

Queensland



**REVENUE LAWS
AMENDMENT ACT (No. 2)
1995**

Act No. 44 of 1995

Queensland



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Revenue Laws Amendment Act (No. 2) 1995

Act No. 44 of 1995

An Act to amend the *Stamp Act 1894* and the *Pay-roll Tax Act 1971*

[Assented to 22 November 1995]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Revenue Laws Amendment Act (No. 2) 1995*.

Commencement

2.(1) Section 4 is taken to have commenced on 7 April 1995.

(2) Section 11 is taken to have commenced on 1 July 1995.

PART 2—AMENDMENT OF STAMP ACT 1894

Act amended in pt 2

3. This part amends the *Stamp Act 1894*.

Insertion of new s 31BA

4. After section 31B—

insert—

‘Options—marketable securities

‘31BA.(1) This section applies to a sale or purchase of a marketable security under the exercise of an option.

‘(2) For section 31B(2), the unencumbered value of the marketable security is taken to be the greater of—

(a) the premium paid on the option; or

(b) the consideration for the sale or purchase of the marketable security.

‘(3) Sections 31C to 31F apply to the sale or purchase of the marketable security as if an instruction to a broker to lodge a notice to exercise an option, or the receipt by a broker of the notice, were an order for purchase or sale.

‘(4) In this section—

“**option**” means an option over issued marketable securities listed on the Australian Stock Exchange Limited, but does not include an option or a class of options excluded from the operation of sections 31C to 31F under a regulation.’.

Amendment of s 49 (Meaning of “conveyance or transfer” and provisions affecting the same)

5.(1) After section 49(3)—

insert—

‘(3A) However, only the true consideration mentioned in subsection (3) need be specified in the instrument of conveyance or transfer if—

- (a) the conveyance or transfer of property includes real property situated in Queensland; and
- (b) the consideration for all of the property (including livestock and movable chattels) included in the transaction to which the conveyance or transfer relates equals, or is more than, the full unencumbered value of all the property.’.

(2) Section 49(4), ‘by declaration made under the *Oaths Act 1867*,’—

omit.

(3) Section 49—

insert—

‘(5) The commissioner may refuse to stamp a conveyance or transfer of real property if a combined form, completed in all respects, has not been produced.

‘(6) In this section—

“**combined form**” means an approved form providing information required under the following Acts—

- (a) this Act;
- (b) the *Land Tax Act 1915*;
- (c) the *Local Government Act 1993*;
- (d) the *Foreign Ownership of Land Register Act 1988*;
- (e) the *Valuation of Land Act 1944*.

Insertion of new s 54AD

6. After section 54AC—

insert—

‘Statutory business licences

‘**54AD.(1)** This section applies if a person (the “**licence holder**”) acquires or agrees to acquire a statutory business licence that is property situated in Queensland.

‘**(2)** An acquisition of, or agreement to acquire, a statutory business licence is taken to have happened on the grant, extension or renewal of the licence only if the former holder of the licence agreed to surrender or relinquish the licence, or agreed not to apply for an extension or renewal of the licence, so that the licence, an extension or renewal of the licence, or another licence for the same type of activity could be issued or given to the licence holder.

‘**(3)** This section does not apply to the acquisition of, or agreement to acquire, a statutory business licence effected or evidenced by an instrument chargeable with duty under schedule 1, CONVEYANCE OR TRANSFER, paragraph (4) on the conveyance or transfer of the licence.

‘**(4)** For this section, a statutory business licence is property situated in Queensland if the licence relates to, or is held in connection with—

- (a) a business taken to exist in Queensland because of section 54A(10); or
- (b) Queensland or a part of Queensland.

‘**(5)** The licence holder must, within 1 month after acquiring, or agreeing

to acquire, the statutory business licence (whichever happens first), make a statement to the commissioner in the approved form.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been made under this section.

‘(6) If proceedings for an offence are not taken against a licence holder, the commissioner may impose a penalty of—

- (a) 3% of the duty chargeable on the statement for the first month, or part of the month, after the end of the period during which the statement was required to be made; and
- (b) 2% for each subsequent month or part of the month, until the statement is made.

‘(7) However, if the penalty calculated under subsection (6) would be less than \$10, the penalty is \$10.

‘(8) After considering the circumstances, the commissioner may waive or reduce the penalty.

‘(9) The statement mentioned in subsection (5) is taken to be an instrument under this Act executed by the licence holder and is chargeable with duty as if it were a conveyance or transfer of the statutory business licence to which the statement relates.

‘(10) However, subsection (11) applies if a statutory business licence mentioned in subsection (4) also relates to, or is also held in connection with—

- (a) for a licence mentioned in subsection (4)(a)—a business carried on in, or from, another State or Territory; or
- (b) for a licence mentioned in subsection (4)(b)—another State or Territory.

‘(11) If subsection (10) applies, duty chargeable on the statement is to be calculated as if the consideration for, or the full unencumbered value of, the licence were an amount that bears to the full amount of the consideration for, or full unencumbered value of, the licence the same proportion as the part of the full unencumbered value of the licence derived from—

- (a) the business undertaking of the licensee conducted in Queensland; or

- (b) the business undertaking of the licensee conducted from Queensland; or
- (c) the relationship of the licence to Queensland;

whichever is the greatest, bears to the full unencumbered value of the licence.

‘(12) In this section—

“**statutory business licence**” means a licence, permit or authority issued or given under a law of the Commonwealth or Queensland that is required by the law to be held by a person carrying out an activity for gain or reward.’.

Amendment of s 55A (Duty relating to principal place of residence and first principal place of residence)

7.(1) Section 55A(1), definition “**relevant rebate**”—

omit, insert—

‘“**relevant rebate**” means—

- (a) for property consisting of a prescribed principal place of residence—
 - (i) if the property is valued at \$80 000 or less—\$800;
 - (ii) if the property is valued at more than \$80 000 but not more than \$150 000—\$500;
 - (iii) if the property is valued at more than \$150 000 but not more than \$155 000—\$300;
 - (iv) if the property is valued at more than \$155 000 but not more than \$160 000—\$200; and
- (b) for property including a prescribed principal place of residence—the rebate that would have been available if the property consisted of the residence less an amount that bears to the rebate the same proportion as the value of the property not attributable to the prescribed principal place of residence bears to the value of the property.’.

(2) Section 55A(5), ‘without’—

omit, insert—

‘with’.

Amendment of s 57A (Motor vehicles)

8.(1) Section 57A(2A), ‘subsection (2)’—

omit, insert—

‘subsections (2AA) and (2AB)’.

(2) Section 57A(2A), definition “**list price**”—

omit, insert—

‘**list price**’, of a motor vehicle, means—

- (a) if the applicant for registration of the motor vehicle is not exempt from the payment of sales tax—the recommended retail price (or, if there is more than 1 recommended retail price, the highest recommended retail price) of the manufacturer, importer or principal distributor at Brisbane of—
 - (i) for a motor vehicle other than a motor truck—the motor vehicle; or
 - (ii) for a motor truck—the relevant make and model of the cab-chassis; or
- (b) if the applicant for registration is exempt from the payment of sales tax—the recommended retail price (or, if there is more than 1 recommended retail price, the highest recommended retail price) of the manufacturer, importer or principal distributor at Brisbane (less sales tax) of—
 - (i) for a motor vehicle other than a motor truck—the motor vehicle; or
 - (ii) for a motor truck—the relevant make and model of the cab-chassis.’.

Insertion of new s 64D

9. After section 64C—

insert—

‘Licence to occupy premises

‘64D.(1) This section applies if, under a contract or agreement that is in writing or for which there is a written offer—

- (a) a person (the **“occupier”**) acquires or agrees to acquire a right to occupy all or part of a building in Queensland (the **“premises”**); and
- (b) the occupier uses or will use the premises as a place of business; and
- (c) the occupier does not obtain exclusive possession of the premises; and
- (d) it would be reasonable to conclude that the occupier’s enjoyment of the premises as a place of business during the term of the contract or agreement is not, or will not be, adversely affected by the absence of the right to exclusive possession having regard to—
 - (i) the periods during which the occupier’s occupation of the premises is not exclusive; and
 - (ii) the times when the occupier’s right to have access to, or to occupy, the premises may be interrupted or denied.

‘(2) This section does not apply to a contract or agreement for the right to occupy premises in any of the following circumstances—

- (a) the term of the right of occupation is less than 1 month and it would be reasonable to conclude that there is no arrangement by which the term may be extended or renewed so that the total term will be longer than 1 month;
- (b) the term of the right of occupation is at least 1 month but less than 1 year and the consideration paid or payable by the occupier for the right of occupation (other than reasonable outgoings for the premises) adjusted for a term of 1 year is not more than \$10 000;
- (c) the term of the right of occupation is for at least 1 year and the annual consideration paid or payable by the occupier for the right of occupation (other than reasonable outgoings for the premises) is not more than \$10 000.

‘(3) The person (the “grantor”) who has given, or agreed to give, the occupier the right to occupy the premises must, within 1 month after the occupier acquires, or agrees to acquire, the right of occupation for a premises (whichever happens first), make a statement to the commissioner in the approved form.

Maximum penalty—100 penalty units plus an amount equal to double the amount of the duty that would have been chargeable on the statement if the statement had been made under this section.

‘(4) If proceedings for an offence are not taken against a grantor, the commissioner may impose a penalty of—

- (a) 3% of the duty chargeable on the statement for the first month, or part of the month, after the end of the period during which the statement was required to be made; and
- (b) 2% for each subsequent month or part of the month, until the statement is made.

‘(5) However, if the penalty calculated under subsection (4) would be less than \$10, the penalty is \$10.

‘(6) After considering the circumstances, the commissioner may waive or reduce the penalty.

‘(7) A proceeding against a grantor under subsection (3) may not be taken, and the commissioner may not impose a penalty under subsection (4), for the grantor not having made a statement before the consideration for the right of occupation was ascertainable if—

- (a) the amount of the annual consideration payable could not be ascertained for the contract or agreement; and
- (b) within 1 month of acquiring or agreeing to acquire the right of occupation, the grantor reasonably estimated that the annual consideration would be not more than \$10 000; and
- (c) the actual annual consideration paid did not exceed the grantor’s estimate by more than 15%.

‘(8) The statement mentioned in subsection (3) is taken to be an instrument under this Act executed by the grantor and is chargeable with duty as if—

- (a) the statement were an instrument of lease of the premises; and

- (b) the consideration paid or payable under the contract or agreement (other than reasonable outgoings for the premises) were rental paid or payable by the occupier under the lease; and
- (c) the term and any conditional term of the right of occupation were the term and conditional term of the lease.’.

Amendment of sch 1 (Stamp duties on instruments)

10. Schedule 1, APPLICATION FOR REGISTRATION OR APPLICATION FOR TRANSFER OF REGISTRATION OF A MOTOR VEHICLE, Exemptions—

insert—

‘**7.(1)** Any application for registration of a heavy motor vehicle that was, immediately before 1 July 1995, registered under the Commonwealth Act if—

- (a) the registration is the first registration of the vehicle in Queensland; and
- (b) the person in whose name the vehicle is registered in Queensland is the person in whose name the vehicle was registered under the Commonwealth Act.

‘**(2)** In subsection (1)—

“**Commonwealth Act**” means the *Interstate Road Transport Act 1985* (Cwlth).

“**heavy motor vehicle**” means a motor vehicle with a gross vehicle mass of 4.5 tonnes or more.’.

PART 3—AMENDMENT OF PAY-ROLL TAX ACT 1971

Act amended in pt 3

11. This part amends the *Pay-roll Tax Act 1971*.

Amendment of s 6 (Wages liable to pay-roll tax)**12.(1)** Section 6(1)(a)—*omit, insert—*

‘(a) that are paid or payable in Queensland, other than wages so paid or payable to a person for services performed or rendered—

(i) entirely in another State; or

(ii) entirely outside Australia for more than 6 months after wages were first paid to the person for the services; or.’

(2) Section 6—*insert—*

‘**(1A)** Subsection (1)(a) applies to wages paid or payable after the commencement of this subsection for services performed or rendered by a person entirely outside Australia, even though the first payment for the services was made before the commencement.

‘**(1B)** Subsection (1A) is a law to which the *Acts Interpretation Act 1954*, section 20A applies.

‘**(1C)** Subsections (1A), (1B) and this subsection expire on the day they commence.’

Insertion of new s 11**13.** After section 10—*insert—***‘Exemption from pay-roll tax—certain CWA wages**

‘**11.(1)** CWA is not required to lodge a return.

‘**(2)** Sections 9, 11B and 11C apply to CWA as if—

(a) in section 9(1), the words in the definition “prescribed amount” were ‘means all taxable wages paid or payable by CWA in the return period’; and

(b) the words in section 11B(1)(b) were ‘all taxable wages paid or payable by CWA during the financial year’; and

- (c) in section 11C(1), in the definition “total amount of pay-roll tax”, the words in paragraph (b) were ‘all taxable wages paid or payable by CWA during the prescribed period’.

‘(3) However, CWA is required to lodge a return and subsection (2) does not apply if—

- (a) wages are paid or payable by CWA in carrying on a business activity predominantly on a commercial basis (“CWA’s **commercial wages**”); or
- (b) CWA is a member of a group.

‘(4) If only subsection (3)(a) applies, tax payable is the amount bearing the same proportion to tax payable on CWA’s taxable wages as CWA’s commercial wages bear to taxable wages before deducting the prescribed amount.

‘(5) If subsection (3)(b) applies, the annual amount of tax payable by the members of the group must be reduced by an amount bearing the same proportion to the tax payable as CWA’s taxable wages (other than CWA’s commercial wages) bear to the taxable wages paid or payable by the members of the group.

‘(6) For this section, a business activity by CWA is taken to be conducted on a commercial basis if it is conducted in a similar way to similar business activities conducted by anyone else on a commercial basis.

‘(7) For this section, a business activity does not include—

- (a) the conduct of a student hostel; and
- (b) the conduct of a hostel subsidised under the *Aged or Disabled Persons Care Act 1954* (Cwlth); and
- (c) an activity of a type prescribed under a regulation.

‘(8) In this section—

“CWA” means Queensland Country Women’s Association.’.