

## **BUSINESS TAX REVIEW (TAXING) BILL (NO.2) 2003**

### **EXPLANATORY MEMORANDUM**

This Bill, together with the Business Tax Review (Assessment) Bill (No. 2) 2003, seeks to give effect to the stamp duty and debits tax recommendations of the Review of State Business Taxes, as well as dealing with several other minor matters.

The measures in this Bill are complementary to the major amendments effected by the Business Tax Review (Assessment) Bill (No. 2) 2003.

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

This clause provides that this Act may be cited as the *Business Tax Review (Taxing) Act (No. 2) 2003*.

#### **Clause 2: Commencement**

This clause sets out the commencement provisions for this Act.

Subclause (1) provides that this Act comes into operation on a day fixed by proclamation.

Subclause (2) provides that different days may be fixed under subclause (1) for different provisions.

#### **Clause 3: The Act amended**

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

#### **Clause 4: Second Schedule amended**

Subclause (1) provides that the amendments in this section are to the Second Schedule to the *Stamp Act 1921*.

Subclause (2) amends item 13 as a consequence of the narrowing of the mortgage duty base and the rewrite of Part III E, dealing with mortgage duty.

Subclause (2)(a) deletes and replaces the item 13 mortgage duty heading and subitems 13(1), (1a) and (2).

The new mortgage duty heading limits the mortgage duty charge to mortgages and home mortgages, as those terms are defined in Part III E.

Item 13(1) charges a nominal fee of \$20.00 on a mortgage where no advance has been made under the mortgage. This provision partially retains the nominal duty charge that previously applied under section 83(2). The mortgagor is specified as the party liable to pay the duty.

Item 13(2) is the charging provision that applies to mortgages that are not home mortgages. Where an amount secured by a mortgage is \$0 to \$5,000, a nominal charge of \$20.00 will apply. The standard mortgage rate of \$0.40/\$100 or part thereof will apply to the amount secured by a mortgage that is in excess of \$5,000. The mortgagor is specified as the party liable to pay the duty.

Item 13(2a) is the charging provision that applies to home mortgages where the whole of the secured amount is used for the purposes set out in section 85(2), which are:

- (a) purchasing any property which is or includes a dwellinghouse;
- (b) building a dwellinghouse;
- (c) effecting improvements or additions to a dwellinghouse;
- (d) repaying money that was used solely for a purpose referred to in paragraph (a), (b) or (c).

Where an amount secured by a home mortgage is \$0 to \$8,000, a nominal charge of \$20.00 will apply. The home mortgage rate of \$0.25/\$100 or part thereof will apply to the amount secured by a home mortgage that is in excess of \$8,000. The mortgagor is specified as the party liable to pay the duty.

Item 13(2b) is the charging provision that applies to home mortgages where only part of the secured amount is used for the purposes set out in section 85(2).

Where an amount secured by the mortgage is \$0 to \$8,000, a nominal charge of \$20.00 will apply. The home mortgage rate of \$0.25/\$100 or part thereof will apply to the amount secured by a home mortgage that is in excess of \$8,000, where that amount is used for the purposes set out in section 85(2).

The rate of \$0.40/\$100 or part thereof will apply to the portion of the amount secured that is not used for the purposes set out in section 85(2). The mortgagor is specified as the party liable to pay the duty.

Subclause (2)(b) repeals item 13(3)(c) of the Second Schedule. This item is not needed, as the assignment or transfer of any mortgage by way of security is by definition a mortgage under proposed section 82(c).

Subclause (3) repeals item 18 and inserts a new item 18, which sets out how duty is imposed on a hire of goods.

Item 18(1) provides that duty on a return lodged by a commercial hire business under section 112L is chargeable in accordance with duty at the rates set out in section 112LB and is payable by the commercial hire business.

Item 18(2) provides that duty on a statement lodged by a hirer of goods under section 112M is chargeable with duty at the rates set out in section 112MA and is payable by the hirer of the goods.