

## EXPLANATORY MEMORANDUM

### DUTIES AMENDMENT (FIRST HOME OWNER CONCESSIONS) BILL 2024

The Duties Amendment (First Home Owner Concessions) Bill 2024 (the Bill) amends the *Duties Act 2008* (Duties Act) to increase the first home owner duty concession for homes so that:

- properties valued up to \$450,000 (previously \$430,000) are exempt from transfer duty; and
- properties valued between \$450,001 and \$600,000 (previously \$430,001 - \$530,000) receive a duty concession.

#### ***Application of the amendments***

Under the Duties Act, a concessional rate of duty applies to first home owner concessional transactions.

A first home owner concessional transaction is a transfer of, or an agreement to transfer, dutiable property where:

- the unencumbered value of the property does not exceed the relevant dutiable value threshold; and
- the transferee qualifies for the first home owner grant under the *First Home Owner Grant Act 2000*, or they would have qualified for the grant except that the transaction was for the purchase of an established home or there was no consideration for the transaction.

In the 2024-25 State Budget, the Western Australian Government announced that from 9 May 2024 first home buyers purchasing a home will benefit from additional duty assistance through changes to the first home owner rate and property value thresholds.

The changes will apply to purchases of established, newly constructed or substantially renovated homes made on or after 9 May 2024 by eligible first home buyers.

A full duty exemption will apply to homes valued up to \$450,000. If the property is valued between \$450,001 and \$600,000, duty will be assessed at the rate of \$15.01 per \$100 or part of \$100 above \$450,000.

The Minister for Finance will make a pre-enactment determination notice under section 130 of the *Taxation Administration Act 2003* to allow the Commissioner of State Revenue to apply the new rate and thresholds from the date of the determination notice, before the Bill is passed.

Once the pre-enactment notice is published in the *Government Gazette*, any eligible transactions entered into from 9 May 2024 that were assessed using the previous thresholds or rate can be reassessed to take into account the new rate and thresholds.

**Clause 1: Short Title**

This clause provides the short title of this Act is the *Duties Amendment (First Home Owner Concessions) Act 2024*.

**Clause 2: Commencement**

This clause provides the commencement dates for the Bill. Sections 1 and 2 commence on the day the Act receives the Royal Assent and the rest of the Act commences on the day after that day.

**Clause 3: Act amended**

This clause provides this Act amends the *Duties Act 2008*.

**Clause 4: Section 142 amended**

The first home owner rate of duty applies to the transfer, or agreement to transfer, of dutiable property if that transaction is a first home owner concessional transaction.

Section 142 of the Duties Act sets out the requirements for a first home owner concessional transaction, including that the unencumbered value of the property must not exceed certain thresholds.

This clause 4 amends section 142(1)(b)(ii) of the Duties Act to change the threshold amount for land on which there is a home from \$530,000 to \$600,000. This means that the purchase of a property valued up to \$600,000 will be a first home owner concessional transaction that is eligible for the first home owner rate of duty.

**Clause 5: Schedule 2 Division 2 amended**

Schedule 2 contains the rates of transfer duty. Division 2 of the Schedule sets out the concessional rates of duty that apply to certain transactions, including the first home owner concessional rate of duty.

This clause adjusts the dutiable value thresholds for first home owner concessional transactions where the property is a newly constructed, established or substantially renovated home, with a corresponding adjustment to the rate of duty.

The amendments increase the tax-free threshold from \$430,000 to \$450,000 and the maximum eligibility threshold for the concession from \$530,000 to \$600,000.

The new concessional rate of duty for homes valued between \$450,000 and \$600,000 is \$15.01 per \$100 or part thereof. The concession in this range tapers so that at a dutiable value of \$600,000 the duty payable at the concessional rate is equivalent to the duty payable at the general rate.

**Clause 6: Schedule 3 Division 13 inserted**

This clause inserts the transitional provisions for the amendments in this Bill at the end of Schedule 3 of the Duties Act.

The new thresholds and rate will apply to agreements to purchase a home entered into on or after 9 May 2024. Agreements entered into before 9 May 2024 will not be entitled to the new thresholds and rate, even if settlement occurs after this date.

Any agreements entered into on or after 9 May that have been assessed using the previous thresholds or rate can be reassessed taking into account the new thresholds and rate.

**78. Terms used**

Proposed clause 78 defines the following terms used in the transitional provisions:

***amended concession provisions*** means sections section 142 and Schedule 2 Division 2, as amended by this Bill.

***commencement day*** means the day on which section 3 of this Act comes into operation.

***first concessional transaction*** and ***further concessional transaction*** have the meanings given in section 142(2) of the Duties Act.

***pre-9 May 2024 agreement*** has the meaning given in clause 79(2).

***relevant first home owner concessional transaction*** has the meaning given in clause 79.

***substituted transferee*** has the meaning given in section 141(3) of the Duties Act.

**79. Relevant first home owner concessional transaction**

Proposed subclause 79 defines a *relevant first home owner concessional transaction* for the purposes of the transitional provisions.

Subclause (1) provides that a relevant first home owner concessional transaction is a transaction that:

- a) is a first home owner concessional transaction as defined in section 142(1) of the Duties Act (as amended by this Bill); and
- b) occurs on or after 9 May 2024.

Subclause (2) provides that an agreement for the transfer of dutiable property entered into before 9 May 2024 is not a relevant first home owner concessional transaction, even if the subsequent transfer of the property occurs on or after 9 May 2024.

This means that if a first home buyer has entered into a sale contract prior to 9 May 2024, the previous thresholds and rate will apply even if settlement occurs on or after that date.

## **80. Application of amended concession provisions**

Proposed clause 80 applies the amendments to transactions that occur on or after 9 May 2024.

Subclause (1) provides the amended concession provisions apply to a relevant first home owner concessional transaction, even if it occurred before commencement day. This ensures the new rates and thresholds apply to eligible transactions entered into between 9 May and the commencement of the Bill.

Subclause (2) provides that despite subclause (1), the new thresholds and rate do not apply to a further concessional transaction if the first concessional transaction to which it relates was a pre-9 May agreement, or a transfer in conformity with or to a substituted transferee under a pre-9 May agreement.

Subclause (3) provides that, if subclause (2) applies, duty is chargeable on a further concessional transaction using the same rate and thresholds that applied to the pre-9 May agreement.

A further concessional transaction may occur where a first home buyer has previously purchased an interest in a home under a shared equity arrangement with a third party that is prescribed under section 16 of the *First Home Owner Grant Act 2000* (for example, an agreement with the Housing Authority under its 'Opening Doors' program), and then later acquires the remaining equity in the home within 10 years of the original transaction.

Duty applies to a further concessional transaction at the same rate and using the same thresholds that applied when duty became chargeable on the first concessional transaction.

Subclauses 2 and 3 make it clear that if the agreement to transfer was entered into before 9 May 2024, duty will be chargeable on the further transaction at the rate that applied to the agreement.

### ***Example 1***

On 25 April 2024, Eddie, together with the Housing Authority, enters into an agreement to purchase an established home for \$450,000. Eddie is an eligible first home buyer.

Eddie will buy a 70 per cent interest in the property (for consideration of \$315,000) and the Housing Authority will buy the other 30 per cent (for consideration of \$135,000).

The dutiable value of the transaction is \$450,000. Transfer duty of \$3,838.00 is assessed at the pre-9 May concessional rate.

Eddie is required to pay duty of \$2,686.60 (70 per cent of \$3,838.00).

Settlement happens on 18 June 2024 and the property is transferred to Eddie and the Housing Authority. Under section 42(1) of the Duties Act, no duty is chargeable on the transfer, which is in conformity with the agreement.

Five years later, Eddie enters into a contract to purchase the remaining 30 per cent interest from the Housing Authority. This further concessional transaction is assessed using the same dutiable value, rate and thresholds that applied to the original agreement, which is a pre-9 May agreement.

The duty payable on \$450,000 using the same rate and thresholds that applied to the pre-9 May agreement is \$3,838.00. The amount of duty Eddie had already paid for the initial purchase is deducted from the total amount of duty payable, so Eddie is required to pay \$1,151.40 (\$3,838.00 - \$2,686.60).

There is no deduction or reassessment on the basis that the transfer occurred after 9 May 2024.

Subclause (4) provides that the Commissioner may, on the taxpayer's application or the Commissioner's own initiative, reassess the duty payable on a transaction in accordance with the amended provisions. This ensures the Commissioner can reassess agreements entered into between 9 May 2024 and the commencement of the Bill taking into account the new rate and thresholds.

***Example 2***

On 10 May 2024, Freya enters into an agreement to purchase a home for \$500,000. Freya is an eligible first home buyer.

Settlement happens on 29 May 2024 and the property is transferred to Freya.

The new rate and thresholds were not yet in force at the time of settlement, so transfer duty was assessed using the existing rates and thresholds. Freya paid \$13,433.00 in duty.

Once the Bill commences, Freya's agreement can be reassessed as it is a 'relevant first home owner concessional transaction'.

Freya's duty liability at the new concessional rates is \$7,505.00. Freya will receive a refund of \$5,928.00.