

Revenue Legislation (Fees) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 106

made under the

Duties Act 2001

Land Tax Act 2010

Mineral Resources Act 1989

Petroleum and Gas (Production and Safety) Act 2004

State Penalties Enforcement Act 1999

General Outline

Short title

Revenue Legislation (Fees) Amendment Regulation 2017

Authorising law

Sections 79, 495(3), 508(1) and (2)(a) of the *Duties Act 2001*

Sections 63(2)(a), 85(1) and (2)(a) of the *Land Tax Act 2010*

Sections 320(4), (6) and (7), 417(1) and (2)(a) of the *Mineral Resources Act 1989*

Sections 595(3), 859(1) and (2)(a) of the *Petroleum and Gas (Production and Safety) Act 2004*

Sections 75(3), 119(5), 136(1)(h)(ii), 165(1) and (6) and Schedule 2 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2014*.

The policy objective of the Regulation is to increase the fees administered by the Office of State Revenue (OSR). In accordance with Government policy, from 1 July 2017 all fees and charges are to be indexed at a rate of 3.5%.

Amendment to the *Duties Regulation 2013*- Declared Public Unit Trusts

The policy objective of the Regulation is to amend the *Duties Regulation 2013* to include the QIC Infrastructure Portfolio No.2 Trust on the list of declared public unit trusts in schedule 1, part 2.

Under the *Duties Act 2001*, transfer duty applies to dutiable transactions, including the acquisition or surrender of an interest in a trust which directly or indirectly holds dutiable property in Queensland. However, unit dealings in public unit trusts that hold Queensland dutiable property do not usually attract duty as it is recognised that investments in these trusts are more akin to shareholdings rather than beneficial interests in the underlying trust property.

Chapter 2, part 8, division 7 of the *Duties Act 2001* contains provisions relating to public unit trusts. There are five categories of public unit trusts, including declared public unit trusts. Section 79 of the *Duties Act 2001* states that a declared public unit trust is a trust declared under a regulation. Section 4 of the *Duties Regulation 2013* provides that unit trusts listed in schedule 1 are declared public unit trusts for chapter 2, part 8, division 7 of the *Duties Act 2001*. For a trust to become a declared public unit trust, it must meet and maintain certain conditions set out in section 4(2) of the *Duties Regulation 2013*.

The QIC Infrastructure Portfolio No.2 Trust currently satisfies the conditions in section 4(2) of the *Duties Regulation 2013* and therefore qualifies for declared public unit trust status.

Achievement of policy objectives

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2014*.

The Regulation will achieve its objective of increasing fees administered by OSR in accordance with Government policy, by amending the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2014* to increase particular fees for the 2017-18 financial year by 3.5%. The amendment is consistent with increases applied in the 2012-13 to 2016-17 financial years.

Any change to the fees administered by OSR must be effected through legislative amendment.

Amendment to the *Duties Regulation 2013*- Declared Public Unit Trusts

The objective will be achieved by amending the *Duties Regulation 2013* to include the QIC Infrastructure Portfolio No.2 Trust on the list of declared public unit trusts in schedule 1, part 2.

Consistency with policy objectives of authorising law

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2014*.

The amendment is consistent with the policy objectives of the *Duties Act 2001*, *Land Tax Act 2010*, *Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004* and *State Penalties Enforcement Act 1999*, all of which contemplate prescription of the relevant fees as part of administration provided for under each Act.

Amendment to the *Duties Regulation 2013*- Declared Public Unit Trusts

The amendment is consistent with the policy objectives of the *Duties Act 2001*, which contemplates the making of a regulation to declare particular unit trusts that satisfy certain conditions to be public unit trusts for chapter 2, part 8, division 7 of the *Duties Act 2001*.

Inconsistency with policy objectives of other legislation

The amendments are not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2014*.

Implementation of the Regulation will ensure the fees administered by OSR give effect to Government policy.

Implementation of the Regulation will not result in any additional costs to Government as the administration of the fees will continue to be subject to existing processes, systems and staffing.

Amendment to the *Duties Regulation 2013*- Declared Public Unit Trusts

Implementation of the amendment will not result in any additional costs to Government.

Once the QIC Infrastructure Portfolio No.2 Trust is a declared public unit trust, unit dealings in it will not be dutiable. However, no revenue implications arise as it is not intended that duty be imposed on dealings in units in unit trusts that qualify for declared public unit trust status.

Consistency with fundamental legislative principles

Fees under the *Duties Regulation 2013*, *Land Tax Regulation 2010*, *Mineral Resources Regulation 2013*, *Petroleum and Gas (Production and Safety) Regulation 2004* and *State Penalties Enforcement Regulation 2014*.

The Regulation is consistent with fundamental legislative principles. Each of the relevant enabling Acts contemplates the use of subordinate legislation to prescribe particular fees.

Amendment to the *Duties Regulation 2013- Declared Public Unit Trusts*

The amendment is consistent with fundamental legislative principles.

Consultation

Fees under the *Duties Regulation 2013, Land Tax Regulation 2010, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004 and State Penalties Enforcement Regulation 2014.*

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The amendments to the *Duties Regulation 2013, Land Tax Regulation 2010, Mineral Resources Regulation 2013, Petroleum and Gas (Production and Safety) Regulation 2004 and State Penalties Enforcement Regulation 2014* are excluded from regulatory impact analysis as it falls within an agency-assessed exclusion category.

As the increase of fees in the Regulation is in accordance with current Government policy, community consultation was not undertaken.

Amendment to the *Duties Regulation 2013- Declared Public Unit Trusts*

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the amendment to the *Duties Regulation 2013* to include the QIC Infrastructure Portfolio No.2 Trust on the list of declared public unit trusts in schedule 1, part 2. The amendment to the *Duties Regulation 2013* is excluded from regulatory impact analysis as it falls within an agency-assessed exclusion category.

No other consultation was considered necessary.