



New South Wales

Revenue Legislation Further Amendment Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to make miscellaneous amendments to the following Acts—

- (a) the *Duties Act 1997*,
- (b) the *Fines Act 1996*,
- (c) the *Land Tax Act 1956*,
- (d) the *Land Tax Management Act 1956*,
- (e) the *Law Enforcement (Powers and Responsibilities) Act 2002*,
- (f) the *Payroll Tax Act 2007*,
- (g) the *State Debt Recovery Act 2018*,
- (h) the *Taxation Administration Act 1996*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Duties Act 1997 No 123

Schedule 1[1] inserts proposed section 5A which makes it clear that each sub-fund of a corporate collective investment vehicle (*CCIV*) established under the *Corporations Act 2001* of the Commonwealth is taken to be a unit trust scheme of which—

- (a) the CCIV is the trustee, and
- (b) the business, assets and liabilities of the sub-fund are the trust property, and
- (c) the members of the sub-fund are beneficiaries.

The proposed section sets out the rights, entitlements, obligations and other matters relevant for a sub-fund that is taken to be a unit trust scheme, and makes it clear that a CCIV is a separate person in relation to each unit trust scheme of which it is the trustee.

Schedule 1[2] makes it clear that duty charged under the *Duties Act 1997*, Chapter 2 is payable whether a dutiable transaction is effected by an instrument or by other means.

Schedule 1[3] sets out the duty chargeable for the transfer of dutiable property or a declaration of trust involving a custodian or agent, or sub-custodian of a CCIV that is taken to be a trustee because of proposed section 5A.

Schedule 1[4] provides for a duty exemption for a declaration of a bare trust over dutiable property if the transfer of the dutiable property to the bare trust is exempt under the *Duties Act 1997*, section 274. **Schedule 1[13]** makes a consequential amendment.

Schedule 1[5] updates references to the *First Home Owner Grant (New Homes) Act 2000* with references to the *First Home Owner Grant and Shared Equity Act 2000*.

Schedule 1[6] provides that the exemption from duty when there has been a break-up of a marriage or other relationship in certain circumstances carries over to a person's legal representative if the person dies.

Schedule 1[7] provides that when assessing whether a sub-fund of a CCIV is a foreign person for the purposes of the *Duties Act 1997*, Chapter 2A, the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth must be read subject to proposed section 5A.

Schedule 1[8] and [9] provide that a **qualified investor** in a unit trust scheme includes a person who holds units in the scheme—

- (a) as a statutory body established under a law of the Commonwealth or a State or Territory and prescribed by the regulations, or
- (b) in a way approved by the Chief Commissioner of State Revenue (the **Chief Commissioner**), if the Chief Commissioner is satisfied the units are held by a wholly-owned subsidiary or wholly owned trust of a person in a way specified in the *Duties Act 1997*, section 157AB(1)(a)–(l).

Schedule 1[10] makes it clear that for the *Duties Act 1997*, Chapter 11, Part 1, a reference to anything done by or held by a unit trust scheme includes a reference to anything done by or held by a custodian of a CCIV that is taken to be a unit trust scheme under proposed section 5A.

Schedule 1[11] provides that a requirement under the *Corporations Act 2001* of the Commonwealth for a resolution to be passed by a sub-fund of a CCIV must be disregarded when assessing whether a sub-fund has voting control over another sub-fund of a CCIV.

Schedule 1[12] provides that for a corporate reconstruction transaction between a trustee of a corporation and another corporation that is a member of the same corporate group for the purposes of a corporate reconstruction transaction, a trustee includes a reference to a custodian of a CCIV acting as the custodian.

Schedule 1[14] removes a redundant reference to a Regional Aboriginal Land Council.

Schedule 1[15] contains a transitional provision consequent on the enactment of the proposed Act.

Schedule 1[16] and [17] insert certain definitions and a note into the Dictionary.

Schedule 2 Amendment of Fines Act 1996 No 99

Schedule 2[1] updates a reference to the *First Home Owner Grant (New Homes) Act 2000* with a reference to the *First Home Owner Grant and Shared Equity Act 2000*.

Schedule 2[2] inserts certain definitions, including the definition of *recently reported postal address* for when a penalty notice and penalty reminder notice has been sent to an address and has been returned to the sender.

Schedule 3 Amendment of Land Tax Act 1956 No 27

Schedule 3 updates a reference to the *First Home Owner Grant (New Homes) Act 2000* with a reference to the *First Home Owner Grant and Shared Equity Act 2000*.

Schedule 4 Amendment of Land Tax Management Act 1956 No 26

Schedule 4[1] inserts certain definitions.

Schedule 4[2] inserts proposed section 3C which sets out the application of the *Land Tax Management Act 1956* to a sub-fund of a CCIV.

Schedule 4[3] makes it clear that for a reduction in land value for flats on mixed development land or mixed use land, the land must not be owned or jointly owned by a person in the person's capacity as trustee of a special trust.

Schedule 4[4] removes a redundant reference to a Regional Aboriginal Land Council.

Schedule 4[5] provides that a registered native title body corporate within the meaning of the *Native Title Act 1993* of the Commonwealth is exempt from taxation under the *Land Tax Management Act 1956*.

Schedule 5 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 5 updates a reference to the *First Home Owner Grant (New Homes) Act 2000* with a reference to the *First Home Owner Grant and Shared Equity Act 2000*.

Schedule 6 Amendment of Payroll Tax Act 2007 No 21

Schedule 6[1] amends the definition of *former entity* to include a corporation that has executed a deed of company arrangement under the *Corporations Act 2001* of the Commonwealth. **Schedule 6[3]** makes a consequential amendment.

Schedule 6[2] replaces references to a former corporation with references to a former entity.

Schedule 6[4] makes it clear that wages do not include amounts paid or payable by a CCIV to its corporate director.

Schedule 6[5] inserts definitions of *prescribed billing arrangements* and *veterans arrangements* for the rebate of payroll tax for general practitioners. **Schedule 6[6]** makes a consequential amendment.

Schedule 6[7] contains a transitional provision consequent on the enactment of the proposed Act.

Schedule 7 Amendment of State Debt Recovery Act 2018 No 11

Schedule 7[1] removes a redundant reference to the *Payroll Tax Rebate Scheme (Jobs Action) Plan Act 2011* from the definition of *debt notice*.

Schedule 7[2] makes it clear that a *referable debt* includes a fee, charge or other amount that is declared to be a referable debt by order by the Chief Commissioner or by another Act.

Schedule 7[3] and [14]–[16] update references to the *First Home Owner Grant (New Homes) Act 2000* with references to the *First Home Owner Grant and Shared Equity Act 2000*.

Schedule 7[4] removes a redundant reference to the *Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011* which was repealed automatically on 1 July 2023.

Schedule 7[5] makes it clear that a referral of referable debt to the Chief Commissioner is an action on a cause of action for the purposes of the *Limitation Act 1969*.

Schedule 7[6] makes it clear that a referring officer or the Chief Commissioner may revoke the referral of a referable debt by giving written notice of the revocation to the other party. **Schedule 7[7] and [8]** make consequential amendments.

Schedule 7[9] removes the requirement for the debtor's date of birth to be specified on a debt recovery order.

Schedule 7[10] and [11] update references to certain departments following a machinery of government change.

Schedule 7[12] provides that the Chief Commissioner must, if revoking the referral of a referable debt, revoke a debt recovery order for the referable debt to the extent that an amount to which the order relates has not been paid.

Schedule 7[13] provides that when there is more than one State debt the Chief Commissioner may, with discretion, apply an amount recovered under a debt recovery order, including by applying it to payment of a debt payable under another debt recovery order. **Schedule 7[14]** provides that when the Chief Commissioner is exercising discretion, the Chief Commissioner is to have regard for the limitation period that applies to the debt under the *Limitation Act 1969*.

Schedule 7[17] repeals certain uncommenced provisions.

Schedule 8 Amendment of Taxation Administration Act 1996 No 97

Schedule 8[8] inserts proposed section 106KA, which provides that the Chief Commissioner may impose a penalty on a taxpayer if the Chief Commissioner issues a notice of assessment, or reassessment of tax liability to the taxpayer and issues the notice on the basis that a scheme is a tax avoidance scheme. **Schedule 8[1]–[3]** make consequential amendments.

Schedule 8[4] and [7] update references to departments following machinery of government changes. **Schedule 8[6]** makes a consequential amendment.

Schedule 8[5] updates a reference to the *First Home Owner Grant (New Homes) Act 2000* with a reference to the *First Home Owner Grant and Shared Equity Act 2000*.

Schedule 8[9] sets out how an amount may be converted if the amount involved in the calculation of tax is not in Australian currency.