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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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AUSTRALIAN CAPITAL TERRITORY STAMP DUTY

AMENDMENT BILL 1981

AUSTRALIAN CAPITAL TERRITORY TAX (CHEQUES)

AMENDMENT BILL 1981

AUSTRALIAN CAPITAL TERRITORY TAX (INSURANCE BUSINESS)

AMENDMENT BILL 1981

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EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,  
the Hon. John Howard, M.P.)



## General outline

The amendments proposed by these three Bills will together increase the rates at which tax or duty is payable on certain instruments and transactions that come within the scope of the stamp duty and related tax legislation - applicable in the Australian Capital Territory (including Jervis Bay).

### Cheques, other bills of exchange and promissory notes

Stamp duty is payable at the rate of 5 cents on each cheque, other bill of exchange or promissory note that is liable to duty under the Australian Capital Territory Stamp Duty Act 1969. The duty is imposed on -

- (a) cheques drawn on a bank at a branch in the A.C.T.; and
- (b) bills of exchange or promissory notes (not being cheques) drawn, made, negotiated, presented for payment, or paid in the Territory.

The Australian Capital Territory Stamp Duty Amendment Bill 1981 will increase the rate of stamp duty payable from 5 cents to 10 cents per instrument.

For most practical purposes, stamp duty on cheques is substituted for by the system contained in the Australian Capital Territory Tax (Cheques) Act 1969 which requires that stamp tax be paid by a banker carrying on business in the A.C.T. in respect of authorised cheque forms supplied to its customers or used for its own purposes. Each registered banker furnishes to the Commissioner of Taxation monthly returns of all cheque forms so supplied or used. The tax, calculated at the rate of 5 cents per form, is remitted with that return. The tax payable by the banker is recoverable from its customers who are not then required to pay stamp duty when they use those forms.

The Australian Capital Territory Tax (Cheques) Amendment Bill 1981 will raise the rate of tax payable by bankers under this system from 5 cents to 10 cents per cheque form.

### Conveyances of interests in land or premises

Under the Australian Capital Territory Stamp Duty Act 1969, a transfer of a freehold interest or of a Crown lease granted for more than five years is dutiable at the rate of \$1 for each \$100 of the value of the interest transferred. Other transfers or assignments of leases are dutiable at the same rate but on the value of the consideration paid for the transfer.

In respect of grants of leases, other than by the Crown, stamp duty is also payable at the rate of \$1 for each \$100 of the consideration payable otherwise than by way of rent, and at the rate of 30 cents for each \$100 of the total amount of rent payable over the specified term of the lease.

The Australian Capital Territory Stamp Duty Amendment Bill 1981 will also increase the rate of duty applicable to these transactions. The existing rate of duty of \$1 for each \$100 of the value of the interest in the land or consideration given, as the case may be, is to be replaced by the following scale of duty:

For each \$100 of the value of the interest transferred or agreed to be transferred, or consideration given -

\$1.25	up to \$14,000;
\$1.50	between \$ 14,001 and \$ 30,000;
\$1.75	between \$ 30,001 and \$ 50,000;
\$2.00	between \$ 50,001 and \$100,000;
\$2.25	between \$100,001 and \$250,000; and
\$2.50	above \$250,000.

The duty payable in respect of the total rent payable over the specified term of a lease is also to be increased from 30 cents to 35 cents per \$100 of the total amount of rent payable.

#### General insurance business

Certain insurance business effected in the Australian Capital Territory is within the scope of the Australian Capital Territory Tax (Insurance Business) Act 1969. Tax is payable at the rate of 5 per cent of premiums received in the Australian Capital Territory by insurers in respect of insurance of real or personal property located in the Territory and of other classes of general insurance (other than workers' compensation and third party insurance) that are effected in the Territory.

Insurers are required to lodge returns in respect of each month with the Commissioner of Taxation giving details of taxable insurance effected during that month. Payment of the tax is required when the returns are lodged. Insurers, like bankers, are authorised to recover the tax from their clients.

The rate of tax payable in respect of taxable insurance effected by an insurer will, by the Australian Capital Territory Tax (Insurance Business) Amendment Bill 1981, be increased to 7 per cent of the premium received in the Territory.

Broadly stated, each of the increases in rates of duty or tax proposed by these Bills is to apply with effect after 18 August 1981.

Each of the Bills is explained more fully in the notes that follow.

# AUSTRALIAN CAPITAL TERRITORY STAMP DUTY AMENDMENT BILL 1981

## Clause 1 : Short title, etc.

Sub-clause (1) provides formally for the citation of the amending Act as the Australian Capital Territory Stamp Duty Amendment Act 1981. By sub-clause (2) the Australian Capital Territory Stamp Duty Act 1969 is to be referred to in the amending Act as "the Principal Act".

## Clause 2 : Commencement

Under this clause the amending Act will come into operation on 19 August 1981. But for this clause the amending Act would, by reason of sub-section 5(1A) of the Acts Interpretation Act 1901, come into operation on the twenty-eighth day after the date of Assent. In conjunction with clause 5, the effect of clause 2 is to ensure that the increased rates of duty proposed by the Bill take effect on and after 19 August 1981.

## Clause 3 : Amount of stamp duty

This clause proposes the repeal of section 5 and the substitution of a revised section 5. Existing section 5 of the Principal Act formally imposes duty, to the extent that it is payable, in accordance with the rate of duty set out in the First Schedule to that Act.

New section 5 is to the effect that an amount of stamp duty on an instrument specified in Schedule 1 is to be the amount set out in, or calculated in the manner set out in, column 3 of that Schedule. This amendment is a drafting measure and does no more than specify that amounts of duty, rather than rates of duty, are payable.

#### Clause 4 : First Schedule

This clause proposes amendments of the First Schedule to the Principal Act which specifies the rates of duty payable on dutiable instruments. The amended Schedule will specify the increased amounts of stamp duty that are to be payable in respect of cheques, other bills of exchange, promissory notes and conveyances and leases of land. Details of these increases have been set out earlier in this memorandum.

#### Clause 5 : Application of amendments

Clause 5 sets out the manner in which the amendments proposed by the Bill are to apply to the various classes of dutiable instruments.

Sub-clause (1) identifies the instruments that are to be subject to an increased amount of duty on and after the day on which the amending Act comes into operation by virtue of clause 2, i.e., 19 August 1981.

Paragraph (a) of sub-clause (1) ensures that where there is a liability to stamp duty, cheques drawn or made on or after 19 August 1981 are to bear the increased amount of duty of 10 cents each.

By paragraph (b), the increased amount of duty to be payable in respect of bills of exchange (other than cheques) and promissory notes will apply to such instruments that had not been duly stamped before 19 August 1981.

Paragraph (c) applies to instruments other than bills of exchange or promissory notes. In effect, these are instruments that relate to conveyances of land or the granting or transferring of leases of land. By paragraph (c), the increased amounts of duty are to be payable on any such instrument that is executed on or after 19 August 1981.

As a transfer of a lease, for example, which is a dutiable instrument is not subject to duty if the agreement for the transfer is duly stamped, the increased amount of duty will not be payable on a transfer executed on or after 19 August 1981 in pursuance of an agreement for the transfer executed before that date and duly stamped at the present rate.

Sub-clause (2) of clause 5 is an interpretation measure containing certain rules to facilitate the application of the amendments specified in sub-clause (1).

Paragraph (a) of sub-clause (2) specifies that the date of a cheque is to be taken to be the date on which the cheque was drawn or made, unless another date is shown to be the date on which that cheque was drawn or made.

Paragraph (b) requires instruments relating to land transactions to be deemed to have been executed on the date on which the last party to the instrument appears to have executed it.

Clause 6 : Formal amendments

This clause proposes that the Principal Act be amended as set out in the Schedule to the amending Act. These amendments involve changes in drafting style which do not affect the operation of the Principal Act.

AUSTRALIAN CAPITAL TERRITORY TAX (CHEQUES)  
AMENDMENT BILL 1981

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Clause 1 : Short title, etc.

Sub-clause (1) provides formally for the citation of the amending Act as the Australian Capital Territory Tax (Cheques) Amendment Act 1981. By sub-clause (2) the Australian Capital Territory Tax (Cheques) Act 1969 is to be referred to in the amending Act as "the Principal Act".

Clause 2 : Commencement

Sub-section 5(1A) of the Acts Interpretation Act provides that every Act shall come into operation on the twenty-eighth day after the day on which the Act receives the Royal Assent unless the contrary intention appears in the Act. By this clause it is proposed that the amending Act will come into operation on 19 August 1981.

Clause 3 : Amount of tax

Under section 5 of the Principal Act the amount of tax payable in respect of each cheque form supplied or used by a banker in the Australian Capital Territory is the amount of 5 cents per form. By sub-clause 3(1) the amount of tax is to be increased to 10 cents per form.

By sub-clause (2) the increased amount of tax is to apply in relation to cheque forms supplied or used by a banker after the amending Act comes into operation which, by virtue of clause 2, means on or after 19 August 1981. This means that cheque forms supplied to bank customers before that date that had not been used before that date will not attract the increased amount of tax when used.

AUSTRALIAN CAPITAL TERRITORY TAX (INSURANCE BUSINESS)  
AMENDMENT BILL 1981

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Clause 1 : Short title, etc.

Sub-clause (1) of clause 1 provides formally for the citation of the amending Act as the Australian Capital Territory Tax (Insurance Business) Amendment Act 1981. By sub-clause (2), the Australian Capital Territory Tax (Insurance Business) Act 1969 is to be referred to in the amending Act as "the Principal Act".

Clause 2 : Commencement

Under this clause, the amending Act will come into operation on 19 August 1981.

Clause 3 : Rate of tax

Sub-clause (1) of clause 3 proposes the repeal of section 5 of the Principal Act and the substitution of a new section 5. New section 5 will specify the increased rate of tax of 7 per cent of those classes of insurance premiums that, as explained earlier, are subject to tax under section 4 of the Principal Act.

Sub-clause (2) authorises the application of the higher rate of tax to relevant premiums that are received by an insurer in respect of insurance effected on or after 19 August 1981.