imposing liabilities on the person. Rather, the amendment extends the operation of the land tax exemption is available to eligible property owners who rent their properties through a registered community housing provider for affordable community housing purposes.

### Clause 3 Legislation amended—sch 1

This clause provides the Act amends the legislation mentioned in schedule 1.

- *Duties Act 1999* (Duties Act);
- Land Tax Act;
- *Land Titles (Unit Titles) Act 2007* (Unit Titles Act);
- *Payroll Tax Act 2011* (Payroll Tax Act);
- *Planning and Development Act 2007* (Planning and Development Act);
- *Rates Act 2004* (Rates Act);
- *Taxation Administration Act 1999* (Taxation Administration Act); and
- *Taxation Administration Regulation 2004* (Taxation Administration Regulation).

## **Schedule 1 Legislation amended**

### **Part 1.1 Duties Act 1999**

#### **Clause 1.1 Section 10 (1) (i)**

This clause amends section 10 (1) (i) of the Duties Act to clarify that commercial leases and subleases (other than commercial lease with a premium) are excluded from application of duty.

#### **Clause 1.2 Table 16, item 1, column 2**

#### **Clause 1.3 Table 16, new item 1A**

These clauses amend Table 16 to specify the period within which duty must be paid for the purchase of an option over dutiable property – that is, 90 days.

#### **Clause 1.4 Section 73B (2)**

#### **Clause 1.5 New section 109**

#### **Clause 1.6 Dictionary, new definition of *special disability trust***

These clauses amend the Duties Act to provide a duty exemption for pensioners with a disability or a special disability trust acquiring a land use entitlement by an allotment of shares or an issue of units.

Under the new section 109 in part 3.4 of the Duties Act, the land use entitlement must be in a corporation or trust that is a charitable organisation and a not-for-profit housing corporation. The purpose of the land use entitlement must also be for supportive housing. Supportive housing is defined under new section 109 (5) to be premises for residential accommodation for people with physical or intellectual disability (excluding retirement villages or student accommodation).

Sections 109 (3) and (4) provides for the Minister to determine via disallowable instrument any further eligibility criteria, including the purpose of the land use entitlement, for pensioners with a disability to obtain the exemption.

Consequential amendments are made under clauses 1.4 and 1.6, with the definition of special disability trust now provided in the Dictionary to the Act.

### **Part 1.2 Land Tax Act 2004**

#### **Clause 1.7 Section 11A (1)**

#### **Clause 1.8 Section 11B (1)**

#### **Clause 1.9 Section 11C (1)**

#### **Clause 1.10 Sections 11CA (1) and 11D (1) (a)**

These clauses amend exemptions under the Land Tax Act which involve an owner being principally resident to exclude their operation where the land is owned by a corporation or a trustee.

### **Clause 1.11 Section 13A (7)**

This clause removes the expiry date of 30 June 2021 to allow for the ongoing operation of the affordable community housing land tax exemption. The exemption operates to promote affordable residential property rental opportunities with the cooperation of community housing providers.

### **Part 1.3 Land Titles (Unit Titles) Act 1970**

#### **Clause 1.12 New section 7 (1) (d) (iv)**

#### **Clause 1.13 New section 7 (1) (d), note 2**

#### **Clause 1.14 New section 7 (3)**

Clauses 1.12 and 1.14 amend the Land Titles (Unit Titles) Act to specify that payment of any deferred lease variation charge is required prior to registration of unit title.

Clause 1.13 makes a technical drafting amendment to a note under section 7 (1) (d) to recognise the ability of a person to obtain a certificate of charges under the P&D Act.

### **Part 1.4 Payroll Tax Act 2011**

#### **Clause 1.15 Sections 9 (1) (b) and 87 (2) (b)**

This clause extends the annual reconciliation period from 21 days to 28 days to align with the requirements in New South Wales.

### **Part 1.5 Planning and Development Act 2007**

#### **Clause 1.16 Section 276D (1), note 1**

#### **Clause 1.19 Section 279B (1)**

#### **Clause 1.20 Section 279B (2) and note**

These clauses amend the P&D Act to provide that a tax liability arises with the issue of a notice of assessment for a lease variation charge (LVC) under the Taxation Administration Act. The tax liability is then only payable upon the execution of the variation of the lease.

#### **Clause 1.17 Section 276E (2)**

This clause amends the requirement for the Treasurer to obtain valuation advice before making a codified LVC determination from every financial year to every three years.

#### **Clause 1.18 Section 279AA (2)**

The is clause makes a technical drafting amendment to clarify the terminology regarding deferring 'the time for' payment of LVC.

## **Part 1.6 Rates Act 2004**

### **Clause 1.21 Section 20 heading**

### **Clause 1.22 Section 20**

### **Clause 1.23 New section 20A**

### **Clause 1.29 New section 70 (aa)**

Clauses 1.22 and 1.23 amend the Rates Act to allow the commissioner to impose penalty tax under the Taxation Administration Act, division 5.2 on rates payable by a corporation or trust, that become unpaid and overdue on or after 1 August 2021. Under the new section 20A (5), special disability trusts are excluded from the definition of trusts for the section – that is, the commissioner would not have the ability to impose penalty tax on a special disability trust.

Under clause 1.29 (new section 70 (aa)), a decision by the commissioner to impose penalty tax will be a reviewable decision both internally and by the ACT Civil and Administrative Tribunal (ACAT).

Otherwise penalty tax provisions under the Taxation Administration Act will not apply to unpaid and overdue rates (with new section 20A (1) replacing a previous reference under section 20 – see clause 1.22).

Interest on unpaid and overdue rates remains subject to the operation of section 21 of the Rates Act, rather than the Taxation Administration Act (see existing section 20 and new section 20A (3) (b)).

Clause 1.21 provides a technical drafting amendment to the heading of section 20.

### **Clause 1.24 Section 31 (1) (b) (ii) (B)**

### **Clause 1.25 Section 31 (3) (b)**

### **Clause 1.26 New section 31 (4)**

These clauses provide technical amendments to the operation of part 5, division 5.2 of the Rates Act to:

- ensure that the intended period for starting development is two years – clause 1.24, and
- remove a requirement to provide a copy of a Development Application does not apply to the parcel of land that is entirely undeveloped – clauses 1.25 and 1.26.

### **Clause 1.27 Section 40E (2)**

This clause amends the timeframe to provide information to the Canberra Airport to 31 July each year. It also amends the notice requirement in the section so that the commissioner is required to provide to the Airport with information about the calculation of the growth index (rather than a limited component of the calculation).

**Clause 1.28 Section 45, definition of *special disability trust***

**Clause 1.31 Dictionary, definition of *special disability trust***

These clauses provide for a definition of special disability trust across the Rates Act. They are consequential to the amendments to penalty tax provisions under the new section 20A.

**Clause 1.30 Section 71 (2)**

This clause allows the Minister to determine, by disallowable instrument, an alternate period within which objections must be made on valuations of rateable land (unimproved value). This will be used to provide additional time for taxpayers to make objections to valuations of parcels of land if further information is requested.

**Part 1.7 Taxation Administration Act 1999**

**Clause 1.32 Section 56H (2A)**

**Clause 1.33 Section 56H (4) (a)**

**Clause 1.35 New section 56H (8)**

As a longstanding feature of tax law, sections 56H (1) & (2) of the Taxation Administration Act provide that tax payable in relation to a parcel of is a charge on the interest held by the owner of the parcel and that charge has priority over other interests.

These clauses provide technical amendments to section 56H of the Taxation Administration Act to remove ambiguity from the operation of provisions for registering charges and requirements for notifying mortgagees or creditors.

New section 56H (2A) provides the commissioner may give the registrar-general under the *Land Titles Act 1925* (Land Titles Act) notice of the charge on the parcel. With the registrar-general then obliged to record the charge in the register (under the Land Titles Act).

As precondition for the commissioner notifying a mortgagee or creditor of a tax debt, the charge must be recorded in the register (amended section 56H (4) (a)).

Clause 1.35 is a related amendment to insert the definition of register (as defined under the *Land Titles Act 1925*).

**Clause 1.34 New section 56H (7) (a) (ia)**

**Clause 1.42 New section 56M (6) (a) (ia)**

These clauses amend the Taxation Administration Act to include land rent charges under the honest purchaser protections.

With the amendments, land rent charges (along with other taxes set out in sections 56H (7) (a) and 56M (6) (a)) do not have effect against an honest purchaser if the purchaser had obtained a certificate of charges and had not been notified of a liability at the time.



**Clause 1.36 Section 56L heading**  
**Clause 1.37 New section 56L (1) (d)**  
**Clause 1.38 Section 56L (3)**  
**Clause 1.39 Section 56L (4)**  
**Clause 1.40 Section 56L (5) and (6)**  
**Clause 1.41 Section 56M (1)**

These clauses amend the Taxation Administration Act to make clear that section 56H (Tax payable is charge on land) and section 56L (Creation of charge on other land) (as amended) are separate and distinct provisions.

The amendments to section 56L provide for the express creation of a statutory charge on a parcel land by the commissioner for a tax debt of the owner of that parcel although the tax debt did not relate to that (other) parcel of land. The charge is created at the time the commissioner notifies the registrar-general (under the *Land Titles Act 1925*) of the charge (new section 56L (3)). That charge can then be registered, as was intended under section 56L for tax debt recovery purposes.

This compares to the operation of section 56H where tax payable relating to a parcel of land is automatically a charge on the interest held by the owner.

Consequential amendments through sections 56L and 56M are included to appropriately recognise the creation of the charge rather than the registration of the charge.

**Clause 1.43 Section 97 (e) (vii) to (xi)**  
**Clause 1.44 New section 97 (2) and (3)**  
**Clause 1.45 Dictionary, note 2**

These clauses amend the secrecy provisions of the Taxation Administration Act to provide for updated permitted disclosure arrangements, to align with current law enforcement and regulatory arrangements across government and processes with the ACT and other jurisdictions.

Specifically, law and regulatory enforcement and the national interest are promoted with the inclusion of permitted disclosures to:

- Australian Securities and Investments Commission – new section 97 (1) (e) (x);
- Commonwealth enforcement and intelligence bodies (those bodies also matching disclosures under the Information Privacy Act 2014) – new section 97 (1) (e) (xi); and
- Foreign Investment Review Board/Commonwealth Treasurer – new section 97 (1) (e) (xv).

This is consistent with the intent of existing permitted disclosures within the Taxation Administration Regulation to the commissioner of policy and Australian Crime Commission (ACC).

The reference to the ACC is updated with amendments to section 97 (1) (e) (viii) to (x) under clause 1.43 with new section 97 (1) (e) (ix). With this update references to the commissioner for fair trading and Australian Statistician also amended (new sections 97 (1) (e) (vii) and (viii) respectively). The amendment to the commissioner for fair

trading reflects that the role now includes that of the now defunct registrar of motor vehicles.

Other permitted disclosure assists purposes involving the operation of regulated activities, and government services and support including:

- Australian Charities and Not-for-profits Commission – new section 97 (1) (e) (xii);
- Child Support Registrar – new section 97 (1) (e) (xiii);
- Chief Executive Centrelink – new section 97 (1) (e) (xiv); and
- Secure local jobs code registrar – new section 97 (1) (e) (xvii).

A further limited disclosure to the director-general of transport and city services will assist with the provision of community services (new section 97 (1) (e) (xvi)). The provision of property ownership information is permitted in disclosures under the Taxation Administration Regulation – for example, to the head of the asbestos response taskforce.

The Bill also inserts a new subsection 97 (1) (e) (xviii) to enable disclosure of taxpayer information to a Minister to allow them to provide a fulsome response to a constituent that has corresponded with a Minister about their tax affairs.

Disclosure of taxpayer information to persons prescribed by regulation is renumbered under section 97 (1) (e) (xix).

Related entity and term definitions are included under new section 97 (3).

Clause 1.44 also provides for a new section 97 (2). The amendment allows for disclosures to other persons to enable them to exercise a function in relation to the permitted disclosures for a primary recipient prescribed under section 97 (1) (e). This supports the operation of the permitted disclosure recognising that the named person may include a range of persons to undertake the required function for which information is provided.

## **Part 1.8 Taxation Administration Regulation 2004**

### **Clause 1.46 Section 4 heading**

This clause is a consequential amendment to the heading of section 4 of the Taxation Administration Regulation to reference the revised subsection of the secrecy provisions under section 97 of the Taxation Administration Act.