

Taxation Legislation Amendment Bill (No. 2) 2014

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Western Australia

LEGISLATIVE ASSEMBLY

**Taxation Legislation Amendment Bill
(No. 2) 2014**

A Bill for

An Act to amend the following Acts —

- **the *Duties Act 2008*;**
- **the *Land Tax Assessment Act 2002*.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Taxation Legislation Amendment Act (No. 2) 2014*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 and Part 3 Divisions 1 and 3 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 Division 1 — is deemed to have come into operation on 1 July 2014;
- (c) Part 3 Division 2 — is deemed to have come into operation immediately after the *Land Tax Assessment Act 2002* came into operation;
- (d) the rest of the Act — on the day after assent day.

1 **Part 2 — Amendments about primary production**

2 **Division 1 — *Land Tax Assessment Act 2002* amended**

3 **3. Act amended**

4 This Division amends the *Land Tax Assessment Act 2002*.

5 **4. Section 15 amended**

6 In section 15(1):

- 7 (a) delete “rural business”;
- 8 (b) in paragraph (a) delete “section 29 or subject to a
9 concession under section 30” and insert:

10
11 Part 3 Division 3

12
13 Note: The heading to amended section 15 is to read:

14 **Newly subdivided primary production business land, tax**
15 **payable on**

16 **5. Section 20 amended**

17 Delete section 20(1)(c) to (e).

18 **6. Part 3 Division 3 replaced**

19 Delete Part 3 Division 3 and insert:

20
21 **Division 3 — Land used for primary production**
22 **business**

23 **Subdivision 1 — Terms used**

24 **29. Terms used**

25 In this Division —

26 ***beneficiary***, in relation to a discretionary or other trust
27 (other than a unit trust scheme), means an individual

1 who is a beneficiary under the trust (whether the
2 beneficiary has a vested share or is contingently
3 entitled or is a potential beneficiary under a
4 discretionary trust);
5 **discretionary trust** has the meaning given in the *Duties*
6 *Act 2008* section 3;
7 **family corporation** has the meaning given in
8 section 30H(b);
9 **family member** has the meaning given in the *Duties*
10 *Act 2008* section 100;
11 **family owner**, in relation to land, has the meaning
12 given in section 30H;
13 **family trust** has the meaning given in section 30H(c);
14 **family unit trust scheme** has the meaning given in
15 section 30H(d);
16 **non-rural land** means all land in the State —
17 (a) that is in the metropolitan region; or
18 (b) that is outside the metropolitan region and is
19 zoned other than for rural purposes under a
20 local planning scheme or an improvement
21 scheme;
22 **partnership** has the meaning given in the *Partnership*
23 *Act 1895* section 7;
24 **primary production**, in relation to land, has the
25 meaning given in section 30A;
26 **primary production business** has the meaning given in
27 section 30B;
28 **related**, in relation to a family owner of land, has the
29 meaning given in sections 30I to 30J;
30 **rural land** means all land in the State other than
31 non-rural land.

- 1 **30A. What is primary production**
- 2 (1) Land is used for primary production if it is used for any
- 3 of the following —
- 4 (a) the growing or rearing of plants (including
- 5 trees, fungi or any crop) for the purpose of
- 6 selling them, parts of them or their produce;
- 7 (b) the breeding, rearing or maintenance of living
- 8 creatures for any of the following purposes
- 9 (*produce animals*) —
- 10 (i) selling them, or their progeny, for food;
- 11 (ii) the production or collection of their
- 12 skins, shells or bodily produce;
- 13 (iii) selling parts of them or their skins,
- 14 shells or bodily produce;
- 15 (c) the breeding, rearing or maintenance of produce
- 16 animals for the purpose of selling them or their
- 17 progeny —
- 18 (i) for stud purposes; or
- 19 (ii) to be used for a purpose set out in
- 20 paragraph (b)(i), (ii) or (iii);
- 21 (d) the breeding or rearing of horses for the
- 22 purpose of selling them or their progeny;
- 23 (e) any other thing prescribed for the purposes of
- 24 this subsection.
- 25 (2) In determining whether or not land is used for primary
- 26 production —
- 27 (a) it is irrelevant whether a thing is sold, or to be
- 28 sold, in a natural, processed or converted state;
- 29 but
- 30 (b) the processing or converting of anything for the
- 31 purpose of selling it is not primary production.

- 1 **30B. When land is used for primary production business**
- 2 Land is used for a primary production business if the
- 3 land is used for primary production and that use of the
- 4 land —
- 5 (a) has a significant and substantial commercial
- 6 purpose or character; and
- 7 (b) is directed at making a profit and has a prospect
- 8 of making a profit (whether or not a profit is
- 9 actually being made); and
- 10 (c) is planned, organised and carried on in a
- 11 businesslike manner, rather than being carried
- 12 on for recreation, hobby, sporting or similar
- 13 activities; and
- 14 (d) has the same or similar characteristics as, and is
- 15 carried out in the same or a similar manner to,
- 16 the ordinary trade in that line of business taking
- 17 into account —
- 18 (i) scale, size and permanency; and
- 19 (ii) repetition and regularity;
- 20 and
- 21 (e) is in accordance with any other factor
- 22 prescribed for the purposes of this section.

23 **Subdivision 2 — Primary production business exemption**

- 24 **30C. Exemption for rural land**
- 25 Land is exempt for an assessment year if, at midnight
- 26 on 30 June in the previous financial year, the land is —
- 27 (a) rural land; and
- 28 (b) used solely for a primary production business.

- 1 **30D. Exemption for non-rural land**
- 2 (1) Land is exempt for an assessment year if, at midnight
- 3 on 30 June in the previous financial year, the land is —
- 4 (a) non-rural land; and
- 5 (b) used solely for a primary production business;
- 6 and
- 7 (c) used, as described in paragraph (b), only by one
- 8 or more of the following —
- 9 (i) an owner of the land;
- 10 (ii) if an owner of the land is a family
- 11 owner, a person related to the family
- 12 owner.
- 13 (2) However, land is not exempt under this section for an
- 14 assessment year if, at midnight on 30 June in the
- 15 previous financial year —
- 16 (a) the land is owned jointly by 2 or more owners;
- 17 and
- 18 (b) not every owner of the land is —
- 19 (i) a family owner; and
- 20 (ii) a person related to each other family
- 21 owner;
- 22 and
- 23 (c) the land —
- 24 (i) is used for a primary production
- 25 business by a person related to a family
- 26 owner of the land; or
- 27 (ii) is not used for a primary production
- 28 business by any owner of the land.

- 1 **30E. Exemption under section 30D after death of family**
2 **owner or person related to family owner**
- 3 The death of a person (the *deceased*) is to be
4 disregarded in determining if land is exempt under
5 section 30D for the assessment year following the
6 financial year during which the death occurred and for
7 that purpose section 30D applies as if —
- 8 (a) where the deceased was a family owner of the
9 land — a reference in that section to a family
10 owner of the land included a reference to an
11 owner of the land who is an executor or
12 administrator of the deceased’s estate; and
- 13 (b) a reference in that section to a person related to
14 a family owner of the land —
- 15 (i) where the deceased was a family owner
16 of the land — were a reference to a
17 person who, immediately before the
18 death, was related to the family owner
19 of the land; and
- 20 (ii) where the deceased was a person related
21 to a family owner of the land —
22 included a reference to an executor or
23 administrator of the deceased’s estate.
- 24 **30F. Notice to Commissioner about changes to exempt**
25 **land**
- 26 (1) If land was exempt under this Division for an
27 assessment year, the owner of the land must notify the
28 Commissioner if any of the following occurs (a
29 *change*) —
- 30 (a) the land is no longer used solely for a primary
31 production business;

- 1 (b) if the land is non-rural land —
- 2 (i) the land is no longer used by one or
- 3 more of the persons referred to in
- 4 section 30D(1)(c); or
- 5 (ii) section 30D(2) applies in respect of the
- 6 land.
- 7 (2) The owner of the land must give notice under
- 8 subsection (1) in writing before whichever of the
- 9 following occurs later —
- 10 (a) the beginning of the next assessment year after
- 11 the change occurs;
- 12 (b) 3 months after the day on which the change
- 13 occurs.
- 14 Penalty for an offence under this subsection: a fine
- 15 of \$5 000.

16 **Subdivision 3 — Family owners of land and persons related**

17 **to family owners of land**

18 **30G. References to individuals, family members and**

19 **nominated individuals**

20 For the purposes of determining who is a family owner,

21 or a person related to a family owner, of land a

22 reference in this Subdivision —

- 23 (a) to an individual or a family member is a
- 24 reference to the person in their capacity as an
- 25 individual, and does not include any other
- 26 capacity such as agent, trustee or otherwise on
- 27 behalf of any other person; and

- 1 (b) to a nominated shareholder, nominated
2 beneficiary or nominated unit holder is a
3 reference to the individual nominated in writing
4 for the purposes of this Division —
- 5 (i) to the Commissioner by the family
6 corporation, the trustee of the family
7 trust or the trustee of the family unit
8 trust scheme, as is relevant; or
- 9 (ii) if such a nomination is not made within
10 a reasonable period of time after a
11 request for a nomination is made by the
12 Commissioner, by the Commissioner.

13 **30H. Family owner of land**

- 14 A *family owner* of land is an owner of the land that —
- 15 (a) is an individual; or
- 16 (b) is a corporation in which every shareholder is
17 either the nominated shareholder or a family
18 member of the nominated shareholder (a *family*
19 *corporation*); or
- 20 (c) holds the land in the capacity of trustee of a
21 discretionary or other trust (other than a unit
22 trust scheme) under which every beneficiary is
23 either the nominated beneficiary or a family
24 member of the nominated beneficiary (a *family*
25 *trust*); or
- 26 (d) holds the land in the capacity of trustee of a
27 unit trust scheme under which every unit is held
28 by either the nominated unit holder or a family
29 member of the nominated unit holder (a *family*
30 *unit trust scheme*).

- 1 **30I. Persons related to family owner who is an**
2 **individual**
- 3 (1) A person is related to a family owner of land who is an
4 individual (the *individual*) if the person is —
- 5 (a) a family member of the individual; or
6 (b) a partner in a partnership in which every
7 partner is either the individual or a family
8 member of the individual; or
9 (c) a corporation in which every shareholder is
10 either the individual or a family member of the
11 individual; or
12 (d) a trustee of a discretionary or other trust (other
13 than a unit trust scheme) under which every
14 beneficiary is either the individual or a family
15 member of the individual; or
16 (e) a trustee of a unit trust scheme under which
17 every unit is held by either the individual or a
18 family member of the individual.
- 19 (2) If land is owned jointly by 2 or more individuals, then
20 for the purposes of determining who is related to a
21 family owner of land, a reference in subsection (1) to
22 the individual is a reference to the individual
23 nominated in writing for the purposes of this
24 Division —
- 25 (a) to the Commissioner jointly by the 2 or more
26 family owners who are individuals; or
27 (b) if such a nomination is not made within a
28 reasonable period of time after a request for a
29 nomination is made by the Commissioner, by
30 the Commissioner.

- 31 **30J. Persons related to family corporation**
- 32 A person is related to a family owner of land that is a
33 family corporation if the person is the nominated

- 1 shareholder for the corporation (the *shareholder*) or
2 is —
- 3 (a) a family member of the shareholder; or
 - 4 (b) a partner in a partnership in which every
5 partner is either the shareholder or a family
6 member of the shareholder; or
 - 7 (c) another corporation in which every shareholder
8 is either the shareholder or a family member of
9 the shareholder; or
 - 10 (d) a trustee of a discretionary or other trust (other
11 than a unit trust scheme) under which every
12 beneficiary is either the shareholder or a family
13 member of the shareholder; or
 - 14 (e) a trustee of a unit trust scheme under which
15 every unit is held by either the shareholder or a
16 family member of the shareholder.

17 **30K. Persons related to trustee of family trust**

- 18 A person is related to a family owner of land that is a
19 trustee of a family trust if the person is an individual
20 who is the nominated beneficiary for the trust (the
21 *beneficiary*) or is —
- 22 (a) a family member of the beneficiary; or
 - 23 (b) a partner in a partnership in which every
24 partner is either the beneficiary or a family
25 member of the beneficiary; or
 - 26 (c) a corporation in which every shareholder is
27 either the beneficiary or a family member of the
28 beneficiary; or
 - 29 (d) a trustee of another discretionary or other trust
30 (other than a unit trust scheme) under which
31 every beneficiary is either the beneficiary or a
32 family member of the beneficiary; or

- 1 (e) a trustee of a unit trust scheme under which
2 every unit is held by either the beneficiary or a
3 family member of the beneficiary.

4 **30. Persons related to trustee of a family unit trust**
5 **scheme**

6 A person is related to a family owner of land that is a
7 trustee of a family unit trust scheme if the person is the
8 nominated unit holder for the scheme (the *unit holder*)
9 or is —

- 10 (a) a family member of the unit holder; or
11 (b) a partner in a partnership in which every
12 partner is either the unit holder or a family
13 member of the unit holder; or
14 (c) a corporation in which every shareholder is
15 either the unit holder or a family member of the
16 unit holder; or
17 (d) a trustee of a discretionary or other trust (other
18 than a unit trust scheme) under which every
19 beneficiary is either the unit holder or a family
20 member of the unit holder; or
21 (e) a trustee of another unit trust scheme under
22 which every unit holder is either the unit holder
23 or a family member of the unit holder.
24

25 **7. Schedule 1 Division 4 inserted**

26 At the end of Schedule 1 insert:
27

28 **Division 4 — Provisions for *Taxation Legislation Amendment***
29 ***Act (No. 2) 2014***

30 **6. Term used: amending Act**

31 In this Division —

32 *amending Act* means the *Taxation Legislation Amendment*
33 *Act (No. 2) 2014*.

- 1 **7. Application of section 15 during transitional period**
- 2 (1) In this clause —
- 3 *former section 30* means section 30 as in force immediately
- 4 before the amending Act section 6 comes into operation;
- 5 *transitional period* means the period —
- 6 (a) beginning on 1 July 2014; and
- 7 (b) ending on 30 June 2018.
- 8 (2) Section 15 applies to and in respect of land that is
- 9 subdivided during the transitional period as if
- 10 section 15(1)(a) included a reference to land that was
- 11 subject to a concession under the former section 30 for any
- 12 of the 5 financial years reckoned retrospectively from, and
- 13 including, the financial year during which the land was
- 14 subdivided.
- 15 **8. Application of section 20 to previous assessment years**
- 16 (1) In this clause —
- 17 *former section 20* means section 20 as in force immediately
- 18 before the amending Act section 5 comes into operation;
- 19 *previous assessment period* means the period —
- 20 (a) beginning on 1 July 2009; and
- 21 (b) ending on 30 June 2014.
- 22 (2) Despite the amendment of section 20 by the amending Act
- 23 section 5, the former section 20 continues to apply to and in
- 24 respect of an assessment year that occurred during the
- 25 previous assessment period.
- 26 **9. Application of section 30D to land held in trust for**
- 27 **assessment year 2014/15**
- 28 (1) In this clause —
- 29 *compliant trustee*, in relation to land, means a trustee of a
- 30 discretionary or other trust (other than a unit trust scheme)
- 31 that is —
- 32 (a) a family owner of the land under section 30H(c); or

- 1 (b) a person related to a family owner of the land
2 described in section 30I(1)(d), 30J(d), 30K(d) or
3 30(d).
- 4 (2) Land is exempt under section 30D for the assessment year
5 ending 30 June 2015 if —
- 6 (a) it would not be so exempt, but for this clause, solely
7 because a trustee was not a compliant trustee at
8 midnight on 30 June 2014; and
- 9 (b) on or before midnight on 30 June 2015 the trustee is
10 a compliant trustee.
11

12 **8. Glossary amended**

- 13 (1) In the Glossary clause 1 delete the definitions of:
14 *grazing business*
15 *horse-breeding business*
16 *non-rural zone*
17 *rural business*
18 *rural business land*
19 *total net income*
- 20 (2) Delete the Glossary clauses 4 and 5.

21 **Division 2 — Duties Act 2008 amended**

22 **9. Act amended**

23 This Division amends the *Duties Act 2008*.

24 **10. Section 3 amended**

25 In section 3 delete the definition of *primary production* and
26 insert:

27

28 *primary production* has the meaning given in
29 section 101A;
30

1 **11. Section 101A inserted**

2 After section 100 insert:

3

4 **101A. References to primary production**

5 (1) A reference to *primary production* is a reference to any
6 of the following —

7 (a) the growing or rearing of plants (including
8 trees, fungi or any crop) for the purpose of
9 selling them, parts of them or their produce;

10 (b) the breeding, rearing or maintenance of living
11 creatures for any of the following purposes
12 (*produce animals*) —

13 (i) selling them, or their progeny, for food;

14 (ii) the production or collection of their
15 skins, shells or bodily produce;

16 (iii) selling parts of them or their skins,
17 shells or bodily produce;

18 (c) the breeding, rearing or maintenance of produce
19 animals for the purpose of selling them or their
20 progeny —

21 (i) for stud purposes; or

22 (ii) to be used for a purpose set out in
23 paragraph (b)(i), (ii) or (iii);

24 (d) the breeding or rearing of horses for the
25 purpose of selling them or their progeny;

26 (e) any other thing prescribed for the purposes of
27 this subsection.

- 1 (2) In determining whether or not something is primary
2 production —
- 3 (a) it is irrelevant whether a thing is sold, or to be
4 sold, in a natural, processed or converted state;
5 but
- 6 (b) the processing or converting of anything for the
7 purpose of selling it is not primary production.
8

1 **Part 3 — Other amendments to *Land Tax Assessment***
2 ***Act 2002***

3 **Division 1 — Preliminary**

4 **12. Act amended**

5 This Part amends the *Land Tax Assessment Act 2002*.

6 **Division 2 — Amendments about exemptions**

7 **13. Section 17 amended**

8 (1) In section 17 delete “Land” and insert:

9
10 (1) Land

11
12 (2) At the end of section 17 insert:

13
14 (2) Unless this Part provides otherwise, an exemption
15 under a provision of this Part referred to in
16 subsection (1)(b) applies, in accordance with
17 section 18, to the whole or part of a lot or parcel of
18 land.

19
20 **14. Section 18 replaced**

21 Delete section 18 and insert:

22
23 **18. Whole and partial exemptions**

24 (1) In this section —
25 ***exemption provision*** means a provision of this Part
26 referred to in section 17(1)(b);

- 1 *relevant requirements*, in relation to an exemption
2 provision, means one or more of the following by
3 virtue of which land is exempt under the provision —
- 4 (a) it is used, reserved or occupied for a purpose or
5 purposes specified in the provision;
- 6 (b) it is used, owned or occupied by, vested in or
7 held in trust for, a person or persons of a class
8 or classes specified in the provision;
- 9 (c) it is of a class or description specified in the
10 provision.
- 11 (2) If an exemption under an exemption provision applies
12 to a lot or parcel of land then —
- 13 (a) the whole of the lot or parcel is exempt if all of
14 the relevant requirements of the provision apply
15 in respect of the whole of the lot or parcel; and
- 16 (b) otherwise, only a part of the lot or parcel is
17 exempt.
- 18 (3) An exemption that applies only to a part of a lot or
19 parcel of land as referred to in subsection (2)(b) applies
20 to the lot or parcel to the same extent that the relevant
21 requirements of the exemption provision apply in
22 respect of the lot or parcel.

24 **15. Section 20 amended**

25 In section 20(2) delete “the land” and insert:

26

27 a lot or parcel of land the subject of an application under
28 subsection (1)

29

1 **16. Section 38 amended**

2 In section 38(3) delete “If land is not exempt under
3 subsection (2) because it is not used solely as described in that
4 subsection,” and insert:

5

6 If the whole of a lot or parcel of land is not used as described in
7 subsection (2)(b) then an exemption under this section does not
8 apply but

9

10 **17. Section 39 replaced**

11 Delete section 39 and insert:

12

13 **39. Land used for retirement villages: exemption for**

14 (1) In this section, each of these terms has the meaning
15 given in the *Retirement Villages Act 1992* section 3 —

16 *residence contract*

17 *residential premises*

18 *retirement village*

19 *retirement village scheme*

20 (2) Land is exempt for an assessment year if, at midnight
21 on 30 June in the previous financial year, it is used for
22 residential premises that are —

23 (a) in a retirement village; and

24 (b) being occupied, or available for occupation,
25 under a residence contract.

26 (3) If land used for residential premises in a retirement
27 village is exempt under subsection (2), then the
28 exemption applies not only to that land but also extends
29 to any land that, at midnight on 30 June in that
30 financial year, is —

31 (a) part of the retirement village; and

- 1 (b) appurtenant to the residential premises; and
2 (c) being occupied or used for, or in connection
3 with, the retirement village scheme for the
4 retirement village.
5

6 **18. Section 39B amended**

7 Delete section 39B(3).

8 Note: The heading to amended section 39B is to read:

9 **Dwelling park land: concession and exemption for**

10 **Division 3 — Transitional and validation provisions**

11 **19. Schedule 1 heading amended**

12 In the heading to Schedule 1 after “**Transitional**” insert:

13

14 **and validation**

15

16 **20. Schedule 1 Division 4 Subdivision 1 heading inserted**

17 After the heading to Schedule 1 Division 4, as inserted by
18 section 7, insert:

19

20 **Subdivision 1 — Preliminary**

21

22 **21. Schedule 1 Division 4 Subdivision 2 heading inserted**

23 After Schedule 1 clause 6, as inserted by section 7, insert:

24

25 **Subdivision 2 — Provisions about primary production**

26

1 **22. Schedule 1 Division 4 Subdivision 3 inserted**

2 At the end of Schedule 1 Division 4, as inserted by section 7,
3 insert:
4

5 **Subdivision 3 — Provisions about exemptions**

6 **10. Terms used**

7 In this Subdivision —

8 *amended Act* means this Act as in force immediately after
9 commencement;

10 *commencement* means the day on which the amending Act
11 section 22 comes into operation;

12 *previous assessment* means an assessment in respect of land
13 for an assessment year during the validation period —

14 (a) that the land was partially exempt due to the
15 application, or purported application, of section 18;
16 or

17 (b) that the land was exempt due to the application, or
18 purported application, of section 39;

19 *validation period* means the period —

20 (a) beginning on the coming into operation of the *Land*
21 *Tax Assessment Act 2002*; and

22 (b) ending immediately before commencement.

23 **11. Validation of previous assessments**

24 (1) A previous assessment made, or purported to be made,
25 during the validation period is to be taken to be, and to have
26 always been, valid and effective to the same extent as it
27 would have been if the amended Act had been in force when
28 the assessment was made.

29 (2) The rights, obligations and liabilities of all persons are taken
30 to be, and to have always been, the same as if a previous
31 assessment had been validly made.

- 1 (3) Anything done, or purportedly done, during the validation
2 period is as valid and effective, and is to be taken to have
3 always been as valid and effective, as it would have been if
4 a previous assessment had been validly made.
- 5 (4) In this clause, a reference to the doing of anything includes a
6 reference to an omission to do anything.
- 7 (5) This clause is subject to clause 12.

8 **12. Land tax decisions made or pending**

- 9 (1) In this clause —
10 *decision* means —
11 (a) a decision of a court or tribunal made under a land
12 tax Act before commencement; or
13 (b) an objection determined by the Commissioner
14 before commencement.
- 15 (2) To the extent of any conflict or inconsistency between
16 clause 11 and a decision, the decision prevails.
- 17 (3) Clause 11 does not apply to, or in respect of, a previous
18 assessment —
19 (a) in respect of which an objection was lodged, but not
20 finally determined by the Commissioner, under a
21 land tax Act before 28 November 2013; or
22 (b) in respect of which review proceedings were
23 commenced, but not finally determined, under a
24 land tax Act before 28 November 2013.

25 **13. Reassessment**

26 Subject to the *Taxation Administration Act 2003* section 17,
27 the Commissioner may make any reassessment necessary to
28 give effect to the amendments effected by the amending Act
29 Part 3 Division 2 and this Subdivision.
30

1 **Part 4 — Other amendments to *Duties Act 2008***

2 **Division 1 — Preliminary**

3 **23. Act amended**

4 This Part amends the *Duties Act 2008*.

5 **Division 2 — Amendments about value of property and**
6 **landholder duty**

7 **24. Section 36 amended**

8 (1) Before section 36(4)(a) insert:

9

10 (aa) the ordinary principles of valuation apply,
11 except to the extent that those principles are
12 modified due to the operation of another
13 paragraph of this subsection; and
14

15 (2) Delete section 36(4)(b) and insert:

16

17 (b) it is to be assumed that a hypothetical purchaser
18 would, when negotiating the price of property,
19 have knowledge of all existing information
20 relating to the property; and

21 (ca) information relating to the property (including
22 the right to and use of the information) —

23 (i) will be regarded as an attribute of the
24 property; and

25 (ii) will not be regarded as something to
26 which an independent value can be
27 ascribed;

28 and
29

1 **25. Section 156 amended**

2 After section 156(7) insert:

3

4 (8) In determining whether an entity is linked to another
5 entity —

6 (a) if the entity has entered into an agreement to
7 acquire an interest in the other entity, the
8 agreement is to be regarded as having been
9 completed even if it has not yet been
10 completed; and

11 (b) if the entity has entered into an agreement to
12 dispose of an interest in the other entity but the
13 agreement has not yet been completed, the
14 agreement is to be disregarded.

15

16 **26. Section 176 amended**

17 Delete section 176(4A).

18 **27. Section 195 amended**

19 (1) Delete section 195(1)(a) and insert:

20

21 (a) for the purposes of an assessment —

22 (i) an agreement to acquire an interest in
23 land has, under section 149(1)(a), been
24 regarded as having been completed; or

25 (ii) an agreement to acquire an interest in an
26 entity has, under section 156(8)(a), been
27 regarded as having been completed;

28 and

29

- 1 (2) Delete section 195(2)(a) and insert:
2
3 (a) for the purposes of an assessment —
4 (i) an agreement to dispose of an interest in
5 land has, under section 149(1)(b), been
6 disregarded; or
7 (ii) an agreement to dispose of an interest in
8 an entity has, under section 156(8)(b),
9 been disregarded;
10 and
11

12 Note: The heading to amended section 195 is to read:

13 **Reassessment of duty where s. 149 or 156 applied**

14 **Division 3 — Transitional provisions**

15 **28. Schedule 3 Division 7 inserted**

16 At the end of Schedule 3 insert:

17 **Division 7 — Provisions for *Taxation Legislation Amendment***
18 ***Act (No. 2) 2014***

19 **37. Terms used**

20 In this Division —

21 ***amended provisions*** means sections 156(8)(b) and 195(2)(a)
22 as in force immediately after commencement;

23 ***commencement*** means the day on which the *Taxation*
24 *Legislation Amendment Act (No. 2) 2014* Part 4 comes into
25 operation;

26 ***relevant acquisition*** means a relevant acquisition that
27 occurred on or after 1 July 2008 but before commencement.

- 1 **38. Duty on certain relevant acquisitions**
- 2 (1) The amended provisions apply, and are to be taken to have
- 3 always applied, for the purposes of —
- 4 (a) assessing duty in respect of a relevant acquisition;
- 5 and
- 6 (b) reassessing duty in respect of a relevant acquisition
- 7 on an application made under section 195(3)(b)
- 8 before whichever is the later of the following —
- 9 (i) 5 years after the original assessment was
- 10 made;
- 11 (ii) 12 months after commencement.
- 12 (2) Subclause (1)(b) applies despite the *Taxation Administration*
- 13 *Act 2003* section 17(4).
- 14
- 15

