

STAMP AND CHEQUE DUTIES AMENDMENT BILL

EXPLANATORY NOTE

This Bill amends the Stamp and Cheque Duties Act 1971, and gives effect to the Budget proposals relating to stamp duty and the proposed credit card transaction duty.

Clause 1 relates to the Short Title, commencement, and application. The Bill is expressed to come into force on 10 July 1981, and, in respect of the stamp duty amendments, applies to instruments executed on or after that day, and, in respect of the credit card transaction duty, applies to all liable transactions entered into on or after that day.

Where more than one instrument of conveyance is executed in respect of the same transaction (for example, an agreement for sale and purchase of land followed by a memorandum of transfer) and at least one of those instruments is executed before 10 July 1981, the existing rate of conveyance duty will apply in respect of those instruments.

Clause 2 introduces a new scale of conveyance duty rates to replace the present 1 percent rate. The scale, expressed as a percentage, is as follows:

Rates of Conveyance Duty

Percent	Value of Property Conveyed
1.0	on value not exceeding \$50,000; and
1.5	on value between \$50,000 and \$100,000; and
2.0	on value exceeding \$100,000.

A general exemption from conveyance duty on dwellinghouses and residential land up to \$50,000 in value is given under *clause 3* of the Bill.

Clause 3 provides that, in respect of an instrument of conveyance of a dwellinghouse or residential land, the duty otherwise payable shall be reduced by the duty applicable to the first \$50,000 in value of the property conveyed.

Where the dwellinghouse or residential land is part of any area of land exceeding 4500 m², the Commissioner of Inland Revenue will apportion the value of the dwellinghouse or residential land as part of the total value of the property conveyed.

A right of appeal is granted in relation to the exercise of the Commissioner's discretion pursuant to the clause.

Clause 4 repeals sections 22A and 22c of the principal Act. Those sections relate to the duty payable on first homes and certain larger family homes.

Clause 5 increases the rate of deed duty from \$1 to \$10.

Clause 6 increases the rate of denoting duty from 40 cents to \$1.

Clause 7 inserts a new Part VIA consisting of sections 86A to 86E into the principal Act. The new Part introduces a credit card transaction duty, payable by credit card agencies (a defined term) on certain liable transactions (also defined).

Section 86A is the interpretation provision, and includes definitions of the terms "credit card", "credit card agency", "liable transaction", and "merchant".

Section 86B imposes the credit card transaction duty on all liable transactions entered into on or after 10 July 1981.

Section 86C fixes the rate of duty at 5 cents per liable transaction.

Section 86D relates to the payment of the duty. Every credit card agency shall forward to the Commissioner a statement setting out details of liable transactions entered into by that agency's credit card holders which have been debited to those card holder's accounts during the previous quarter.

The agency is charged with the payment of the duty disclosed by the statement.

Section 86E imposes interest at 5 percent a month on unpaid credit card transaction duty.

Hon. Mr Templeton

STAMP AND CHEQUE DUTIES AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Stamp and Cheque Duties Act 1971

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title, commencement, and application—(1) This Act may be cited as the Stamp and Cheque Duties Amendment Act 1981, and shall be read together with and deemed part of the Stamp and Cheque Duties Act 1971*
10 (hereinafter referred to as the principal Act).

*1971, No. 51

Amendments: 1972, No. 6; 1974, No. 36; 1974, No. 135; 1975, No. 22; 1976, No. 120; 1977, No. 97; 1978, No. 125; 1980, No. 3

(2) This Act shall come into force on the 10th day of July 1981.

(3) The provisions of this Act relating to stamp duty shall apply in respect of every instrument executed on or after the date of the commencement of this Act; but— 5

(a) Where more than one instrument of conveyance is executed in respect of the same transaction; and

(b) Where at least one of those instruments is executed before the commencement of this Act—

the provisions of the principal Act relating to conveyance duty shall apply in respect of those instruments of conveyance as if this Act had not been passed. 10

(4) The provisions of this Act relating to credit card transaction duty shall apply in respect of every liable transaction entered into on or after the date of the commencement of this Act. 15

2. Increase in rates of conveyance duty—(1) Section 15 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection: 20

“(2A) Conveyance duty shall be computed— 20

“(a) On that part of the value that does not exceed \$50,000, at the rate of \$1 for each \$100 and for such amount as may be less than \$100; and

“(b) On that part of the value that exceeds \$50,000 but does not exceed \$100,000, at the rate of \$1.50 for each \$100 and for such amount as may be less than \$100; and 25

“(c) On that part of the value that exceeds \$100,000, at the rate of \$2 for each \$100 and for such amount as may be less than \$100.” 30

(2) Section 15 (3) of the principal Act is hereby amended by omitting the words “Conveyance duty shall be computed at the rate of \$1 for each \$100, and for such amount as may be less than \$100, of the value of the property conveyed; but”, and substituting the words “Notwithstanding the rates of conveyance duty specified in subsection (2A) of this section,”. 35

3. Conveyance duty reduced on instrument of conveyance of dwellinghouse—(1) The principal Act is hereby amended by inserting, after section 24, the following section: 40

“24A. (1) This section shall apply to—

5 “(a) An instrument of conveyance of land on which a dwellinghouse is erected, or of land (in this section referred to as residential land) which is acquired for the purpose of having a dwellinghouse erected on it or on part of it:

“ (b) An instrument of conveyance of shares which, in the opinion of the Commissioner, has the effect of granting a right to occupy a dwellinghouse.

10 “(2) If the Commissioner is satisfied that, in respect of any instrument to which this section applies,—

15 “(a) The dwellinghouse or, as the case may be, the residential land will, as soon as practicable after the date of execution of the instrument of conveyance, be occupied primarily or principally as a residence—

“ (i) By the person to whom the land or shares is conveyed; or

20 “ (ii) By that person and any member or members of that person’s family; or

“ (iii) By any member or members of that person’s family; or

25 “ (iv) In any case where the land or shares is conveyed to a trustee of a trust, by a beneficiary under that trust; and

“ (b) In the case of a dwellinghouse that is a unit of a multi-unit building, the conveyance is accompanied by an agreement giving a right of exclusive occupation of that unit—

30 the conveyance duty otherwise payable on that instrument shall be reduced in accordance with subsection (5) of this section.

“ (3) For the purposes of this section,—

35 “ (a) Where any land conveyed by an instrument to which this section applies exceeds 4500 m² or such larger area as is required for the reasonable occupation of the land having regard to the size and character of the dwellinghouse erected or to be erected on it; or

40 “ (b) Where any building or buildings erected or to be erected on land conveyed by an instrument to which this section applies is or will be used partly as a dwellinghouse and partly for other purposes—

the value of the dwellinghouse or residential land conveyed by the said instrument shall be determined by the Commissioner, in such manner as he thinks fit, as being a proportion of the total value of the property so conveyed.

“(4) In this section, the term ‘dwellinghouse’ means a building erected or to be erected primarily and principally as a residence; and includes— 5

“(a) Any unit of a multi-unit building if the building is, or is to be, erected primarily and principally for residential purposes: 10

“(b) In the case of a building which is or will be used partly for residential purposes and partly for other purposes, the part used or to be used for residential purposes—

and also includes any land, improvements, or appurtenances belonging to the dwellinghouse or usually enjoyed with it. 15

“(5) There shall, in respect of any instrument to which this section applies, be deducted from the conveyance duty otherwise payable—

“(a) Where the duty is computed under section 15 (2A) of this Act, either an amount equal to \$1 for each \$100 and such amount as may be less than \$100 of the value of the dwellinghouse or residential land conveyed, or \$500, whichever is the less: 20

“(b) Where the duty is computed under section 15 (3) of this Act, either an amount equal to that conveyance duty, or \$200, whichever is the less— 25

and only the balance (if any) shall be payable as the conveyance duty on that instrument.

“(6) Where this section and section 24 of this Act both apply to an instrument of conveyance,— 30

“(a) If the conveyance duty payable on the instrument under this section will be equal to or less than that which, except for this subsection, would be payable under the said section 24, the conveyance duty on that instrument shall be that as payable under this section; or 35

“(b) If the conveyance duty payable on the instrument under this section will be greater than that which would otherwise be payable under the said section 24, the conveyance duty on that instrument shall be that as payable under the said section 24.” 40

(2) Section 24 of the principal Act is hereby consequentially amended by inserting, after subsection (2), the following subsection:

5 “(2A) Where this section and section 24A of this Act both apply to an instrument of conveyance, the section under which the conveyance duty on that instrument is payable shall be as specified in subsection (6) of the said section 24A.”

(3) Section 73 (1) of the principal Act is hereby consequentially amended by inserting, after paragraph (b), the following paragraph:

10 “(ba) Section 24A of this Act:”.

4. Repeal of provisions relating to first homes and certain larger family homes—(1) Sections 22A and 22C of the principal Act (as inserted by section 2 of the Stamp and Cheque Duties Amendment Act 1977) are hereby repealed.

15 (2) Section 73 (1) (aa) of the principal Act (as inserted by section 3 of the Stamp and Cheque Duties Amendment Act 1977) is hereby consequentially repealed.

5. Increase in rate of deed duty—Section 36 of the principal Act is hereby amended by omitting the expression “\$1” from both places where it occurs, and substituting in each case the expression “\$10”.

6. Increase in rate of denoting duty—Section 38 of the principal Act is hereby amended by omitting the words “40 cents”, and substituting the expression “\$1”.

7. New Part inserted—(1) The principal Act is hereby amended by inserting, after section 86, the following Part:

“PART VIA

“CREDIT CARD TRANSACTION DUTY

30 “**86A. Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“‘Cardholder’ means any person or persons to whom or for whose use a credit card has been issued by a credit card agency:

“‘Credit card’ means a card or other writing (other than a bill of exchange) of such a nature that, where used, directly or indirectly, in connection with any liable transaction with a merchant, a person (whether the credit card agency which issued the card or not) other than the cardholder agrees, whether subject to conditions or not, to make payment to that merchant: 5

“‘Credit card agency’ means any person who has issued a credit card and, in the ordinary course of business, will or will cause to make payment to a merchant pursuant to an obligation accepted by the credit card agency upon the issue of the credit card: 10

“‘Liable transaction’ means a transaction entered into in New Zealand with a merchant for the supply of goods, services, money, or money’s worth against the use of a credit card, being a transaction which resulted in a debit being entered in the account of a cardholder with a credit card agency; but does not include a transaction entered into with a credit card agency where goods, services, money, or money’s worth are supplied by that credit card agency against the use of a credit card issued by itself: 15 20 25

“‘Merchant’ means a person who supplies goods, services, money, or money’s worth and, for payment or recoupment in respect thereof, relies wholly or in part on the use, directly or indirectly, of a credit card in connection with such supply: 30

“‘Payment’ means the transference of money or money’s worth; and includes the adjustment of credits or debits and the giving of credit: 35

“‘Quarter’ means a period of 3 consecutive calendar months in any year ending with the last day of March, June, September, or December. 35

“86B. Credit card transaction duty payable—(1) Unless otherwise provided by this Act, credit card transaction duty shall be paid to the Crown on every liable transaction entered into on or after the 10th day of July 1981. 40

“(2) Credit card transaction duty and any interest on that duty payable by a credit card agency under this Part of this Act shall constitute a debt due and payable to the Crown by that agency.

“86c. **Rate of credit card transaction duty**—Credit card transaction duty shall be computed at the rate of 5 cents per liable transaction.

5 “86d. **Payment of credit card transaction duty**—(1) Within 21 days after the expiry of each quarter, every credit card agency shall forward to the Commissioner a statement, in a form prescribed by him, setting out—

10 “(a) Details of the number of liable transactions debited in the accounts of the agency’s cardholders with the agency during that quarter; and

15 “(b) Details of the number of liable transactions entered into by any cardholder of a credit card agency which is not resident in New Zealand and on behalf of which payment has been or has been caused to be made to any merchant during that quarter; and

“(c) A computation of the amount of credit card transaction duty disclosed as being payable in relation to the statement.

20 “(2) Every statement sent to the Commissioner under subsection (1) of this section shall be verified by the signature of a senior administrative officer of the credit card agency.

25 “(3) Any credit card transaction duty disclosed on a statement as being payable under subsection (1) (c) of this section shall be payable, in the time specified in subsection (1) of this section, by the credit card agency which forwarded the statement to the Commissioner.

30 “(4) Every credit card agency which fails to comply with subsections (1) and (2) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$500.

“86e. **Interest on unpaid credit card transaction duty**—
(1) Interest at the rate of 5 percent for every month or part of a month shall be payable on the amount of all credit card transaction duty unpaid within 1 month after the time specified in section 86d (1) of this Act, and shall be calculated from the expiration of the time specified in that subsection.

“ (2) For the purposes of sections 88, 89, and 98 of this Act, all interest payable under this section shall be deemed to be credit card transaction duty.”

40 (2) Section 2 of the principal Act is hereby amended by adding, to the definition of the term “stamp duty”, the words “or credit card transaction duty”.