

WESTERN AUSTRALIA

**REVENUE LAWS AMENDMENT
(ASSESSMENT) ACT (No. 2) 1997**

No. 51 of 1997

AN ACT to amend the —

- ***Land Tax Assessment Act 1976; and***
- ***Stamp Act 1921.***

[Assented to 12 December 1997.]

The Parliament of Western Australia enacts as follows:

s. 1 No. 51] *Revenue Laws Amendment (Assessment) Act*
(No. 2) 1997

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Revenue Laws Amendment (Assessment) Act (No. 2) 1997*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

PART 2 — LAND TAX ASSESSMENT ACT 1976

Section 23A amended

3. After section 23A (2) of the *Land Tax Assessment Act 1976** the following subsections are inserted —

“

(2a) The Commissioner may extend the time for giving notice from 31 August to any date before the following 1 July that the Commissioner thinks fit if the owner applies in writing for an extension of time before the following 1 July and if the Commissioner is satisfied that there are reasonable grounds for extending the time.

(2b) There shall be no objection or appeal under Part VIII in respect of a decision by the Commissioner under subsection (2a).

”.

[* *Reprinted as at 30 July 1996.*

For subsequent amendments see 1996 Index to Legislation of Western Australia, Table 1, p. 127 and Act No. 13 of 1997.]

PART 3 — STAMP ACT 1921

Principal Act

4. In this Part the *Stamp Act 1921** is referred to as the principal Act.

[* *Reprinted as at 23 January 1996.*
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 216 and
Acts Nos. 45, 61 and 76 of 1996 and 13 of 1997.]

Section 75J amended

5. Section 75J (1) of the principal Act is amended by inserting after the definition of “dormant” the following definition —

“ **“foreign person”** means —

- (a) an individual who does not ordinarily reside in Australia;
- (b) a corporation or a foreign company —
 - (i) at least 80% of the issued share capital of which is owned by individuals who do not ordinarily reside in Australia or by foreign companies; and
 - (ii) in respect of which individuals who do not ordinarily reside in Australia or foreign companies are in a position to cast or control the casting of at least 80% of the maximum number of votes that might be cast at a general meeting of the corporation or foreign company (excluding any power to vote by any person by virtue of the provisions of any debentures or a trust deed securing the issue of such debentures);

”.

Section 75JA amended

6. (1) After section 75JA (1) of the principal Act the following subsection is inserted —

“

(1a) This section applies if in connection with a scheme for the reconstruction of a body corporate or the amalgamation of bodies corporate —

(a) a foreign company (“**the transferee**”) acquires at least 90% of the issued share capital of —

(i) a body corporate; or

(ii) each of 2 or more bodies corporate that were associated with one another immediately prior to the acquisition,

(“**the target**”);

(b) the transferee has been dormant from when it was incorporated until it resolves to make the acquisition;

(c) the transferee, within 6 months after the acquisition, will be listed on a stock exchange that is prescribed for the purposes of this paragraph and is situated in the country where the transferee is incorporated;

(d) neither the target nor any of the targets (if there are 2 or more of them) is a WA company to which Division 2 of Part IIIBA applies or a corporation to which Division 3 of Part IIIBA applies;

(e) at least 50% of the issued share capital of the target or, if there are 2 or more targets, of each target is owned by a foreign person or foreign persons;

- (f) at least 90% of the consideration for the acquisition of the target, or if there are 2 or more targets, each target, consists of the issue of shares in the transferee to the holders of shares in the target or targets in exchange for those shares;
- (g) each holder of shares in the target or targets whose shares are acquired receives consideration equal in value to the value of those shares; and
- (h) immediately after the acquisition at least 90% of the issued share capital of the transferee consists of shares issued in consideration for the acquisition of shares in the target or, if there are 2 or more targets, for the acquisition of shares in all the targets.

”.

(2) Section 75JA (2) of the principal Act is amended by inserting after “section applies” the following —

“ because of subsection (1) ”.

(3) After section 75JA (2) of the principal Act the following subsection is inserted —

“

(2a) If on an application under section 75JD, it is shown to the satisfaction of the Commissioner that this section applies because of subsection (1a), the Commissioner shall exempt an instrument executed after the date on which subsection (1a) was inserted in this Act that is for or in connection with the transfer of the shares acquired by the transferee in the target or targets from duty under item 4A of the Second Schedule.

”.

(4) After section 75JA (3) of the principal Act the following subsection is inserted —

“

(4) If —

- (a) this section applies because of subsection (1a) and an instrument is exempted under subsection (2a); and
- (b) within 6 months after the acquisition the transferee has not become listed as required by subsection (1a) (c),

the claw-back applies.

”.

Section 75JB amended

7. (1) Section 75JB (1) (d) (i) of the principal Act is amended by inserting after “75JA (1) (a) to (e)” the following —

“ or (1a) (a) to (h) ”.

(2) Section 75JB (4) of the principal Act is amended —

(a) in paragraph (b) by inserting after “75JA (1) (a) to (e)” the following —

“ or (1a) (a) to (h) ”; and

(b) in paragraph (c) by inserting after “75JA (1) (c)” the following —

“ or (1a) (f) ”.

(3) Section 75JB (7) of the principal Act is amended —

(a) by inserting after “75JA (1) (a) to (e)” the following —

“ or (1a) (a) to (h) ”; and

(b) in paragraph (b) by inserting after “75JA (1) (c)” the following —

“ or (1a) (f) ”.

Section 75JE amended

8. After section 75JE (1) (d) of the principal Act the following paragraph is inserted —

“

(da) in a case where this section applies because of section 75JA (4), the target or targets are jointly and severally liable with the persons referred to in paragraph (d) to pay the duty and fine;

”.