

## EXPLANATORY MEMORANDUM

### REVENUE LAWS AMENDMENT (TAX RELIEF) BILL (NO. 2) 2004

This Bill seeks to implement the pay-roll tax, stamp duty and land tax revenue relief measures announced as part of this Government's initiative to help create more new jobs and provide further assistance to first home buyers.

The Bill proposes amendments to the *Land Tax Act 2002*, *Pay-roll Tax Act 2002* and *Stamp Act 1921*.

The proposed amendments to the *Land Tax Act 2002* will change the operation of the exemption threshold so that land tax is only levied on the portion of the aggregate taxable value of land above the current exemption threshold of \$100,000. These amendments will take effect from 1 July 2005.

This effectively means that all taxpayers will receive a \$150 reduction in their land tax liability compared to existing arrangements.

It is expected that 64,000 land tax payers in the first taxable value range of \$100,000 to \$220,000 will receive an average 70 per cent reduction in their land tax bill, relative to that which would have otherwise applied.

The cost in terms of foregone revenue in 2005-06 will be around \$18.6 million, and \$82.6 million over the period until 2008-09.

The Bill proposes amendments to the pay-roll tax regime that will reduce the rate of pay-roll tax payable from 6 per cent to 5.5 per cent from 1 January 2005.

Western Australia will then have the equal third lowest pay-roll tax rate of all the States and Territories and one of the most competitive overall pay-roll tax regimes after also taking exemption thresholds into account.

As a result of this measure, businesses will pay 8.3 per cent less in pay-roll tax, with the average benefit per employer being nearly \$12,000 a year.

The reduction in the pay-roll tax rate is estimated to cost \$50.1 million in this financial year, and a total of \$513.5 million over the period until 2008-09.

The Bill also proposes amendments to the *Stamp Act 1921* to:

- reduce stamp duty conveyance rates by approximately 10 per cent across the board;
- increase the conveyance duty exemption thresholds for eligible first home buyers; and

- provide an increased rebate for purchases of vacant land by eligible first home buyers.

Under the first stamp duty measure, the rate of stamp duty on conveyances of property valued at \$80,000 or less will fall from 2.2 per cent to 2 per cent. Each subsequent rate in the scale will decrease by around 10 per cent to a maximum marginal rate of 5.4 per cent, down from 6 per cent.

A reduction in the marginal rate applying to the purchase of property by owner occupiers and businesses is also required to ensure the correct application of the phase out of the concession at \$200,000.

As a result of these measures, the costs for families and businesses of buying property in Western Australia will be significantly reduced. For example, the stamp duty payable on a median priced home of \$240,000 will fall by \$920.

The stamp duty payable on the median priced home in Perth will be the second lowest amount payable in an Australian capital city.

A business purchasing a commercial property valued at \$1 million will save \$5,470 in stamp duty.

This measure, which will benefit owner-occupiers, investors in property and Western Australian businesses, is estimated to cost \$57.3 million in 2004-05 and \$448.5 million over the period to 2008-09.

The second stamp duty measure in the Bill provides a conveyance duty exemption for eligible first home buyers who purchase a home valued at up to \$250,000. The exemption will gradually phase out for properties valued between \$250,000 and \$350,000.

The eligibility requirements for the stamp duty concession will remain the same as those for the first home owner grant.

As a result of these amendments, around 74% of first home buyers will receive a full exemption from conveyance duty, while a further 17% will receive a partial exemption for homes valued between \$250,000 and \$350,000.

For an eligible first home buyer purchasing a home worth \$250,000, the total stamp duty saving from the measures in this Bill will be \$9,170.

The third stamp duty measure is to apply where an eligible first home buyer elects to purchase vacant land and then build a home.

This person will effectively receive a stamp duty exemption on the conveyance of land up to a purchase price of \$150,000, and a partial exemption up to a purchase price of \$200,000.

This measure will help to ensure that first home buyers who purchase vacant land and first home buyers who purchase an established home are treated equitably.

These measures are estimated to cost \$6.4 million in this financial year, and \$50.6 million over the period to 2008-09.

The stamp duty amendments will apply retrospectively to any instrument executed on or after 29 October 2004.

An anti-avoidance provision has been included in the Bill to ensure that the new rates will not apply to contracts executed on or after 29 October 2004 that replace contracts for the same property entered into prior to this date.

Unlike previous amendments that lowered the stamp duty conveyance rates, there are no anti-avoidance provisions in this Bill dealing with option agreements. This is due to the commencement date of the arrangements being the date of announcement, rather than a nominated future date.

However, it is worth noting how the proposed provisions will apply to general option agreements. When an option is granted, a nominal option fee is usually payable and duty is calculated on that amount. When the option is exercised, an agreement comes into existence and duty is payable on the consideration payable or value of the property conveyed. Under these new arrangements, duty will be payable at the new rates where the option is exercised on or after 29 October 2004. This method of assessment does not apply to options covered by the put and call option arrangements specified in section 74B of the Stamp Act.

Overall, the measures in this Bill and the Revenue Laws Amendment (Tax Relief) Bill 2004 will represent a cost to revenue of \$121 million in this financial year, and \$1,113 million over the period to 2008-09.

## **Part 1 - Preliminary**

### **Clause 1: Short title**

This clause provides that the Act may be cited as the *Revenue Laws Amendment (Tax Relief) Act (No. 2) 2004*.

**Clause 2: Commencement**

This clause provides that the Act commences on the day that it receives Royal Assent.

**Part 2 – Land Tax Act 2002 amended**

**Clause 3: The Act amended**

This clause provides that the amendments in this Part are to the *Land Tax Act 2002*.

**Clause 4: Section 5 amended**

This clause amends section 5 to limit the application of the current land tax rate scale so that it does not extend beyond the 2004-05 assessment year.

This clause also inserts a new table in section 5 to specify the land tax rate scale for the 2005-06 assessment year and subsequent years.

The proposed table is set out below:

<b>Unimproved value of the land</b>		<b>Rate of land tax</b>
<b>Exceeding (\$)</b>	<b>Not exceeding (\$)</b>	
0	100 000	Nil
100 000	220 000	0.15 cent for each \$1 in excess of \$100 000
220 000	570 000	\$180.00 + 0.45 cent for each \$1 in excess of \$220 000
570 000	2 000 000	\$1 755.00 + 1.76 cents for each \$1 in excess of \$570 000
2 000 000	5 000 000	\$26 923.00 + 2.30 cents for each \$1 in excess of \$2 000 000
5 000 000		\$95 923.00 + 2.50 cents for each \$1 in excess of \$5 000 000

### **Part 3 – Pay-roll Tax Act 2002 amended**

**Clause 5: The Act amended**

This clause provides that the amendments in this Part are to the *Pay-roll Tax Act 2002*.

**Clause 6: Section 5 amended**

This clause amends the pay-roll tax rate.

Subclause (1) amends section 5 so that the current pay-roll tax rate of 6.0% applies to wages paid or payable before 1 January 2005.

Subclause (2) amends section 5 so that the reduced pay-roll tax rate of 5.5% applies to wages paid or payable on or after 1 January 2005.

### **Part 4 – Stamp Act 1921 amended**

**Clause 7: The Act amended**

This clause provides that the amendments in this Part are to the *Stamp Act 1921*.

**Clause 8: Second Schedule amended – rate changes**

Subclause (1) provides that the amendments in this section are to the Second Schedule.

Subclause (2) amends item 4(1)(a) so that conveyances or transfers where the consideration or value is \$80 000 or less are charged with duty at the rate of \$2.00 per \$100 and any fractional part of \$100.

Subclause (3) amends item 4(1)(b) so that conveyances or transfers where the consideration or value exceeds \$80 000, but does not exceed \$100 000, are charged with duty at the rate of \$1 600 plus \$3.00 per \$100 and any fractional part of \$100 by which the amount or value of the consideration exceeds \$80 000.

Subclause (4) amends item 4(1)(c) so that conveyances or transfers where the consideration or value exceeds \$100 000, but does not exceed \$250 000, are charged with duty at the rate of \$2 200 plus \$4.00 per \$100 and any fractional part of \$100 by

which the amount or value of the consideration exceeds \$100 000.

Subclause (5) amends item 4(1)(d) so that conveyances or transfers where the consideration or value exceeds \$250 000, but does not exceed \$500 000, are charged with duty at the rate of \$8 200 plus \$5.00 per \$100 and any fractional part of \$100 by which the amount or value of the consideration exceeds \$250 000.

Subclause (6) amends item 4(1)(e) so that conveyances or transfers where the consideration or value is greater than \$500 000 are charged with duty at the rate of \$20 700 plus \$5.40 per \$100 and any fractional part of \$100 by which the amount or value of the consideration exceeds \$500 000.

The proposed rates are set out in the table below:

<b>Property value</b>	<b>Conveyance duty rate</b>
\$0 - \$80 000	\$2.00 per \$100 or part thereof
\$80 001 - \$100 000	\$1 600 + \$3.00 per \$100 or part thereof
\$100 001 - \$250 000	\$2 200 + \$4.00 per \$100 or part thereof
\$250 001 - \$500 000	\$8 200 + \$5.00 per \$100 or part thereof
\$500 001 upwards	\$20 700 + \$5.40 per \$100 or part thereof

Subclause (7) amends item 4(2)(a) so that no duty is payable by a first home owner on the transfer of land that includes a home (within the meaning of section 75AG) where the amount or value of the consideration does not exceed \$250 000.

Subclause (8) amends item 4(2)(b) so that the concessional rate of duty for a first home owner on the transfer of land that includes a home (within the meaning of section 75AG) applies where the amount or value of the consideration exceeds \$250 000 but does not exceed \$350 000. The concessional rate is \$13.20 for every \$100 and any fractional part of \$100 by which the amount or value of the consideration exceeds \$250 000.

Subclause (9) amends item 4(3)(a) so that no duty is payable by a first home owner on the transfer of vacant land where the amount or value of the consideration does not exceed \$150 000.

Subclause (10) amends item 4(3)(b) so that the concessional rate of duty for a first home owner on the transfer of vacant land applies where the amount or value of the consideration exceeds \$150 000 but does not exceed \$200 000. The concessional rate is \$12.40 for every \$100 and any fractional part of \$100 by which

the amount or value of the consideration exceeds \$150 000. Subclause (11) amends item 4(5)(b) which sets out the rate of stamp duty to be applied to a conveyance or transfer of certain residential or business property chargeable at the concessional rate under section 75AE where the consideration or value is greater than \$100 000, but less than the threshold specified in section 75AE, which is currently \$200 000. The concessional rate is \$4.70 per \$100 and any fractional part of \$100 by which the amount or value of the consideration exceeds \$100 000.

**Clause 9: Application provision**

Subclause (1) sets out certain definitions that are relevant for the purposes of this section. The definitions are self-explanatory.

Subclause (2) provides that despite the changes to the rates set out in this Part, the provisions of the Stamp Act as enacted prior to 29 October 2004 continue to apply in relation to an instrument executed prior to 29 October 2004, and in relation to an instrument executed on or after 29 October 2004 that replaces an instrument in relation to the same property that was executed prior to 29 October 2004. The provision applies to the extent that the same property is included in the replacement instrument.

Subclause (3) provides that the conveyance rates set out in this Part apply in relation to a conveyance or transfer that is executed on or after 29 October 2004 unless the conveyance or transfer replaces a conveyance or transfer that was executed prior to 29 October 2004, as set out in subsection (2)(b).