

INFORMATION BULLETIN

GST AND RELATED MATTERS ACT 2000

On 23 June 2000, Royal Assent was given to the *GST and Related Matters Act 2000* (“Act”). This Act effects a range of amendments to the legislation administered by the Office of State Revenue. With the exception of the amendments to the London Stock Exchange provisions, these amendments commenced on 1 July 2000. However, the amendments in relation to stamp duty on transfers of marketable securities have effect on 1 July 2001.

STAMP ACT 1894

Stamp duty exemption for transfers of quoted marketable securities

Under the Intergovernmental Agreement (“IGA”), stamp duty is to cease to apply from 1 July 2001 to transfers of marketable securities quoted on the Australian Stock Exchange or another recognised stock exchange. This excludes the transfers of marketable securities in private companies and trusts, and in public companies and trusts where the securities are not quoted on the Australian Stock Exchange or another recognised stock exchange.

The Stamp Act 1894 contains various bases on which a liability to conveyance duty may arise for transfers of marketable securities and rights in respect of shares.

The broker provisions (sections 31C to 31F) apply to orders lodged in Queensland with a broker, or outside Australia with a Queensland broker, for the sale or purchase of marketable securities or rights in respect of shares listed on a prescribed exchange. They also apply to sales and purchases of those securities by Queensland brokers on their own account. The *Stamp Act 1894* has been amended to provide that the obligations imposed on a broker under sections 31C and 31E do not apply to any sale or purchase of a quoted security made after 30 June 2001.

The CHESS provisions (sections 31K to 31Y) impose duty on SCH transfers of marketable securities or rights in respect of shares with a Queensland nexus if the broker provisions do not apply. The *Stamp Act 1894* has been amended to remove the obligations placed on SCH participants and on the SCH in respect of transfers of a quoted security made after 30 June 2001.

The London Stock Exchange provision (section 31J) enables duty to be collected on certain dispositions on the London Stock Exchange of marketable securities or rights in respect of shares with a Queensland nexus. As the London Stock Exchange may be a recognised stock exchange, the *Stamp Act 1894* has been amended to remove the obligation to lodge a return or pay duty in relation to dispositions of quoted securities made after 30 June 2001. This amendment will commence by proclamation to be made if the London Stock Exchange becomes a recognised exchange.

The *Stamp Act 1894* also imposes duty on any instrument of transfer or agreement to transfer property and on an instrument and transaction effecting a change in beneficial ownership of marketable securities and rights in respect of shares with a Queensland nexus. Amendments have been made so that stamp duty will not apply to conveyances or transfers of quoted securities or transactions involving changes in beneficial ownership of these securities after 30 June 2001.

Finally, sections 31G and 31H have been amended so that they do not apply to conveyances or transfers of quoted securities occurring after 30 June 2001.

A quoted security is defined as a marketable security or right in respect of shares quoted on the Australian Stock Exchange or a recognised exchange. The term also covers CUFS and the rights referred to in paragraph (b) of the definition of right in respect of shares. Exchanges to be recognised will be prescribed by regulation.

Calculation of hiring duties on a GST-exclusive basis

Stamp duty is usually charged on the consideration in respect of relevant transactions and instruments. As a result of Commonwealth tax changes on 1 July 2000, the consideration for a wide range of transactions which attract stamp duty will be influenced by movements in prices and the introduction of the goods and services tax ("GST"). Any increase in consideration on account of GST will therefore affect the stamp duty payable on that transaction.

However, the interaction of GST and stamp duty may result in a cascading of taxes in relation to rental business and instalment purchase arrangements. To overcome this difficulty, the Act amends the *Stamp Act 1894* to exempt from stamp duty the GST component of amounts subject to duty under the rental business and instalment purchase agreement provisions.

Sales Tax

Under section 57A(2A) of the *Stamp Act 1894*, the list price of a motor vehicle on which stamp duty is chargeable is reduced by the amount of sales tax if the applicant for registration is exempt from sales tax. As sales tax has been abolished from 1 July 2000, the reference to that tax has been removed from section 57A.

PAY-ROLL TAX ACT 1971

The *Pay-roll Tax Act 1971* would apply to impose pay-roll tax on any GST component of wages liable to pay-roll tax. Pay-roll tax is imposed on wages paid or payable by an employer where the total wages exceed the statutory threshold. Whilst most categories of wages which attract pay-roll tax will not be subject to GST, some may bear a GST liability. The types of wages which could attract GST comprise mainly those paid by employment agents to contract workers who perform for the agents' clients services similar to those rendered by employees. Certain directors' fees may also be affected.

As GST is not payable on employees' wages, the *Pay-roll Tax Act 1971* has been amended to exempt from pay-roll tax the GST component of all wages to which the *Pay-roll Tax Act 1971* applies. This will provide consistent application of pay-roll tax to all taxable wages.

FUEL SUBSIDY ACT 1997

Under the *Fuel Subsidy Act 1997*, licensees are entitled to a subsidy for fuel purchased by them under their licences. This subsidy ensures that Queensland motorists do not pay any part of the Commonwealth fuel excise surcharge, which was imposed under safety net arrangements in 1997. There are currently three classes of licensees – retailers, off-road diesel consumers and bulk end users (BEUs).

Under National Tax Reform, the Commonwealth assumed responsibility from 1 July 2000 for the payment of rebates to persons using diesel for off-road purposes. Consequently, the *Fuel Subsidy Act 1997* has been amended to cease payment of fuel subsidies to persons who are currently eligible for these subsidies as off-road diesel consumers.

With the abolition of the off-road diesel consumer scheme, off-road diesel consumers' licences ceased to have effect on 1 July 2000. Similarly, the transitional arrangements for purchasing subsidised diesel as an off-road diesel consumer ceased at that time.

In addition, the Commonwealth fuel excise surcharge ceased from 1 July 2000. Consequently, the *Fuel Subsidy Act 1997* has been amended to modify the basis on which fuel subsidies are paid to retailers and BEUs, who will continue to be eligible for subsidies, and to ensure the proper operation of the subsidy arrangements.

The prohibition on a fuel seller recovering the cost of the surcharge is no longer relevant. Instead, a person who sells fuel to a licensed retailer or BEU is required to reduce the sale price payable by the licensee by the full amount of the subsidy. A claim for the subsidy may then be made by the seller to the Office of State Revenue.

As is currently the case, licensed retailers will receive the benefit of the subsidy. To ensure the full benefit of the subsidy is passed on to retail consumers, retailers are required to reduce the sale price payable by the consumer to fully reflect the subsidy entitlement that arose on the purchase of the fuel by the retailer. Similar arrangements apply for any other licensee who sells to another eligible purchaser.

With the abolition of the surcharge, section 108 no longer applies. Fuel sellers may continue to have regard to the relevant costs of selling fuel when setting the selling price. Records must be kept to show the price at which fuel is sold and the basis on which the selling price is determined so that the Commissioner can form a view as to whether or not the full benefit of the subsidy being claimed has been passed on to the licensed purchaser or retail consumer.

Transitional arrangements ensure that obligations which would have arisen but for the amendment of the *Fuel Subsidy Act 1997* continue. In relation to a person who was formerly an off-road diesel consumer and a person who sold diesel to an off-road diesel consumer before 1 July 2000, any obligations which would have applied to those persons if chapter 2 had not been repealed on 1 July 2000 continue as if chapter 2 had not been repealed.

Example 1

If a person purchased diesel under a net sale for chapter 2 before 1 July 2000 and, on or after 1 July 2000, uses the diesel in contravention of the conditions of the licence under which the diesel was purchased or sells the diesel other than under a net sale, the person is required to repay the subsidy received in relation to the purchase of the diesel.

Example 2

If a person who sold diesel to an off-road diesel consumer before 1 July 2000 does not continue to keep records as required under section 39 as it was in force before 1 July 2000, that person commits an offence under section 39(1).

In addition, a person who purchased fuel under a net sale before 1 July 2000 and who receives an amount for the surcharge on or after 1 July 2000, other than under the *Fuel Subsidy Act 1997* or a corresponding law, must repay the amount received.

RACING AND BETTING ACT 1980

The *Racing and Betting Act 1980* imposes tax on a bookmaker's turnover. Bookmaker's turnover tax was abolished from 1 July 2000 in order for the State to meet its obligation under the IGA. The *Racing and Betting Act 1980* has therefore been amended to abolish bookmaker's turnover tax on and from 1 July 2000. The necessary transitional and consequential amendments arising from the abolition of the tax were included in the *Racing and Betting Amendment Act 2000*.