

REVENUE LAWS AMENDMENT BILL 2008

Introduction and First Reading

Bill introduced, on motion by **Mr E.S. Ripper (Treasurer)**, and read a first time.

Explanatory memorandum presented by the Treasurer.

Second Reading

MR E.S. RIPPER (Belmont — Treasurer) [12.07 pm]: I move —

That the bill be now read a second time.

This bill implements the taxation measures announced in the 2008-09 budget that relate to the land tax, metropolitan region improvement tax, duties and rates and charges legislation. Complementary amendments necessary to implement the taxation administration measures that were announced in the 2008-09 budget are contained in the Revenue Laws Amendment Bill (No. 2) 2008. The amendments arising from the major multilateral project with other states and territories to make eight areas of payroll administration more consistent, as also announced in the budget, are included in the Pay-roll Tax Assessment Amendment Bill 2008.

The measures in this bill focus on lowering the transfer duty barrier to housing purchases and ameliorating the impact of higher land values on land tax on rental and business properties. Families and businesses planning to purchase mid-priced motor vehicles in the near term will also benefit. In addition, the bill includes amendments to implement two recommendations of the state tax review. The first involves the introduction of land tax and rates and charges relief measures that assist disabled persons to live in independent accommodation.

The second implements a land tax exemption for property owned by an executor or administrator when a will gives a beneficiary a future right to live in a property that is used as the beneficiary's principal place of residence. Further amendments are included to address recent judicial decisions and to make a number of minor changes to improve the administrative efficiency of the taxation legislation. The total value of the tax relief to be provided by the measures in this bill is \$236 million in 2008-09 and \$1.1 billion over four years.

I will now outline each of the proposed measures in greater detail. Part 7 of the bill provides for the introduction of a new concessional transfer duty scale for residential property purchases from 1 July 2008. This concessional scale will apply to principal places of residence, rental homes and land on which the building of a residence is subsequently commenced within a specified time limit. It will incorporate increases in thresholds of up to 50 per cent, and accommodate the average five per cent reduction in transfer duty rates for all property transactions that also commences on 1 July 2008 under the new Duties Act. As a result of these measures, the duty payable on a median priced home in Perth of \$457 000 will fall by 15.2 per cent—or \$2 827.50—from \$18 550 to \$15 722.50. The increase in thresholds will cost around \$104 million in 2008-09 and \$487 million over the four years to 2011-12.

Although some other states already have concessional scales for principal places of residence, Western Australia's will be unique in also extending to rental housing. The transfer duty reductions will coincide with the abolition of mortgage duty, including on home loans, which was an early decision arising from the state tax review. The existing first homeowner transfer duty concession in Western Australia, including the full exemption for homes valued at up to \$500 000, will remain in place and will continue to be the most generous in Australia. The bill also provides for the existing concession for principal places of residence and small businesses to continue until its scheduled abolition on 1 July 2010. A specific provision has been added to ensure that when a taxpayer may be better off under the residential scale or the principal place of residence scale, the application can be treated as being made under the most beneficial arrangement, provided that the taxpayer's consent has been obtained.

This part of the bill also includes two minor amendments to the Duties Act. The first is to rectify an incorrect section reference that would otherwise result in a taxpayer paying more duty on the vesting of a discretionary trust than if the corresponding transaction had occurred under the Stamp Act. The second clarifies that the trustee of a unit trust scheme or discretionary trust cannot use the exemption that applies to a transfer to or from a trustee under section 118 of the Duties Act. This section was always intended to apply only to bare trusts, and this amendment confirms the original policy intent.

Part 2 of the bill includes amendments to the 2007-08 budget initiative to increase motor vehicle duty thresholds by \$10 000 in two tranches. These were an initial \$5 000 increase on 1 July 2007 and a second \$5 000 increase on 1 January 2009. As announced in the 2008-09 budget, the second of the \$5 000 increases will be brought forward by six months to 1 July 2008, costing an estimated additional \$12 million in 2008-09. The duty saving on the licensing of a \$30 000 car will be \$225, or 18 per cent. After also taking into account the threshold increase on 1 July 2007, the total saving will be \$450, or 30 per cent.

Parts 3 and 5 of the bill contain the proposed new land tax and metropolitan region improvement tax scales for 2008-09. The Valuer-General has provided preliminary advice that unimproved land values for the 2008-09 land tax assessment year will increase by an average of around 30 per cent on 2007-08 values for properties above the current land tax exemption threshold of \$250 000. With no change to the scales, the resulting estimated increase in land tax and metropolitan region improvement tax revenues in 2008-09 would be over 50 per cent. The 2008-09 land tax and metropolitan region improvement tax scales will, on average, offset the incidence of this bracket creep through a combination of an increase in the land value thresholds of up to 20 per cent, a 33 per cent reduction in the two lowest marginal land tax rates and a reduction in the metropolitan region improvement tax rate from 0.18 per cent to 0.15 per cent. As a result, the increase in total land tax and metropolitan region improvement tax revenue in 2008-09 will be broadly the same as the average increase in land values.

The proposed 20 per cent increase in the land value exemption threshold to \$300 000 will reduce the number of taxpayers by about 26 600, compared with the number if the threshold remained unchanged at \$250 000. The new threshold compares with the median price of a residential lot in Perth of \$280 000. The beneficiaries of these scale changes will include many low-value rental property owners and small businesses. The cost of the land tax and metropolitan region improvement tax scale changes will be around \$120 million in 2008-09 and \$558 million over the four years to 2011-12.

Parts 4 and 6 of the bill include amendments to implement state tax review recommendations, to take account of recent judicial decisions, and to make a number of minor changes to improve the administrative efficiency of the taxation legislation. These include amendments to implement recommendation 2.4.5 of the state tax review, which will assist disabled persons to live independently. The amendments remove the requirement for no rent or other income to be derived from a property in order to access the land tax exemption and rates rebates for a property that is independently occupied by a disabled person but is owned by a relative. Providing for rent to be charged by the relative will enable the disabled person to continue to receive rent assistance from the commonwealth. The definition of a disabled person for the purposes of the land tax exemption and for the local government rates and charges concession has also been linked to the commonwealth's criteria, which is based on eligibility for a disability support pension. This will remove the current inconsistency whereby applicants are required to meet different criteria for a disability support pension from the commonwealth and for the land tax and local government rates and charges concession from the state government.

The other state tax review recommendation to be implemented as part of this bill is recommendation 2.4.4, which enables property owned by an executor or administrator of a will to receive an exemption if an individual beneficiary who has received a future right to property resides in that property as his or her principal place of residence.

Part 4 also includes amendments to the land tax legislation, where recent judicial decisions have highlighted that the law is not achieving the government's desired policy intent. The first of these amendments clarifies the operation of section 36 of the Land Tax Assessment Act, which applies to land that is used for the purposes of a zoo, an agricultural, pastoral or horticultural show, a historical society, a public museum or for other public purposes. The amendment clarifies that the use of the words "other public purposes" is limited to other similar public purposes to those already specified in the section.

The second amendment deals with the land tax exemption that applies to two or more lots of land that are treated as a single private residence. A land tax exemption is provided for private residential property owned by an individual who uses it as his or her primary residence. However, for the purpose of determining the use of a lot or parcel of private residential property, two or more lots of land are not to be treated as a single private residential property unless the Commissioner of State Revenue is satisfied that the lot or lots on which the private residence is constructed and each other lot are established and used by the individual who resides there as one integrated area that constitutes the place of residence. A recent decision of the Western Australian Court of Appeal identified possible deficiencies in the legislation where two lots were physically separated but the taxpayer received a land tax exemption for both lots. The intention of the legislation is that an exemption is provided for private residential property only where the residence is constructed upon each lot, or if the residence is constructed solely on one lot, the second or other lots have been established so that they form an integral part of the private residential property. It is considered that if the exemption is not governed by appropriate controls, it will become far too easy for taxpayers to avoid the payment of land tax on what may effectively be an investment property that happens to be in close proximity to their principal place of residence. As a result of these concerns, the land tax legislation is to be amended to make it clear that the intent of the taxpayer in relation to the use of the lots that does not include the residence is irrelevant for the purposes of determining whether the exemption applies. In addition, guiding factors have been inserted into the legislation for the Commissioner of State Revenue to have regard to when determining whether two or more lots of land are used as a single private residential property. The government recognises that situations genuinely exist when a

private residence is established over two or more lots of land, and considers that these amendments should clarify the law to ensure that the exemption is not exploited.

The third amendment updates the definition of “lot” to include strata survey plans that are approved by the Western Australian Planning Commission; or in the case of strata plans exempt from approval by the Western Australian Planning Commission, strata plans approved by the local government.

The fourth amendment adjusts the 50 per cent land tax concession that was introduced from 1 July 2005 for land used for caravan park, park home park or camping ground purposes. The concession applies to an owner of the land when that person makes an application to the commissioner for a determination that the land is, or was, used as dwelling park land. When the commissioner, as a result of an application made by an owner of land, has made a determination that land is dwelling park land, for the purposes of a concessional assessment that determination remains valid for future assessment years unless the land or part of it is no longer dwelling park land or is no longer owned by the same person. However, the legislation operates to prevent a concession being granted for a previous year if the owner of the land is otherwise eligible for a concession but did not apply for it in that year. It is proposed to amend the Land Tax Assessment Act to clarify that the reassessment provisions of the Taxation Administration Act apply to grant this concession for up to five previous years in which the owner of the land was eligible. The reassessment arrangements would not be available for periods prior to the introduction of the concession on 1 July 2005.

Part 8 of the bill amends the Stamp Act 1921 to make changes as a result of a stamp duty decision in the State Administrative Tribunal. These amendments are proposed to apply retrospectively from 6 February 2008, the date of an announcement made by the Acting Treasurer, Hon John Kobelke. The proposed amendments clarify the treatment of fixtures for the purposes of the land-rich provisions of the Stamp Act. Amendments have already been incorporated into the Duties Act 2008, which applies from 1 July 2008; however, corresponding changes must be made to the Stamp Act to ensure that any transactions that occur between 6 February 2008 and 30 June 2008 are included in the duty base. This amendment ensures that it will not be possible to structure a transaction involving the transfer of an interest in a fixture in a manner that would avoid the payment of duty. A detailed explanation of the measures in the bill is contained in the associated explanatory memorandum.

I commend the bill to the house.

Debate adjourned, on motion by **Dr S.C. Thomas**.