

South Australia

# **Statutes Amendment (Taxation) Bill 2017**

A BILL FOR

An Act to amend the *Stamp Duties Act 1923*; and the *Taxation Administration Act 1996*.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Statutes Amendment (Taxation) Act 2017*.

## 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

## 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Stamp Duties Act 1923*

### 4—Amendment of section 2—Interpretation

(1) Section 2(1)—after the definition of *stamp* insert:

*stamp duty certificate* means a certificate issued under section 3E in relation to an instrument;

(2) Section 2(13)—delete subsection (13) and substitute:

(13) A requirement under this Act for an instrument to be duly stamped will be taken to be satisfied if—

- (a) the Commissioner has issued a stamp duty certificate certifying as to the payment of duty in respect of the instrument; and
- (b) a stamp duty identification number appears on the instrument,

and such instrument will, for the purposes of the law of the State, be treated in the same way as an instrument that has been duly stamped.

(14) If—

- (a) the Commissioner has issued a stamp duty certificate certifying that an instrument has been assessed as not chargeable with duty; and
- (b) a stamp duty identification number appears on the instrument,

the instrument will, for the purposes of the law of the State, be treated in the same way as an instrument that has been stamped by the Commissioner with a stamp denoting that it is not chargeable with duty.

### 5—Insertion of Part 1 Division 4

After section 3D insert:

#### Division 4—Stamp duty certificates

##### 3E—Commissioner may issue stamp duty certificate

- (1) The Commissioner may, by notice published on a website determined by the Commissioner, determine classes of instruments that may be the subject of an application under this section.

- (2) The Commissioner may, on application by a person made in accordance with any requirements of the Commissioner, issue a certificate (a *stamp duty certificate*)—
- (a) certifying as to the payment of duty in respect of an instrument identified in the certificate; or
- (b) certifying that the instrument has been assessed as not chargeable with duty.
- (3) A stamp duty certificate must include the stamp duty identification number that is to appear on the instrument and may include any other information the Commissioner thinks fit.

### 6—Transitional provision

Section 2(13) of the *Stamp Duties Act 1923*, as in force immediately before the commencement of section 4, continues to apply in relation to dutiable instruments described in that provision that are executed before the commencement of section 4.

## Part 3—Amendment of *Taxation Administration Act 1996*

### 7—Amendment of section 78—Permitted disclosure in particular circumstances or to particular persons

Section 78(e)—after "under" insert:

this Act or

### 8—Amendment of section 80—Prohibition of disclosures by other persons

Section 80(c)—delete "this Division" and substitute:

this Part

### 9—Amendment of section 81—Restriction on power of courts to require disclosure

Section 81—delete "this Division" and substitute:

this Part

### 10—Insertion of Part 9 Division 4

After section 81 insert:

#### Division 4—Collection of information for disclosure to Commonwealth

##### 81A—Interpretation

In this Division—

*public sector agency* has the same meaning as in the *Public Sector Act 2009*;

*reportable information* means information that is reportable by the State to the Commissioner of Taxation of the Commonwealth under Subdivision 396-B of Division 396 of Part 5-25 of Chapter 5 of Schedule 1 to the *Taxation Administration Act 1953* of the Commonwealth.

### **81B—Relationship with other laws**

- (1) Nothing in this Act or any other Act or law prevents the collection or disclosure of reportable information in accordance with this Division.
- (2) Nothing in this Division prevents the collection or disclosure of reportable information in accordance with any other provisions of this Act or any other Act or law.
- (3) Information may be collected and disclosed in accordance with this Division even if—
  - (a) the information is collected only for the purposes of disclosure to the Commissioner of Taxation of the Commonwealth and not collected under or in relation to the administration of any law of the State (except for this Division); and
  - (b) the information is not disclosed in connection with the administration or execution of any law of the State (except for this Division).

### **81C—Collection and disclosure of reportable information**

- (1) The Commissioner or a public sector agency may collect reportable information.
- (2) A public sector agency may disclose reportable information to the Commissioner.
- (3) The Commissioner may disclose reportable information to the Commissioner of Taxation of the Commonwealth.

### **81D—Commissioner may direct agency to collect and disclose**

- (1) The Commissioner may direct a public sector agency to disclose any reportable information held by the agency to the Commissioner and may also direct the public sector agency to collect reportable information for the purposes of that disclosure.
- (2) A public sector agency must make such arrangements as are necessary for the collection, and disclosure to the Commissioner, of reportable information, in accordance with the direction of the Commissioner.

**81E—How reportable information may be collected**

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- (1) The Commissioner or a public sector agency may collect reportable information by requiring a person providing information for the purposes of a function carried out under a taxation law, or a law administered by the Minister to whom the public sector agency is responsible, to provide the reportable information.
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- (2) Without limiting subsection (1), the Commissioner or a public sector agency may require reportable information to be provided in connection with the lodgment of an instrument, record or return, or the making of an application, under a taxation law or a law administered by the Minister to whom the public sector agency is responsible.
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- (3) Nothing in this section limits the circumstances in which the Commissioner or a public sector agency may collect reportable information.

**81F—Enforcement**

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The provisions of Part 8 (other than sections 48 and 59) and of section 109 extend to a person who is required by the Commissioner or a public sector agency to provide reportable information under section 81E(1) or (2) and for that purpose—

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- (a) a reference in section 55 to a tax officer includes a reference to any person engaged (whether as an employee or otherwise) in collecting reportable information in accordance with this Division; and
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- (b) a reference in any of those sections to a return or record kept or required under a taxation law includes a reference to the following:
- (i) any of the reportable information that the Commissioner or public sector agency requires the person to provide;
  - (ii) any document, statement or return that the Commissioner or public sector agency requires to be lodged in support of that reportable information.