

TASMANIA

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**TAXATION ADMINISTRATION REGULATIONS  
2021**

**STATUTORY RULES 2021, No. 97**

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# **TAXATION ADMINISTRATION REGULATIONS 2021**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Taxation Administration Act 1997*.

Dated 22 November 2021.

B. BAKER  
Governor

By Her Excellency's Command,

MICHAEL DARREL JOSEPH FERGUSON  
Minister for Finance

## **1. Short title**

These regulations may be cited as the *Taxation Administration Regulations 2021*.

## **2. Commencement**

These regulations take effect on  
15 December 2021.

### 3. Interpretation

In these regulations –

*Act* means the *Taxation Administration Act 1997*;

*associated person* has the same meaning as in the *Duties Act 2001*;

*business assets* means land, an interest in land, or goods, which are predominantly for –

- (a) the business of wholesale or retail sale of goods or services; or
- (b) the business of manufacturing; or
- (c) a primary production business; or
- (d) purposes that are ancillary to the running of a business;

*dutiable property* has the same meaning as in the *Duties Act 2001*;

*dutiable transaction* has the same meaning as in the *Duties Act 2001*;

*dutiable value*, in relation to dutiable property, has the same meaning as in the *Duties Act 2001*;

*interest*, in relation to land, has the same meaning as in the *Duties Act 2001*;

*land* has the same meaning as in the *Duties Act 2001*;

*subsequent transaction* has the same meaning as in section 36B(3) of the *Duties Act 2001*;

*unencumbered value* has the same meaning as in the *Duties Act 2001*.

#### **4. Conditions of approval**

(1) In this regulation –

*specified* means specified in a notice of approval, or subsequent notice, as referred to in section 51(1) of the Act.

(2) If an approval is given to a taxpayer or agent under section 49 of the Act, the Commissioner may require, as a condition of that approval, the taxpayer or agent to comply with the specified conditions in relation to endorsing and submitting a return, or paying tax, in respect of a specified instrument.

#### **5. Permitted disclosures**

The following persons are prescribed persons, for the purpose of section 77(1)(e)(x) of the Act, in respect of the disclosure of information under this section:

(a) a person who is employed in the Department and provides advice on taxation policy;

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- (b) an authorised officer as defined in the *First Home Owner Grant Act 2000*;
- (c) an authorised officer as defined in the *HomeBuilder Grants Act 2020*;
- (d) an authorised officer as defined in the *Workers Rehabilitation and Compensation Act 1988*;
- (e) the Valuer-General appointed under the *Valuation of Land Act 2001*;
- (f) the following persons if the disclosure is relevant to an investigation by the person of an alleged breach of Division 2B of Part VI of the *Fire Service Act 1979*:
  - (i) the Chief Officer as defined in that Act;
  - (ii) an officer of the Fire Service as defined in that Act;
- (g) the Commissioner, Second Commissioner, or a Deputy Commissioner under a law of the Commonwealth relating to taxation, or a person authorised to receive information on behalf of that Commissioner, Second Commissioner, or Deputy Commissioner;
- (h) a body, council, committee, society, association or board that –

- (i) is established under a law of the Commonwealth; and
- (ii) is responsible for regulating the conduct of members of that body, council, committee, society, association or board;
- (i) the Director of Consumer Affairs and Fair Trading, if the disclosure is relevant to his or her functions under the *Motor Vehicle Traders Act 2011*.

## 6. Administrative fee

- (1) In this regulation –

***prescribed person*** means an agent who is approved by the Commissioner for the purposes of section 49(1)(b) of the Act;

***relevant instrument*** means an instrument that is prescribed in Schedule 1;

***relevant lodging***, in relation to an instrument, means the lodging for assessment of a relevant instrument by a prescribed person.

- (2) For the purposes of section 118A of the Act, the prescribed fee in respect of a relevant lodging of an instrument is 25 fee units.

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**7. Legislation rescinded**

The legislation specified in Schedule 2 is rescinded.



**SCHEDULE 1 – RELEVANT INSTRUMENTS**

**Regulation 6**

1. An instrument that transfers dutiable property if the dutiable transaction is subject to *ad valorem* duty under the *Duties Act 2001* and the dutiable transaction, or subsequent transaction, did not occur in the open market, or the parties are associated persons, with the exception of the following instruments:
  - (a) an instrument that transfers dutiable property if the Commissioner has exercised his or her discretion under section 22(2) of the *Duties Act 2001* not to aggregate the dutiable transaction;
  - (b) an instrument that transfers land if the unencumbered value of the land is determined in accordance with section 20(3) of the *Duties Act 2001*;
  - (c) an instrument that transfers dutiable property if the instrument is made in accordance with a deed of family arrangement in relation to a deceased estate;
  - (d) an instrument that transfers dutiable property from a company to a shareholder if the dutiable value of the transfer is to be reduced in accordance with section 50(1) of the *Duties Act 2001*;

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- (e) an instrument that transfers dutiable property if the Commissioner makes an assessment in respect of the instrument in accordance with section 31(1) of the *Duties Act 2001*.
- 2. An instrument that transfers dutiable property if the dutiable transaction is subject to *ad valorem* duty under the *Duties Act 2001* and a statutory declaration under section 36I of the *Duties Act 2001* has been given to the Commissioner by the relevant transferee in relation to the dutiable transaction.
- 3. An instrument that transfers dutiable property if the dutiable transaction is subject to *ad valorem* duty under the *Duties Act 2001* and the duty is to be aggregated and dealt with as a single transaction under section 22 of the *Duties Act 2001*.
- 4. An instrument that transfers dutiable property if the dutiable property consists of business assets.
- 5. An instrument that transfers dutiable property if the dutiable transaction is effected by more than one instrument.
- 6. An instrument that transfers dutiable property to a trustee and *ad valorem* duty has been paid on the declaration of trust in respect of the same dutiable property.

7. An instrument in relation to a dutiable transaction if the dutiable transaction may be subject to a concessional rate of duty under the following sections of the *Duties Act 2001*:
  - (a) section 37(2);
  - (b) section 37(3);
  - (c) section 40(1);
  - (d) section 41;
  - (e) section 47(1).
8. An instrument in relation to a dutiable transaction if the dutiable transaction may be exempt from duty under the following sections of the *Duties Act 2001*:
  - (a) section 52(a);
  - (b) section 52(b);
  - (c) section 52(c);
  - (d) section 53(d).
9. An instrument that grants, transfers or surrenders an interest in dutiable property.
10. An instrument that effects a partition within the meaning of section 26 of the *Duties Act 2001*.
11. An instrument that –

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- (a) severs a joint tenancy in relation to dutiable property; or
  - (b) changes the ownership of dutiable property from tenants in common in equal shares to joint tenants.
- 12.** A vesting order made under the *Land Titles Act 1980* that is subject to duty under section 35 of the *Duties Act 2001*.
- 13.** An application to amend a strata plan under Division 6 of Part 2 of the *Strata Titles Act 1998* and any instrument of transfer that gives effect to any such amendment.

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**SCHEDULE 2 – LEGISLATION RESCINDED**

Regulation 7

*Taxation Administration Amendment Regulations 2012* (No.  
32 of 2012)

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 1 December 2021.

These regulations are administered in the Department of Treasury and Finance.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations –

- (a) prescribe, for the purposes of the *Taxation Administration Act 1997* –
  - (i) certain persons to whom information may be disclosed under the Act; and
  - (ii) a condition that may be imposed on an approval given under section 49 of the Act; and
  - (iii) certain instruments in respect of which an administrative fee is payable under the Act in certain circumstances; and
- (b) are made consequentially on the repeal of the *Taxation Administration Regulations 2010* under section 11 of the *Subordinate Legislation Act 1992*.