Taxation Administration Act 1997  
Act No. 40/1997

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose
   The purpose of this Act is to make general provision for the administration and enforcement of taxation laws.

2. Commencement
   (1) Part 1 comes into operation on the day on which this Act receives the Royal Assent.
(2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.

(3) If a provision referred to in sub-section (2) does not come into operation before 1 July 1998, it comes into operation on that day.

3. Definitions

In this Act—

"assessment" means an assessment made by the Commissioner under Part 3 of the tax liability of a person, and includes a reassessment and a compromise assessment;

"authorised officer" means the Commissioner or a person appointed as an authorised officer under section 70(2);

"business day" means a day other than a Saturday, a Sunday or a public holiday appointed under the Public Holidays Act 1993;

"Commissioner" means Commissioner of State Revenue referred to in section 62;

"compromise assessment" means an assessment made under section 12;

"exercise a function" includes perform a duty;

"function" includes a power, an authority or a duty;

"investigation" means an investigation under Division 2 of Part 9;

"non-reviewable decision" has the meaning given by section 5;

"person" includes an unincorporated association and a partnership;
"premises" includes land, a vehicle, a vessel and an aircraft;

"reassessment" means reassessment of tax liability under section 9;

"record" means—
(a) a documentary record;
(b) a record made by an electronic, electromagnetic, photographic or optical process;
(c) any other kind of record;

"retention period", in relation to a document or thing, means the period of 60 days after it was provided, produced or seized;

"return" means a return, statement, certificate, application, report or other record that—
(a) is required or authorised under a taxation law to be lodged by a person with the Commissioner or a specified person; and
(b) is liable to tax or records matters in respect of which there is or may be a tax liability;

"tax" means a tax or duty under a taxation law, and includes—
(a) interest and penalty tax under Part 5;
(b) any other amount paid or payable by a taxpayer to the Commissioner under a taxation law;

"taxation law" has the meaning given by section 4;

"tax default" means a failure by a taxpayer to pay, in accordance with a taxation law, the
"whole or part of tax that the taxpayer is liable to pay;"

"tax liability" means a liability to pay tax;

"tax officer" means—

(a) an authorised officer;

(b) any other person engaged (whether as an officer or employee or otherwise) in the administration or execution of a taxation law;

"taxpayer" means a person who has been assessed as liable to pay an amount of tax, who has paid an amount as tax or who is liable or may be liable to pay tax;

"Tribunal" means Administrative Appeals Tribunal established under the Administrative Appeals Tribunal Act 1984;

"trustee" includes—

(a) a person who is a trustee under an implied or constructive trust;

(b) in relation to a deceased person, an executor of the will, or an administrator of the estate, of the deceased person;

(c) a receiver or manager of the property of a company, or a liquidator of a company for the purpose of its winding up;

(d) a receiver, guardian, committee or manager of the property of a person under a legal or other disability;

(e) a person having possession, control or management of a business or property
of a person who is under a legal or other disability;
(f) any person acting in a fiduciary capacity.

4. **Meaning of taxation laws**

The following are taxation laws for the purposes of this Act—

(a) this Act and regulations made under this Act;
(b) **Debits Tax Act 1990** and regulations made under that Act;
(c) **Financial Institutions Duty Act 1982** and regulations made under that Act;
(d) **Pay-roll Tax Act 1971** and regulations made under that Act;
(e) **Taxation (Reciprocal Powers) Act 1987** and regulations made under that Act.

5. **Meaning of non-reviewable in relation to certain decisions**

If a provision of this Act provides that a decision is a non-reviewable decision no court or administrative review body, including the Tribunal, has jurisdiction or power to entertain any question as to the validity or correctness of the decision.

6. **Act binds the Crown**

(1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) This section does not affect the liability of the Crown to tax under another taxation law.

(3) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.
PART 2—RELATIONSHIP WITH OTHER TAXATION LAWS

7. Relationship with other taxation laws

(1) This Act includes general provisions with respect to—

(a) assessment and reassessment of tax liability;
(b) obtaining refunds of tax;
(c) imposition of interest and penalty tax;
(d) approval of special tax return arrangements;
(e) collection of tax;
(f) record keeping obligations of taxpayers and general offences;
(g) tax officers and their investigative powers and secrecy obligations;
(h) objections, reviews and appeals;
(i) miscellaneous matters such as service of documents, corporate criminal liability and evidence.

(2) The taxation laws, other than this Act and the regulations, include provisions with respect to—

(a) the imposition of tax and its payment;
(b) exceptions to and exemptions from liability to the tax;
(c) entitlements to refunds.
PART 3—ASSESSMENT OF TAX LIABILITY

8. General power to make assessment

(1) The Commissioner may make an assessment of a tax liability of a taxpayer.

(2) An assessment of a tax liability may consist of or include a determination that there is not a particular tax liability.

9. Reassessment

(1) The Commissioner may make one or more reassessments of a tax liability of a taxpayer.

(2) Nothing prevents the Commissioner—

   (a) from making a reassessment of a tax liability of a taxpayer after an amount previously assessed as being payable by the taxpayer has been paid; or

   (b) from making a reassessment of a tax liability under which the taxpayer is assessed as having liabilities that are additional to or greater than those under the previous assessment.

(3) The Commissioner cannot make a reassessment of a tax liability more than 3 years after the initial assessment of the liability, unless—

   (a) the reassessment is to adjust tax to give effect to a decision on an objection, review or appeal as to the initial assessment; or

   (b) at the time the initial assessment or a reassessment was made, all the facts and circumstances affecting the tax liability under the relevant taxation law of the person in respect of whom the assessment or reassessment was made were not fully and truly disclosed to the Commissioner.
(4) The time limited by sub-section (3) applies even if the initial assessment is withdrawn.

10. Instruments and returns to include all relevant information

(1) A taxpayer and any tax agent of a taxpayer must ensure that there is included in an instrument that is liable to tax, or in a statement that is produced to the Commissioner together with the instrument prior to the payment of tax, all information necessary for a proper assessment of the tax liability of the taxpayer in respect of the instrument.

Penalty: 100 penalty units in the case of a body corporate;
20 penalty units in any other case.

(2) A taxpayer and any tax agent of a taxpayer must ensure that there is included in a return required to be lodged with the Commissioner under a taxation law, in addition to the information required under that taxation law, any further information necessary for a proper assessment of the tax liability of the taxpayer in respect of the return or the matters to which the return relates.

Penalty: 100 penalty units in the case of a body corporate;
20 penalty units in any other case.

(3) A person is not guilty of an offence under this section if the court hearing the charge is satisfied—

(a) that the person, being a taxpayer, reasonably relied on—

(i) another person who was liable or required with the taxpayer to pay the tax or lodge the return; or
(ii) a tax agent (whether engaged by the taxpayer or any such other person)—


to ensure that the requirements of this section are satisfied; or

(b) that the person, being a tax agent, reasonably relied on information supplied by the taxpayer or by another person who was liable or required with the taxpayer to pay the tax or lodge the return.

(4) In this section—

"tax agent", of a taxpayer, means a person engaged by the taxpayer for fee or reward (otherwise than as an employee) who prepares, or assists in the final preparation of, the instrument, statement or return on behalf of the taxpayer.

11. Information on which assessment is made

(1) The Commissioner may make an assessment on the information that the Commissioner has from any source at the time the assessment is made.

(2) If the Commissioner has insufficient information to make an exact assessment of a tax liability, the Commissioner may make an assessment by way of estimate.

12. Compromise assessment

(1) If it is difficult or impracticable for the Commissioner to determine a person's tax liability under a taxation law without undue delay or expense because of the complexity or uncertainty
of the case or for any other reason, the Commissioner may make an assessment in accordance with this section.

(2) The Commissioner, with the agreement of the taxpayer, may assess liability in an amount specified in, or determined in accordance with, the agreement.

(3) Despite section 9, the Commissioner cannot make a reassessment of a tax liability assessed in accordance with this section—

(a) except with the agreement of the taxpayer; or

(b) unless, in the opinion of the Commissioner—

(i) the assessment under this section was procured by fraud; or

(ii) there was a deliberate failure to disclose material information.

(4) An assessment or reassessment made under this section with the agreement of a taxpayer is a non-reviewable decision.

(5) This section does not limit the power of the Commissioner to make an assessment by way of estimate under section 11.

13. Withdrawal of assessment

The Commissioner may withdraw an assessment at any time within 3 years after the date of service of the notice of assessment, whether or not the amount of tax specified in the notice of assessment has been paid.

14. Notice of assessment or withdrawal of assessment

(1) If the Commissioner makes or withdraws an assessment, the Commissioner must serve a notice of assessment or withdrawal on the taxpayer.
(2) A notice of assessment must—

(a) be expressed to be an assessment of liability to the tax; and

(b) show the amount of tax assessed.

15. **Inclusion of interest and penalty tax in notice of assessment**

A notice of assessment of a taxpayer's tax liability served following a tax default by the taxpayer must specify any interest or penalty tax payable by the taxpayer under Part 5 or section 105 in respect of the default.

16. **Receipt of tax is not an assessment**

The receipt by the Commissioner of a return or an amount as payment of a tax does not constitute the making of an assessment of tax liability.

17. **Validity of assessment**

The validity of an assessment is not affected because a provision of a taxation law has not been complied with.
PART 4—REFUNDS OF TAX

18. **Application of Part**

(1) Proceedings for the refund or recovery of tax paid or purportedly paid under a taxation law, whether before or after the commencement of this section, must not be brought, whether against the Commissioner or otherwise, except as provided in this Part.

(2) This Part has effect despite the provisions of another taxation law.

(3) Sub-section (1) and section 19 do not apply to a taxpayer if the taxpayer claims to be entitled to receive a refund or to recover tax paid or purportedly paid under a taxation law by reason of the invalidity of a provision of that law.

(4) In this Part, "proceedings" includes—

   (a) seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration of right or an injunction; or

   (b) seeking any order under the **Administrative Law Act 1978**.

19. **Application for refunds**

(1) If a taxpayer claims to be entitled to receive a refund of or to recover tax paid or purportedly paid under a taxation law, the taxpayer must lodge with the Commissioner within 3 years after the payment was made an application for the refund of the payment.

(2) An application for a refund cannot be made if the Commissioner has previously served a notice of
assessment of the tax liability of the taxpayer in respect of the matter in respect of which the payment was made to the Commissioner.

(3) An application under sub-section (1) must be in a form approved by the Commissioner.

20. **When must Commissioner make a refund?**

If—

(a) an application for a refund is lodged with the Commissioner in accordance with section 19; and

(b) the Commissioner finds that an amount has been overpaid by the applicant—

the Commissioner—

(c) must refund the overpaid amount; or

(d) must—

   (i) apply the overpaid amount against any liability of the applicant to the State, being a liability arising under, or by reason of, a taxation law or another Act of which the Commissioner has the general administration; and

   (ii) refund any part of the overpayment that is not so applied.

21. **What happens if Commissioner refuses a refund?**

(1) If—

(a) a taxpayer has lodged an application for the refund of an amount in accordance with section 19; and

(b) within the period of 3 months after the application was lodged—
(i) the Commissioner has not—

(A) refunded the amount; or

(B) applied the amount in accordance with section 20(d)(i); or

(C) refunded part of the amount and applied the remainder in accordance with section 20(d)(i); or

(ii) the Commissioner has, in writing given to the taxpayer within that period, refused to make a refund—

the taxpayer, within 3 months after the end of that period or after that refusal, whichever first occurs, may bring proceedings for the recovery of the amount or, if the Commissioner has refunded or applied part, the remainder of the amount.

(2) Sub-section (1) applies whether or not the period for bringing proceedings for the refund or recovery of the amount prescribed by section 20A(1) of the Limitation of Actions Act 1958 has expired.

22. Windfalls—refusal of refund

(1) The Commissioner must not make a refund of tax unless satisfied that the person to whom the refund is payable (in this section called "the applicant")—

(a) has not charged to, or recovered from, and will not charge to, or recover from, any other person any amount in respect of the whole or any part of that tax; or

(b) if the applicant has so charged or recovered any such amount, will reimburse, or will take all reasonable steps to reimburse, each other person for the amount charged or recovered.
(2) If a refund is made to an applicant to whom sub-section (1)(b) applies—

(a) the applicant must—

(i) within 90 days after receiving the refund, reimburse each other person for the amount charged to or recovered from that person; and

(ii) notify the Commissioner in writing within 7 days after the end of that period that all amounts charged or recovered have been reimbursed; or

(b) if any such amount is not reimbursed within that period, the applicant, within 7 days after the end of that period, must—

(i) notify the Commissioner in writing of the amounts not reimbursed; and

(ii) pay those amounts to the Commissioner, together with interest at the specified rate from the date the refund was made to the date of payment.

Penalty: 50 penalty units.

(3) An amount payable under sub-section (2)(b)(ii) is a debt due from the applicant to the State.

(4) In this section—

"specified rate" means the percentage, not exceeding 20% per annum, that the Commissioner specifies when the refund is made;

"charge" includes pass on.

(5) For the avoidance of doubt, this section prevails over anything to the contrary in section 20 or 21.

23. Application of section 22 to proceedings
Section 22 applies in respect of proceedings for the refund or recovery of tax paid or purportedly paid under a taxation law as if—

(a) a reference in section 22 to the Commissioner (except in sub-section (2)(b)(ii)) were a reference to the court; and

(b) a reference in section 22 to the making of a refund were a reference to the making of an order or decision that a refund be made.
PART 5—INTEREST AND PENALTY TAX

Division 1—Interest

24. Interest in respect of tax defaults

(1) If a tax default occurs, the taxpayer is liable to pay interest on the amount of tax unpaid calculated on a daily basis from the end of the last day for payment until the day it is paid at the interest rate from time to time applying under this Division.

(2) Interest is payable under sub-section (1) in respect of a tax default that consists of a failure to pay penalty tax under Division 2 but is not payable in respect of any failure to pay interest under this Division.

25. Interest rate

The interest rate is the sum of—

(a) the market rate, being—

   (i) unless an order is in force under sub-paragraph (ii), the rate published from time to time in the Commonwealth of Australia Gazette under section 214A of the Income Tax Assessment Act 1936 of the Commonwealth; or

   (ii) the rate specified for the time being by order of the Minister published in the Government Gazette; and

(b) the premium rate, being 8% per annum.

26. Minimum amount of interest

There is no liability imposed by a taxation law to pay an amount of interest if the amount is less than $20.
27. *Interest rate to prevail over interest otherwise payable on a judgment debt*

If judgment is given by, or entered in, a court for an amount of unpaid tax (or an amount that includes an amount of unpaid tax), the interest rate determined in accordance with this Division continues to apply, to the exclusion of any other interest rate, until the tax is paid.

28. *Remission of interest*

The Commissioner, in such circumstances as the Commissioner considers appropriate, may remit interest payable by a taxpayer under this Division by any amount.

Division 2—Penalty tax

29. *Penalty tax in respect of certain tax defaults*

(1) If a tax default occurs, the taxpayer is liable to pay penalty tax in addition to the amount of tax unpaid.

(2) Penalty tax imposed under this Division is in addition to interest.

(3) Penalty tax is not payable in respect of a tax default that consists of a failure to pay—

(a) interest under Division 1; or

(b) penalty tax previously imposed under this Division.

30. *Amount of penalty tax*

(1) The amount of penalty tax payable in respect of a tax default is 25% of the amount of tax unpaid, subject to this Division.

(2) The Commissioner may increase the amount of penalty tax payable in respect of a tax default to 75% of the amount of tax unpaid if the
Commissioner is satisfied that the tax default was caused wholly or partly by the intentional disregard by the taxpayer (or a person acting on behalf of the taxpayer) of a taxation law.

(3) The Commissioner may determine that no penalty tax is payable in respect of a tax default if the Commissioner is satisfied that—

(a) the taxpayer (or a person acting on behalf of the taxpayer) took reasonable care to comply with the taxation law; or

(b) the tax default occurred solely because of circumstances beyond the taxpayer's control (or, if a person acted on behalf of the taxpayer, because of circumstances beyond either the person's or the taxpayer's control) but not amounting to financial incapacity.

31. **Reduction in penalty tax for disclosure before or during investigation**

(1) The amount of penalty tax determined under section 30 is to be reduced by 80% if, before the Commissioner informs the taxpayer that an investigation relating to the taxpayer is to be carried out, the taxpayer discloses to the Commissioner, in writing, sufficient information to enable the nature and extent of the tax default to be determined.

(2) The amount of penalty tax determined under section 30 is to be reduced by 20% if, after the Commissioner informs the taxpayer that an investigation relating to the taxpayer is to be carried out and before it is completed, the taxpayer discloses to the Commissioner, in writing, sufficient information to enable the nature and extent of the tax default to be determined.
32. *Increase in penalty tax for concealment*

(1) The amount of penalty tax determined under section 30 is to be increased by 20% if, after the Commissioner has informed the taxpayer that an investigation is to be carried out and before the investigation is completed, the taxpayer took steps to prevent or hinder the Commissioner from becoming aware of the nature and extent of the tax default in whole or part.

(2) For the purposes of this section, a taxpayer takes steps to prevent or hinder the Commissioner if the taxpayer—

(a) deliberately damages or destroys records required to be kept under the taxation law to which the investigation relates; or

(b) without reasonable excuse, refuses or fails to comply with a requirement made by the Commissioner under Division 2 of Part 9 for the purposes of determining the taxpayer's tax liability; or

(c) hinders or obstructs an authorised officer exercising functions under that Division for that purpose.

33. *Minimum amount of penalty tax*

Penalty tax is not to be imposed if the amount of the penalty tax is less than $20.

34. *Time for payment of penalty tax*

Penalty tax must be paid by a taxpayer within the period specified for that purpose in a notice of assessment of the tax liability of the taxpayer.
35. Remission of penalty tax

The Commissioner, in such circumstances as the Commissioner considers appropriate, may remit penalty tax by any amount.
PART 6—RETURNS

Division 1—General

36. Form of returns
A return is to be in a form approved by the Commissioner.

37. Time of lodgment
A return is taken to have been lodged by a person at the time the return is received by the Commissioner.

38. Extending time or period for lodgment
The Commissioner may extend the time or period for lodgment of a return by a person.

Division 2—Approval of special tax return arrangements

39. Approval of special tax return arrangements
(1) Despite the provisions of another taxation law, the Commissioner, by written notice, may give approval for a special arrangement for the lodging of returns and payment of tax under the taxation law to—

(a) a specified taxpayer or taxpayers of a specified class; or

(b) a specified agent on behalf of a specified taxpayer or taxpayers of a specified class.

(2) An approval, among other things—

(a) may provide an exemption (or a partial exemption) for the taxpayer or taxpayers from specified provisions of the taxation law to which it applies;
(b) may authorise the lodging of returns and payments of tax by electronic means.

(3) An approval may be given on the initiative of the Commissioner or on application.

(4) The Commissioner may vary or cancel an approval by written notice.

40. **Application for approval**

(1) An application for an approval under this Division must be made to the Commissioner in a form approved by the Commissioner.

(2) The Commissioner may grant or refuse an application for an approval under this Division.

41. **Conditions of approval**

(1) An approval under this Division is subject to any conditions specified by the Commissioner in the notice of approval or by subsequent written notice.

(2) The conditions of an approval may include—

(a) conditions limiting the approval to matters of a specified class;

(b) conditions limiting the approval to transactions effected by instruments of a specified class;

(c) conditions requiring the lodging of returns at specified times and conditions as to the contents of the returns;

(d) conditions requiring payments of tax at specified times;

(e) conditions as to the means by which returns are to be lodged or payments of tax are to be made;
(f) if the approval provides an exemption from a requirement for the stamping of instruments, conditions as to the endorsement of the instruments;

(g) conditions requiring the taxpayer or agent to whom the approval was given to keep specified records.

42. Gazettal or service of notices

A written notice under this Division may be given by—

(a) publishing it in the Government Gazette; or

(b) serving it on the taxpayer or agent to whom it relates.

43. Effect of approval

(1) If an approval is given under this Division to a specified taxpayer or taxpayers of a specified class, the conditions of the approval are binding on that taxpayer or the taxpayers of that class and that taxpayer or a taxpayer of that class is guilty of an offence if any of the conditions is contravened.

Penalty: 100 penalty units in the case of a body corporate;

20 penalty units in any other case.

(2) If—

(a) an approval is given under this Division to a specified agent on behalf of a specified taxpayer or taxpayers of a specified class; and

(b) the agent acts on behalf of that taxpayer or a taxpayer of that class in relation to a matter to which the approval applies—
the conditions of the approval are binding on the agent and the taxpayer and the agent and the taxpayer are each guilty of an offence if any of the conditions is contravened in relation to that matter.

Penalty: 100 penalty units in the case of a body corporate;

20 penalty units in any other case.

(3) However, if the provisions of a taxation law from which a taxpayer is exempted by an approval under this Division are complied with in relation to a matter, sub-sections (1) and (2) do not apply to the taxpayer or an agent of the taxpayer in relation to that matter.
PART 7—COLLECTION OF TAX

44. Tax payable to the Commissioner

Tax that is payable is a debt due to the State and payable to the Commissioner.

45. Recovery of tax

If the whole or part of tax payable by a taxpayer has not been paid to the Commissioner as required, the Commissioner may recover the amount unpaid—

(a) in the Magistrates' Court irrespective of the amount; or

(b) in any other court of competent jurisdiction.

46. Contributions from joint taxpayers

Nothing in this Act prevents a person who is jointly and severally liable to pay an amount of tax and who pays the amount to the Commissioner from recovering a contribution from any other person who is liable to pay the whole or part of that amount.

47. Collection of tax from third parties

(1) The Commissioner may require any of the following persons instead of the taxpayer to pay tax that is payable but remains unpaid—

(a) a person by whom any money is due or accruing or may become due to the taxpayer;

(b) a person who holds or may subsequently hold money for or on account of the taxpayer;

(c) a person who holds or may subsequently hold money on account of some other person for payment to the taxpayer;
(d) a person having authority from some other persons to pay money to the taxpayer.

(2) The Commissioner's requirement is to be made by notice in writing.

(3) A copy of the notice must be served on the taxpayer.

(4) The amount of money required to be paid to the Commissioner is—

(a) if the amount of the money held or due or authorised to be paid does not exceed the amount payable by the taxpayer to the Commissioner, all the money; or

(b) if the amount of the money exceeds the amount payable, sufficient money to pay the amount payable.

(5) The money must be paid to the Commissioner on receipt of the notice, or when the money is held by the person, or after such period (if any) as may be specified by the Commissioner, whichever is the later.

(6) A person subject to a requirement of the Commissioner under this section must comply with the requirement.

Penalty: 100 penalty units in the case of a body corporate;

20 penalty units in any other case.

(7) If, after a person is given a notice under this section by the Commissioner, the whole or a part of the amount is paid by another person, the Commissioner must promptly notify the person to whom the notice is given of the payment and the notice is taken to be amended accordingly.

(8) In this section, "tax" includes a judgment debt and costs in respect of such an amount.
48. *Indemnification of third party*

A person who makes a payment in accordance with section 47 is to be taken to be acting under the authority of the taxpayer and of all other persons concerned and is indemnified by this section in respect of the payment.

49. *Arrangements for payment of tax*

(1) The Commissioner may extend the time for payment of tax by a taxpayer and may accept the payment of tax by instalments.

(2) A decision of the Commissioner under this section may be made subject to such conditions (for example, as to the payment of interest) as the Commissioner may determine.
PART 8—RECORD KEEPING AND GENERAL OFFENCES

50. Requirement to keep proper records

(1) A person must keep, or cause to be kept, all records that are necessary to enable the person's tax liability under a taxation law to be properly assessed.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

(2) This section does not affect a provision of any other taxation law concerning the keeping of records.

51. Additional records

(1) The Commissioner, by written notice given to a person who is required by a taxation law to keep a record or cause a record to be kept, may require the person to keep, or cause to be kept, additional records specified in the notice.

(2) A person must comply with a notice under subsection (1).

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

52. Inclusion of false or misleading information in records

(1) A person must not—

(a) make a record required to be made by a taxation law that comprises or contains matter that is false or misleading in a material particular; or
(b) include in a record required to be made or kept by a taxation law matter that is false or misleading in a material particular.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

(2) A person is not guilty of an offence against sub-section (1) if the court hearing the charge is satisfied that the person did not know that the matter was false or misleading in a material particular.

53. **Accessibility**

A person who is required by a taxation law to keep a record must keep the record so that it is able to be readily produced to the Commissioner if the Commissioner requires its production.

Penalty: 200 penalty units in the case of a body corporate;

40 penalty units in any other case.

54. **Form of record—English language**

(1) A person who is required by a taxation law to keep a record must keep the record in English or in a form that can be readily converted or translated into English.

Penalty: 200 penalty units in the case of a body corporate;

40 penalty units in any other case.

(2) The Commissioner may recover from a person referred to in sub-section (1) the costs reasonably incurred by the Commissioner in converting or translating a record into English—

(a) in the Magistrates' Court irrespective of the amount; or
(b) in any other court of competent jurisdiction.

55. **Period of retention**

(1) A person who is required by a taxation law to keep a record must retain the record for not less than 5 years after—

(a) the date it was made or obtained; or
(b) the date of completion of the transaction or act to which it relates—

whichever is the later.

Penalty: 500 penalty units in the case of a body corporate; 100 penalty units in any other case.

(2) Sub-section (1) does not apply to a person if the Commissioner authorises them in writing to destroy the record before the end of the 5-year period.

56. **Wilfully destroying records**

A person must not wilfully damage or destroy a record required to be kept by a taxation law.

Penalty: 500 penalty units in the case of a body corporate; 100 penalty units in any other case.

57. **Giving false or misleading information to tax officers**

(1) A person must not—

(a) make a statement, orally or in writing, to a tax officer; or
(b) give information, orally or in writing, to a tax officer—

that is false or misleading in a material particular.

Penalty: 500 penalty units in the case of a body corporate;
(2) A person is not guilty of an offence against sub-section (1) if the court hearing the charge is satisfied that the person did not know that the statement or information was false or misleading in a material particular.

58. Deliberately omitting information

A person must not omit from a statement made to a tax officer any matter or thing without which the statement is, to the person's knowledge, false or misleading in a material particular.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

59. Failure to lodge documents

A person must not fail or refuse to lodge a document, statement or return that is required to be lodged by a taxation law.

Penalty: 200 penalty units in the case of a body corporate;

40 penalty units in any other case.

60. Falsifying or concealing identity

A taxpayer must not—

(a) falsify or conceal the identity, or the address or location of a place of residence or business, of the taxpayer or of another person; or
(b) do, by act or omission, anything that facilitates the falsification or concealment of the identity, or the address or location of a place of residence or business, of the taxpayer or another person.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

61. **Tax evasion**

A person must not, by a deliberate act or omission, evade or attempt to evade tax.

Penalty: 1000 penalty units in the case of a body corporate;

200 penalty units or imprisonment for 2 years or both in any other case.
PART 9—TAX OFFICERS, INVESTIGATION AND SECRECY PROVISIONS

Division 1—Tax officers

62. The Commissioner

There is to be a Commissioner of State Revenue appointed under the Public Sector Management Act 1992.

63. General administration of the taxation laws

(1) The Commissioner has the general administration of the taxation laws and may do all things that are necessary or convenient to give effect to the taxation laws.

(2) The Commissioner also has the functions conferred on him or her by or under any other Act.

64. Legal proceedings in Commissioner's name

(1) Legal proceedings may be taken by or against the Commissioner in the name "Commissioner of State Revenue".

(2) A person who takes legal proceedings in the name of the Commissioner is taken to be authorised to take those proceedings, in the absence of evidence to the contrary.

65. Commissioner may perform functions under Commonwealth Act

The Commissioner may exercise the functions of a State taxation officer under Part IIIA of the Taxation Administration Act 1953 of the Commonwealth.
66. **Deputy Commissioner**

(1) There may be appointed under the Public Sector Management Act 1992 any Deputy or Assistant Commissioners of State Revenue that are necessary for the administration and execution of the taxation laws and other laws under the general administration of the Commissioner.

(2) Subject to the direction and control of the Commissioner, a Deputy or an Assistant Commissioner has the same functions as the Commissioner under a taxation law or another law under the general administration of the Commissioner.

67. **Other staff**

There may be appointed or employed under the Public Sector Management Act 1992 any other officers and employees that are necessary for the administration and execution of the taxation laws and other laws under the general administration of the Commissioner.

68. **Use of consultants and contractors**

The Commissioner may engage any consultants and contractors that may be necessary or convenient to exercise the Commissioner's functions.

69. **Delegation by Commissioner**

The Commissioner, by instrument, may delegate to any person employed or engaged in the administration or enforcement of a taxation law or another law under the general administration of the Commissioner any function of the Commissioner, other than this power of delegation.
70. **Authorised officers**

(1) The Commissioner is an authorised officer for the purposes of the taxation laws.

(2) The Commissioner may appoint persons to be authorised officers for the purposes of the taxation laws.

71. **Identity cards for authorised officers**

An authorised officer must be issued with an identity card in a form approved by the Commissioner—

(a) containing the person's name, signature and photograph; and

(b) stating that the person is an authorised officer for the purposes of the taxation laws.

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72. **Circumstances in which investigative powers may be exercised**

A function conferred under this Division may be exercised only for the purposes of a taxation law.

73. **Power to require information, documents and things, and attendance**

(1) The Commissioner, by written notice, may require a person to do any one or more of the following—

(a) to provide to the Commissioner (either orally or in writing) information that is described in the notice;

(b) to attend and give evidence before the Commissioner or another authorised officer;

(c) to produce to the Commissioner a document or thing in the person's custody or control that is described in the notice.
(2) If the requirement is made of a person to determine that person's tax liability, the Commissioner must indicate in the notice that the requirement is made for that purpose, but the Commissioner is not otherwise required to identify a person in relation to whom any information, evidence, document or thing is required under this section.

(3) The Commissioner may require information or evidence that is not given orally to be provided in the form of or verified by a statutory declaration.

(4) The Commissioner may require evidence that is given orally to be given on oath and for that purpose the Commissioner or an authorised officer may administer an oath.

(5) Subject to sub-section (6), a person who is required to attend and give evidence orally is to be paid expenses in accordance with the prescribed scale of expenses.

(6) Sub-section (5) does not apply to a person, or a representative of a person, whose liability under a taxation law is being investigated by the Commissioner.

(7) The Commissioner may make a recording, by such means as the Commissioner determines, of the evidence given orally by a person.

(8) The person to whom the notice is given must comply with the notice within the period specified in the notice or any extended period allowed by the Commissioner.

Penalty: 500 penalty units in the case of a body corporate; 100 penalty units in any other case.

(9) If a person is convicted of an offence against sub-section (8) the court, in addition to imposing a
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penalty under that sub-section and whether or not the period for complying with the notice has expired, may order the person to comply with—

(a) the requirement contained in the notice; and

(b) any other requirement that could be made in relation to the person under a taxation law that the court considers necessary to ensure the effectiveness of the requirement referred to in paragraph (a)—

within the period specified by the court.

74. Access to public records without fee

The Commissioner is entitled to inspect and take copies of any public record relevant to the assessment or collection of tax kept under an Act or law of Victoria without payment of any fee that would be payable but for this section.

75. Use and inspection of documents and things provided to the Commissioner or an authorised officer

(1) This section applies to a document or thing that is provided or produced to the Commissioner or another authorised officer.

(2) The Commissioner or authorised officer may take and retain possession of the document or thing—

(a) for the purpose of enabling it to be inspected; or

(b) in the case of a document, for the purpose of enabling it to be copied, or for extracts or notes from it to be taken, by or on behalf of the Commissioner or authorised officer; or
(c) if the Commissioner or authorised officer believes on reasonable grounds that it is necessary to do so in order to prevent its concealment, loss, destruction or alteration.

(3) The Commissioner or authorised officer must permit a person who would be entitled to inspect the document or thing if it were not in the possession of the Commissioner or authorised officer to inspect it at any reasonable time.

(4) Nothing in this section—

(a) prejudices a lien a person has on the document or thing;

(b) limits or affects section 76.

76. Searches without a warrant

(1) An authorised officer may exercise powers under this section only if he or she believes on reasonable grounds that there are documents or things on any premises that are relevant to the administration or execution of a taxation law.

(2) Subject to this section, an authorised officer with any assistants and equipment the authorised officer considers necessary may enter, at any reasonable time, any premises and may do any one or more of the following—

(a) search the premises and any thing found at the premises;

(b) inspect and take photographs (including video recordings), or make sketches, of the premises or any thing at the premises;

(c) inspect, and make copies of, or take extracts from, any document kept at the premises;

(d) seize any document or thing at the premises if the authorised officer has reason to believe
or suspect that it is necessary to do so in order to prevent its concealment, loss, destruction or alteration.

(3) An authorised officer may not seize a document or thing apparently in the possession or custody of a person unless the authorised officer makes out and tenders to the person a receipt in the prescribed form for the document or thing seized.

(4) If an authorised officer is unable to ascertain the identity of the owner or custodian of anything seized, the authorised officer must leave the receipt in a prominent place at the premises.

(5) An authorised officer may not exercise any powers under this section if the authorised officer fails to produce, on request, his or her identity card for inspection by the occupier of the premises.

(6) The power of entry and search under this section is not exercisable in relation to premises or a part of premises used for residential purposes except with the written consent of the occupier.

(7) An occupier who consents in writing to entry and search of his or her premises under this section must be given a copy of the signed consent immediately.

77. Search warrant

(1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to particular premises if the authorised officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration or execution of a taxation law.

(2) If a magistrate is satisfied by the evidence on oath, whether oral or by affidavit, that there are
reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration or execution of a taxation law, the magistrate may issue a search warrant authorising an authorised officer named in the warrant and any assistants the authorised officer considers necessary—

(a) to enter the premises, or the part of premises, named or described in the warrant; and

(b) to search for and seize, or secure against interference, a thing named or described in the warrant; and

(c) if reasonably necessary for the purposes referred to in paragraph (b), to break open any receptacle in or on the premises.

(3) In addition to any other requirement, a search warrant issued under this section must state—

(a) the premises to be searched; and

(b) a description of the thing for which the search is to be made and the taxation law to which the thing relates; and

(c) any conditions to which the warrant is subject; and

(d) whether entry is authorised to be made at any time or during stated hours; and

(e) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

(4) A search warrant must be issued in accordance with the Magistrates' Court Act 1989 and in the form prescribed under that Act.
(5) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

78. Announcement before entry

(1) Before executing a search warrant, the authorised officer named in the warrant or a person assisting the authorised officer must announce that he or she is authorised by the warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.

(2) The authorised officer or a person assisting the authorised officer need not comply with sub-section (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—

(a) the safety of any person; or

(b) that the effective execution of the search warrant is not frustrated.

79. Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at premises when a search warrant is being executed, the authorised officer must—

(a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and

(b) give to that person a copy of the execution copy of the warrant.

80. Use of equipment to examine or process things

(1) An authorised officer or assistant of the authorised officer who enters premises under section 76 may operate equipment already at the premises to carry
out the examination or processing of a thing found at the premises in order to determine whether it is a thing that may be seized under section 76, if the authorised officer or assistant believes on reasonable grounds that—

(a) the equipment is suitable for the examination or processing; and

(b) the examination or processing can be carried out without damage to the equipment or the thing.

(2) If—

(a) it is not practicable to examine or process the thing at the premises; or

(b) the occupier of the premises consents in writing—

the thing may be moved to another place so that the examination or processing can be carried out in order to determine whether it may be seized under section 76.

81. **Use or seizure of electronic equipment at premises**

(1) If—

(a) a thing found at premises that an authorised officer has entered under section 76 is or includes a disk, tape or other device for storage of information; and

(b) equipment at the premises may be used with the disk, tape or other storage device; and

(c) the authorised officer believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to the administration of a taxation law—

the authorised officer or an assistant of the authorised officer may operate, or may require the
occupier or an employee of the occupier to operate, the equipment to access the information.

(2) If the authorised officer or assistant finds that a disk, tape or other storage device at the premises contains information of the kind referred to in sub-section (1)(c), he or she may—

(a) put the information in documentary form and seize the documents so produced; or

(b) copy the information to another disk, tape or other storage device and remove that storage device from the premises; or

(c) if it is not practicable to put the information in documentary form nor to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.

(3) An authorised officer or assistant must not operate or seize equipment for the purpose mentioned in this section unless the authorised officer or assistant believes on reasonable grounds that the operation or seizure of the equipment can be carried out without damage to the equipment.

82. Compensation for damage to electronic equipment

(1) If equipment is damaged because of being operated or seized by an authorised officer or assistant of an authorised officer under section 80 or 81 and the damage is caused by insufficient care being exercised—

(a) in selecting the person who is to operate or seize the equipment; or

(b) by the person operating or seizing the equipment—

the Commissioner must pay compensation for the damage to the owner of the equipment.
(2) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

83. **Copies to be given**

If an authorised officer seizes, other than under section 81(2)(a) or (b)—

(a) a document (including a disk or tape) or other thing that can be readily copied; or

(b) a storage device the information in which can be readily copied—

the authorised officer, on request by the occupier, must give a copy of the thing or information to the occupier as soon as practicable after the seizure.

84. **Return of documents and things**

(1) This section applies to—

(a) a document or thing provided or produced to the Commissioner or an authorised officer;

(b) a document or thing seized by an authorised officer under section 76;

(c) anything else seized by an authorised officer under this Division (other than under a search warrant).

(2) The Commissioner or an authorised officer must take reasonable steps to return a document or thing to which this section applies to the person who provided or produced it, or from whom it was seized, if the reason for its provision, production or seizure no longer exists.
(3) If the document or thing has not been returned before the end of the retention period, the Commissioner or authorised officer must take reasonable steps to return it unless—

(a) proceedings have commenced within the retention period and those proceedings (including any appeal) have not been completed; or

(b) a court makes an order under section 85 extending the retention period.

(4) If, after taking reasonable steps, the Commissioner or authorised officer is unable to return the document or thing, he or she may dispose of or destroy it.

(5) This section does not apply to a document that is a copy of another document unless the person from whom it was obtained requests its return in writing before or at the time it is provided, produced or seized.

85. **Magistrates' Court may extend period**

(1) An authorised officer may apply to the Magistrates' Court within the retention period in relation to a document or thing, or within a period extended by the Court under this section, for an extension of that period.

(2) The Magistrates' Court may order such an extension if satisfied that retention of the document or thing is necessary—

(a) for the purposes of an investigation into whether an offence has been committed; or

(b) to enable evidence of an offence to be obtained for the purposes of a prosecution.

(3) The Court may adjourn an application to enable notice of the application to be given to any person.
86. **Power of authorised officer to require information or documents**

An authorised officer who—

(a) exercises a power of entry under this Division; and

(b) produces his or her identity card for inspection by a person—

may, to the extent that it is reasonably necessary to do so for the administration or execution of a taxation law, require the person to answer a question, to give information to the authorised officer, to produce or provide documents or things to the authorised officer and to give reasonable assistance to the authorised officer.

87. **Self-incrimination**

(1) A person is not excused from answering a question, providing information or producing a document or thing, when required to do so under this Act, on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(2) However, if the person objects to answering the question, providing the information or producing the document or thing on that ground, the answer, information, document or record is not admissible against the person in any criminal proceedings other than—

(a) proceedings for an offence against a taxation law; or

(b) proceedings for an offence in the nature of perjury.
88. **Obstruction of Commissioner or an authorised officer**

(1) A person must not—

(a) prevent the Commissioner or an authorised officer from exercising a function under this Division; or

(b) hinder or obstruct the Commissioner or an authorised officer in the exercise of that function; or

(c) without reasonable excuse, refuse or fail to comply with a requirement made or to answer a question of an authorised officer asked in accordance with section 81(1) or 86.

Penalty: 500 penalty units in the case of a body corporate; 100 penalty units in any other case.

(2) A person is not guilty of an offence under this section arising from the entry of an authorised officer onto premises unless the court hearing the charge is satisfied that, at the material time, the authorised officer—

(a) identified himself or herself as an authorised officer; and

(b) warned the person that a failure or refusal to comply with the requirement may constitute an offence.

89. **Impersonating Commissioner or authorised officer**

A person must not impersonate or falsely represent that he or she is the Commissioner or an authorised officer.

Penalty: 100 penalty units.
90. **Defence of reasonable compliance**

A person is not guilty of an offence under this Part if the court hearing the charge is satisfied—

(a) that the person could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or

(b) that the person complied with the requirement to the extent of their ability to do so.

**Division 3—Secrecy**

91. **Prohibition on certain disclosures of information by tax officers**

(1) A person who is or was a tax officer must not disclose any information obtained under or in relation to the administration or execution of a taxation law, except as permitted by this Part.

Penalty: 100 penalty units.

(2) For the purposes of the **Freedom of Information Act 1982**, information referred to in sub-section (1) is information of a kind to which section 38 of that Act applies.

92. **Permitted disclosures to particular persons**

A tax officer may disclose information obtained under or in relation to the administration of a taxation law—

(a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of that person; or

(b) in connection with the administration or execution of a taxation law (including for the
purpose of any legal proceedings arising out of a taxation law or a report of those proceedings); or

(c) in connection with the administration or execution of a law of another Australian jurisdiction that is prescribed by the regulations to be a reciprocal taxation law for the purposes of this section; or

(d) in accordance with a requirement imposed under an Act; or

(e) to an authorised recipient, being—

(i) the Ombudsman; or

(ii) a police officer of or above the rank of Inspector; or

(iii) the Archives Authority; or

(iv) the Australian Statistician; or

(v) the Auditor-General; or

(vi) the Victorian WorkCover Authority; or

(vii) a person prescribed by the regulations to be an authorised recipient for the purposes of this section.

93. Permitted disclosures of a general nature

The Commissioner may disclose information obtained under or in relation to the administration of a taxation law unless that information will or is likely to identify a particular taxpayer.

94. Prohibition on secondary disclosures of information

(1) A person must not disclose any information obtained from a tax officer in accordance with section 92 unless—

(a) the disclosure is made to enable the person to exercise a function conferred on the person
by law for the purpose of the enforcement of a law or protecting the public revenue; and

(b) the Commissioner consents to the disclosure.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

(2) For the purposes of the Freedom of Information Act 1982, information referred to in sub-section (1) is information of a kind to which section 38 of that Act applies.

95. Further restrictions on disclosure

A person who is or was a tax officer is not required to disclose or produce in any court any information obtained under or in relation to the administration or execution of a taxation law except—

(a) if it is necessary to do so for the purposes of the administration or execution of a taxation law; or

(b) if the requirement is made for the purposes of enabling a person who is specified for the time being to be an authorised recipient to exercise a function conferred or imposed on the person by law.
PART 10—OBJECTIONS, REVIEWS AND APPEALS

Division 1—Objections

96. Objection

(1) A taxpayer may lodge a written objection with the Commissioner if the taxpayer is dissatisfied with—

(a) an assessment, other than a compromise assessment; or

(b) a decision of the Commissioner under the Debits Tax Act 1990—

(i) to refuse to issue a certificate of exemption; or

(ii) to revoke a certificate of exemption; or

(iii) specifying a day in a certificate of exemption as the day of commencement or expiry of the certificate; or

(c) a decision of the Commissioner under section 25(10) of the Financial Institutions Duty Act 1982 that an account has ceased to be an account of a non-bank financial institution; or

(d) a decision of the Commissioner under the Pay-roll Tax Act 1971.

(2) No court or administrative review body, including the Tribunal, has jurisdiction or power to consider any question concerning an assessment or decision referred to in sub-section (1), except as provided by this Part.

97. Grounds for objection
(1) The grounds for the objection must be stated fully and in detail, and must be in writing.

(2) The grounds for the objection, in the case of a reassessment, are limited to the reassessment.

98. Onus of proof on objection

On an objection, the objector has the onus of proving the objector's case.

99. Time for lodging objection

(1) An objection must be lodged with the Commissioner within 60 days after the date of service of the notice of the assessment or decision on the taxpayer, except as provided by section 100.

(2) An objection is taken to have been lodged with the Commissioner when it is received by the Commissioner.

100. Objections lodged out of time

(1) The Commissioner may permit a person to lodge an objection after the 60-day period.

(2) The person seeking to so lodge the objection must state fully and in detail, and in writing, the circumstances concerning and the reasons for the failure to lodge the objection within the 60-day period.

(3) The Commissioner may grant permission unconditionally or subject to conditions or may refuse permission.

(4) A decision by the Commissioner under this section to refuse permission or to impose conditions on permission is a non-reviewable decision.

101. Determination of objection
(1) The Commissioner must consider an objection and either allow the objection in whole or in part or disallow the objection.

(2) The Commissioner may determine an objection that is subject to a right of review or appeal at any time before the hearing of the review or appeal proceedings commences.

102. **Suspension of determination**

(1) The Commissioner may suspend the determination of an objection for any period during which the objector, or another person having information relevant to the objection, fails to provide information relevant to the objection that the Commissioner has requested under a taxation law.

(2) The Commissioner must give the objector written notice of the suspension and the suspension takes effect on service of the notice.

(3) The Commissioner, at the request of the objector, may suspend the determination of an objection pending the outcome of legal proceedings relating to a tax liability of the same kind as the tax liability the subject of the objection.

103. **Notice of determination**

(1) The Commissioner must give notice to the objector of the determination of the objection.

(2) The Commissioner must, in the notice, give the reasons for disallowing an objection or for allowing an objection in part only.

104. **Recovery of tax pending objection, review or appeal**

The fact that an objection, review or appeal is pending does not in the meantime affect the assessment or decision to which the objection,
review or appeal relates and tax may be recovered as if no objection, review or appeal were pending.
105. **Payment of interest following unsuccessful objection**

Division 1 of Part 5 applies to an amount of tax required to be paid following the determination of an objection.

**Division 2—Reviews and appeals**

106. **Right of review or appeal**

(1) If—

(a) a taxpayer is dissatisfied with the Commissioner's determination of the taxpayer's objection; or

(b) 90 days (not including any period of suspension under section 102) have passed since a taxpayer's objection was received by the Commissioner and the Commissioner has not determined the objection—

the taxpayer, in writing, may request the Commissioner to refer the matter to the Tribunal or to treat the objection as an appeal and cause it to be set down for hearing at the next sittings of the Supreme Court.

(2) The taxpayer's request—

(a) in the circumstances referred to in subsection (1)(a), must be made within 60 days after the date of service on the taxpayer of the notice of the Commissioner's determination of the objection; or

(b) in the circumstances referred to in subsection (1)(b), may be made at any time after the 90 day period (not including any period of suspension under section 102).
(3) Subject to section 107, within 60 days after the request, the Commissioner must refer the matter for review or cause the objection to be set down for hearing accordingly.

107. **Request for further and better particulars**

(1) Within 30 days after receiving a request to refer a matter or treat an objection as an appeal, the Commissioner may require the taxpayer to give further and better particulars of the objection.

(2) If, within 30 days after giving the notice—

   (a) particulars are given, the Commissioner is not bound to refer the matter or cause the objection to be set down for hearing until 30 days after the Commissioner has received full details of the objection; or

   (b) particulars are not given, the Commissioner must not refer the matter or cause the objection to be set down for hearing.

108. **Review or appeal prohibited unless tax is paid**

(1) Subject to sub-section (2), a taxpayer cannot exercise a right of review or appeal unless the whole of the amount of the tax to which the appeal relates has first been paid.

(2) The Commissioner may allow the right of review or appeal to be exercised even though the tax has not been paid.

109. **Grounds of review or appeal**

On a review or an appeal—

   (a) the taxpayer's case is limited to the grounds of the objection; and

   (b) the Commissioner's case is limited to the grounds on which the objection was disallowed—
unless the Tribunal or Court otherwise orders.

110. **Onus on review or appeal**

On a review or an appeal, the taxpayer has the onus of proving the taxpayer's case.

111. **Referral to Administrative Appeals Tribunal**

(1) The Tribunal must review a matter referred to it and, subject to sub-section (2), may confirm, reduce, increase or vary the assessment or decision.

(2) If the taxpayer does not appear before the Tribunal, the Tribunal must confirm the assessment or decision. However, if good cause is shown, the Tribunal, within the time prescribed by the regulations, may re-open and review the matter.

(3) For the purpose of the review, the Tribunal has all the functions of the Commissioner in making an assessment or decision and its determination is to be taken to be an assessment or decision of the Commissioner, except for the purposes of objections, reviews and appeals under this Part.

112. **Supreme Court appeals**

(1) On the hearing of an appeal by the Supreme Court, the Court may make any order it thinks fit and may by order confirm, reduce, increase or vary the assessment or decision.

(2) The costs of the appeal are in the discretion of the Court.
113. **Provisions of this Part to prevail**

This Part prevails over the *Administrative Appeals Tribunal Act 1984* to the extent of any inconsistency between them.

114. **Giving effect to decision on review or appeal**

(1) Within 60 days after the decision on review or appeal becomes final, the Commissioner must take any action that is necessary to give effect to it.

(2) If no appeal to a court from—
   - (a) a decision of the Tribunal on a review;
   - (b) a decision of the Supreme Court on an appeal—

   is instituted within 30 days after the day on which the decision is made, the decision is to be taken, for the purposes of this section, to have become final at the end of that period.

Division 3—Refund of amounts and payment of interest following successful objection, review or appeal

115. **Refund of amount**

If a taxpayer's objection is allowed in whole or in part or a taxpayer's review or appeal is upheld, the Commissioner must refund any amount paid in excess of a requirement for payment under the relevant taxation law.

116. **Payment of interest**

In addition to an amount refunded under this Part, the Commissioner is required to pay interest on the amount calculated at the market rate referred to in section 25(a) on a daily basis from—

(a) the date of payment of the amount overpaid; 

or
(b) the date on which the Commissioner made the assessment to which the objection and review or appeal relates—
whichever is the later, until the date of the refund.
PART 11—MISCELLANEOUS PROVISIONS

117. Means and time of payment

(1) Tax may be paid to the Commissioner—

(a) by a cash payment made at, or a bank cheque
   or postal money order delivered to, an office
   of the Commissioner; or

(b) by any other means approved by the
   Commissioner.

(2) An approval of the Commissioner may be—

(a) general or limited to particular taxes, persons
   or payments; and

(b) unconditional or subject to conditions.

(3) If the Commissioner approves payment by a
   personal cheque—

(a) payment will be taken to be effected when
   the cheque is received by the Commissioner
   provided that payment occurs when the
   Commissioner first presents the cheque to
   the bank for payment; or

(b) in any other case, payment will be taken to
   be effected when payment occurs under the
   cheque following presentation by the
   Commissioner (however, the Commissioner
   is under no obligation to present a cheque for
   payment more than once).

(4) An approval of a means of payment (other than
   personal cheque) may include a stipulation as to
   when payment by that means will be taken to be
   effected and any such stipulation will have effect
   according to its terms.

(5) The Commissioner may vary or cancel an
   approval under this section.
118. Adjustments for fraction of a dollar

(1) If a single amount of tax payable by a taxpayer is not a multiple of a dollar, the Commissioner may decrease the amount but not lower than the nearest dollar.

(2) If the Commissioner aggregates two or more amounts of tax that are payable by a taxpayer and the aggregated amount is not a multiple of a dollar, the Commissioner may decrease the aggregated amount but not lower than the nearest dollar.

119. Valuation of foreign currency

(1) If an amount involved in the calculation of tax is not in Australian currency, the amount is to be converted to Australian currency at the buy rate of exchange reported by the Reserve Bank and applicable at the date on which the liability to pay the tax arose.

(2) This section is subject to a provision of another taxation law governing the calculation of tax where an amount involved in the calculation is not in Australian currency.

120. Rewards

The Minister may at his discretion reward any person who informs the Minister of any offence against a taxation law or assists in the recovery of any penalty.

121. Appropriation of Consolidated Fund

If the Commissioner is authorised or required to pay an amount under this Act, the amount is to be paid from the Consolidated Fund which is appropriated by this section to the necessary extent.
122. Public officer of body corporate

(1) The Commissioner, by written notice served on a body corporate, may require the body corporate to appoint, within a period specified in the notice, a natural person whose principal place of residence is in Victoria as a public officer of the body corporate for the purposes of the taxation laws, and to keep the office of public officer constantly filled by such a person.

(2) An appointment of a public officer is not duly made until written notice of the appointment, specifying the name and residential address of the officer, has been lodged with the Commissioner.

(3) If—

(a) the Commissioner has required a body corporate to appoint a public officer; and

(b) the body corporate does not make such an appointment as required or does not keep the office of public officer constantly filled as required—

the Commissioner may appoint a director, a secretary or an executive officer (within the meaning of the Corporations Law) of the body corporate as the public officer of the body corporate by written notice served on the person and the body corporate.

(4) Service of a document on the public officer of the body corporate is sufficient service on the body corporate for the purposes of a taxation law, and, if at any time the body corporate does not have a public officer as required under this section, then service on a person acting or appearing to act in the business of the body corporate is sufficient.

(5) The public officer is answerable for the discharge of all obligations imposed on the body corporate.
under a taxation law, and, in case of default, is liable to the same penalties.

(6) Everything that the public officer is required to do and does in his or her representative capacity is taken to have been done by the body corporate, but the absence or non-appointment of a public officer does not excuse the body corporate from the necessity of complying, or from a penalty for failure to comply, with a provision of a taxation law and the body corporate is liable to comply with the taxation laws as if there were no requirement to appoint a public officer.

(7) A document served on or requirement made of the public officer is taken to have been served on or made of the body corporate.

(8) Any civil or criminal proceedings brought under a taxation law against the public officer are taken to have been brought against the body corporate, and the body corporate is liable jointly with the public officer for any penalty imposed on the public officer, or for compliance with any order made against the public officer.

123. Service of documents on Commissioner

A document authorised or required to be served on, given to or lodged with the Commissioner for the purposes of a taxation law may be served, given or lodged—

(a) by delivering it to an office of the Commissioner; or

(b) by post addressed to the Commissioner at an office of the Commissioner; or

(c) by a means indicated by the Commissioner as being an available means of service (such as by facsimile transmission or by delivering
it, addressed to the Commissioner, to the facilities of a document exchange); or

(d) by leaving it with a person who has authority to accept documents on the Commissioner's behalf.

124. Day of service of document or payment of money

If a document is served on the Commissioner or a payment of money is tendered to the Commissioner at a time on a day that is after the ordinary hours of business when the offices of the Commissioner are open to the public on that day, the document or payment is taken to have been served on or tendered to the Commissioner on the following business day.

125. Service of documents by Commissioner

(1) A document authorised or required to be served on or given to a person by the Commissioner for the purposes of a taxation law may be served on or given to the person—

(a) personally; or

(b) by leaving it at the last address of the person known to the Commissioner (including, in the case of a body corporate, the registered office or a business address of the body corporate); or

(c) by post addressed to the person at the last address of the person known to the Commissioner (including, in the case of a body corporate, the registered office or a business address of the body corporate); or

(d) by a means indicated by the person as being an available means of service (such as by facsimile transmission or by delivering it, addressed to the person, to the facilities of a document exchange); or
(e) by any means provided for the service of the document by another Act or law.

(2) If a person ("the agent") has actual or apparent authority to accept service of a document on behalf of another, the Commissioner may, for the purposes of a taxation law, serve the document on the agent as if the agent were that other person.

(3) Service of a document on a member of a partnership, or on a member of the committee of management of an unincorporated association or other body of persons, is taken, for the purposes of a taxation law, to constitute service of the document on each member of the partnership, or on each member of the association or other body of persons.

126. Presumption of regularity as to issue of documents

A document or a copy of a document bearing the written, printed or stamped signature or name of the Commissioner or a person described in the document as a delegate of the Commissioner is, in the absence of evidence to the contrary, to be taken to have been lawfully issued by the Commissioner.

127. Evidence of assessment

Production of a notice of assessment, or of a document signed by the Commissioner purporting to be a copy of a notice of assessment, is—

(a) conclusive evidence of the due making of the assessment; and

(b) conclusive evidence that the amount and all particulars of the assessment are correct, except in objection, review or appeal proceedings (in which it is proof in the absence of evidence to the contrary).

128. Certificate evidence
A certificate signed by the Commissioner that states any of the following matters is admissible in proceedings under a taxation law and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate—

(a) that the person named in the certificate is liable to pay tax;

(b) that an assessment of tax has been made in relation to circumstances specified in the certificate;

(c) that the amount of tax, a penalty or interest specified in the certificate is payable by a person named in the certificate or has been paid in whole or in part by or on behalf of a person so named;

(d) that a document specified in the certificate was posted to, delivered to, or served personally on, a person named in the certificate on a day specified in the certificate;

(e) that a person named in the certificate is, or is not, registered or licensed as required by the relevant taxation law;

(f) that a return or statement required by a taxation law has been, or has not been, lodged by or on behalf of a person named in the certificate on or as at a day specified in the certificate;

(g) that a person named in the certificate is, or was, an authorised officer on the date specified in the certificate.
129. **Copies and extracts of certain documents**

A document signed by the Commissioner purporting to be a copy of, or an extract from, a return lodged with the Commissioner or a document issued by the Commissioner is admissible in proceedings under a taxation law without production of the original.

130. **Offences by persons involved in management of bodies corporate**

(1) If a body corporate, by act or omission, contravenes a provision of a taxation law, a person who is concerned in, or takes part in, the management of the body corporate is, subject to sub-section (2), to be taken to have contravened the same provision.

(2) A person is not to be taken to have contravened the provision if the person satisfies the court that—

(a) the body corporate contravened the provision without the person's knowledge; or

(b) the person was not in a position to influence the conduct of the body corporate in relation to its contravention of the provision; or

(c) the person, if in such a position, used all due diligence to prevent the contravention by the body corporate.

(3) A person may be convicted of a contravention of a provision of a taxation law whether or not the body corporate has been convicted of its contravention.

(4) This section does not affect a liability imposed on a body corporate for an offence committed by it against a taxation law.
(5) For the purposes of this section, the following persons are persons who are concerned in, or take part in, the management of a body corporate—

(a) a director of the body corporate;

(b) a secretary of the body corporate;

(c) a receiver and manager of property of the body corporate;

(d) an official manager or deputy official manager of the body corporate;

(e) a liquidator of the body corporate appointed in a voluntary winding up of the body corporate;

(f) a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons.

131. Offences by partnerships etc.

Where a taxation law provides that person, being a partnership or an unincorporated association, is guilty of an offence, that reference to the person—

(a) in the case of a partnership—is to be read as a reference to each member of the partnership; and

(b) in the case of an unincorporated association—is to be read as a reference to each member of the committee of management of the association.

132. Tax liability unaffected by payment of penalty

The payment by a person of a penalty imposed by a court does not relieve the person from the payment of any other amount the person is liable to pay under a taxation law.

133. Continuing offences
(1) A person may be convicted of a second or subsequent offence for a failure to do an act (where the failure constitutes an offence) if the failure continues beyond the period or date in respect of which the person is convicted for the failure.

(2) The maximum penalty for the offence is the same whether it is a second or subsequent offence.

134. *Time for commencing prosecutions*

A prosecution for an offence against a taxation law may be commenced at any time within 3 years after the alleged commission of the offence.

135. *Supreme Court—limitation of jurisdiction*

It is the intention of sections 5, 12(4), 18(1), 96(2), 100(4) and 108(1) to alter or vary section 85 of the *Constitution Act 1975*.

136. *Regulations*

(1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or that is necessary to be prescribed to give effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.

137. *Savings, transitional and other provisions*

Schedule 1 has effect.

138. *Consequential amendments*

An Act specified in the heading to an item in Schedule 2 is amended as set out in that item.
SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

1. Application of Interpretation of Legislation Act 1984

   Except where the contrary intention appears, this Schedule does not affect or take away from the Interpretation of Legislation Act 1984.

2. Savings and transitional regulations

   The regulations may contain provisions of a savings and transitional nature consequent on the enactment of this Act.

3. Reconstruction of references

   A reference in any other Act or any instrument to the Commissioner of Business Franchises, the Commissioner of Land Tax, the Commissioner of Pay-roll Tax or the Comptroller of Stamps is to be read as a reference to the Commissioner of State Revenue in relation to any act, matter or thing occurring on or after the commencement of this clause.

4. Assessments

   (1) An assessment may be made under Part 3 of a tax liability under a taxation law whether arising before, on or after the commencement of Part 3.

   (2) An assessment made under a taxation law before the commencement of Part 3 is to be taken after that commencement to have been made under that Part.

5. Refunds

   Part 4 applies to the refund or recovery of tax paid before, on or after the commencement of that Part.

6. Interest

   (1) If a tax default occurred before the commencement of Division 1 of Part 5, interest accrues in relation to that default from that commencement in accordance with that Division.
(2) The Commissioner's power to remit interest extends to interest that accrued under a taxation law before the commencement of Division 1 of Part 5.

7. **Penalty tax**

   (1) Division 2 of Part 5 does not apply to a tax default that occurred before the commencement of that Division.

   (2) The Commissioner's power to remit penalty tax extends to penalty tax imposed on a taxpayer by a taxation law before the commencement of Division 2 of Part 5.

8. **Approval of special tax return arrangements**

Division 2 of Part 6 extends to an approval that has been given under a taxation law before the commencement of that Division that is in force immediately before that commencement.

9. **Collection of unpaid tax**

   (1) Part 7 extends to tax that is payable but remains unpaid immediately before the commencement of that Part.

   (2) Nothing in sub-clause (1) affects any action or legal proceeding for the recovery of an amount under a taxation law commenced but not completed before the commencement of Part 7 and any such action or proceeding may be continued and completed as if this Act (other than Division 1 of Part 5, section 137 and clause 7(1) of this Schedule) had not been enacted.

10. **Records**

Sections 53, 54, 55 and 56 apply to records commenced to be kept under a taxation law before the commencement of those sections as well as to records commenced to be kept on or after that commencement.

11. **Tax officers**

The person holding appointment as Commissioner of State Revenue immediately before the commencement of section 62 continues as Commissioner of State Revenue under this Act.
12. Secrecy

Division 3 of Part 9 applies to information obtained by a tax officer or other person before the commencement of that Division as well as to information obtained on or after that commencement.

13. Objections, reviews and appeals

(1) The provisions of Part 10 apply on and after the commencement of that Part—

(a) in relation to assessments made under a taxation law before that commencement in the same way as to assessments made under this Act; and

(b) in relation to decisions made by the Commissioner that could have been the subject of objection under a taxation law in force immediately before that commencement in the same way as to decisions made by the Commissioner under a taxation law that can be the subject of objection under Part 10.

(2) Sub-clause (1) does not apply to an assessment or decision if an objection has been lodged against it under a taxation law before the commencement of Part 10 and proceedings on that objection may be continued and completed as if this Act had not been enacted.

(3) Review or appeal proceedings in relation to a decision on an objection lodged under a taxation law before the commencement of Part 10 may be commenced and completed, or continued and completed, as if this Act had not been enacted.

(4) Division 3 of Part 10 applies to an objection that is allowed, or a review or appeal that is upheld, on or after the commencement of that Division, despite the other provisions of this clause.

14. Evidence

Sections 128 and 129 apply on and after the commencement date of that section in relation to proceedings relating to a taxation law commenced on or after that commencement whether the proceedings relate to matters or things occurring before, on or after that commencement.
15. **Public officers**

The appointment of a public officer under section 41 of the **Pay-roll Tax Act 1971**, being an appointment that is in force immediately before the repeal of that section, is to be taken to be an appointment under section 122.
SCHEDULE 2

CONSEQUENTIAL AMENDMENTS

1. Administrative Appeals Tribunal Act 1984
   In section 3(1), in the definition of "taxing Act", for "and the Stamps Act 1958" substitute "the Stamps Act 1958 and the Taxation Administration Act 1997".

2. Bourke Street Mall Act 1982
   In section 2(1) for the definition of "Commissioner" substitute—
   "Commissioner" means Commissioner of State Revenue under the Taxation Administration Act 1997;.

   In section 2(1) the definition of "Commissioner" is repealed.

   4.1 In section 2(1) for the definition of "Commissioner" substitute—
   "Commissioner" means Commissioner of State Revenue under the Taxation Administration Act 1997;.
   4.2 Sections 3, 4(2), (3), (4) and (5) and 5AA are repealed.
   4.3 In Schedule One—
   (a) for "Commissioner of Business Franchises under the Business Franchise Acts" substitute "Commissioner of State Revenue";
   (b) for "Commissioner for Business Franchises" substitute "Commissioner of State Revenue".

5. Conservation, Forests and Lands Act 1987
   In section 3(1), in the definition of "rating authority", in paragraph (a) for "Commissioner of Land Tax" substitute "Commissioner of State Revenue".
6. **Debits Tax Act 1990**

6.1 For section 1 substitute—

"1. **Purpose**

The purpose of this Act is to make provision for a tax on certain debits made to accounts kept with financial institutions."

6.2 After section 2 insert—

"2A. **Taxation Administration Act 1997**

This Act is to be read together with the **Taxation Administration Act 1997** which provides for the administration and enforcement of this Act and other taxation laws."

6.3 In section 3(1)—

(a) for the definition of "assessment" substitute—

"assessment" means an assessment or reassessment by the Commissioner under Part 3 of the **Taxation Administration Act 1997**;

(b) for the definition of "Commissioner" substitute—

"Commissioner" means Commissioner of State Revenue under the **Taxation Administration Act 1997**;

(c) for the definition of "Deputy Commissioner" substitute—

"Deputy Commissioner" means Deputy Commissioner of State Revenue under the **Taxation Administration Act 1997**;

(d) the definition of "officer" is repealed.

6.4 Section 3(5) and (6) are repealed.

6.5 For section 3(7) substitute—

"(7) If a liability is imposed on a person, being a partnership or other unincorporated association or body of persons, to pay any tax or other amount under this Act or any interest or penalty tax under Part 5 of the **Taxation Administration Act 1997**, that liability is to be taken to be imposed jointly and severally on
the persons who are members of the partnership or other association or body at the time when the liability arises.”.

6.6 Section 3(8) is repealed.

6.7 Parts 3 and 5, sections 19 and 20 and Part 7 are repealed.

6.8 After the heading to Part 8 insert—

"23. Who is liable to pay debits tax?

(1) A financial institution with which a taxable account is kept and the account holder (or, if there are 2 or more account holders, those account holders) are jointly and severally liable to pay the tax imposed by this Act on a taxable debit made to the account.

(2) The account holder of an account other than a taxable account is liable (or, if there are 2 or more account holders, those account holders are jointly and severally liable) to pay the tax imposed by this Act on an eligible debit made to the account.”.

6.9 For section 24 substitute—

"24. When is tax payable?

(1) Tax payable on a taxable debit to a taxable account must be paid not later than 14 days after the end of the month during which the debit was made to the account.

(2) An amount assessed by the Commissioner as tax payable on an eligible debit to an account other than a taxable account must be paid not later than the day specified in the notice of assessment, being a day not less than 14 days—

(a) after the day on which the notice of assessment is served on the person or persons liable to pay the tax; or

(b) if there are 2 or more persons liable to pay the tax and the notice is served on them on different days—after the earlier or earliest of those days.”.

6.10 For section 25(2) substitute—

"(2) An account holder is not (or account holders are not) liable to pay to a financial institution under subsection (1) an amount in respect of an amount of tax
that the Commissioner has refunded to the financial institution.”.

6.11 At the foot of section 26(4) insert—

"Penalty: 100 penalty units in the case of a natural person;
500 penalty units in any other case.”.

6.12 After section 26(5) insert—

"(5A) If the Commissioner is not notified of the making of
an eligible debit to an exempt account as required by
sub-section (4), then, for the purposes of Part 5 of the
Taxation Administration Act 1997—

(a) that failure is to be taken to have been a tax
default; and

(b) interest and penalty tax (if any) are to be
calculated by reference to the tax payable on the
eligible debit as if it had been required to be
paid within 7 days after the eligible debit was
made to the exempt account.”.

6.13 In the heading to Part 9 omit "AND ASSESSMENTS".

6.14 In section 28(3) for "section 8(2)" (where twice occurring)
substitute "section 23(2)".

6.15 For section 28(4) substitute—

"(4) If a return is not lodged with the Commissioner as
required under sub-section (3) relating to eligible
debits in respect of which an account holder is liable
to pay tax by virtue of section 23(2), then, for the
purposes of Part 5 of the Taxation Administration
Act 1997—

(a) that failure is to be taken to have been a tax
default; and

(b) interest and penalty tax (if any) are to be
calculated by reference to the tax payable on the
eligible debits as if the tax had been required to
be paid within the time within which the return
was required to be lodged with the
Commissioner.”.

6.16 Sections 29, 30, 31, 32, 33, 34, 35, 36, Parts 10 and 11 and
sections 55(2), 56, 57, 58, 59 and 60 are repealed.

7. Financial Institutions Duty Act 1982
7.1 In the long title omit ", to provide for the Assessment and Collection of the Duty, to amend the Stamps Act 1958 and the Evidence (Commissions) Act 1982".

7.2 After section 1 insert—

"2. Taxation Administration Act 1997

This Act is to be read together with the Taxation Administration Act 1997 which provides for the administration and enforcement of this Act and other taxation laws.".

7.3 In section 3(1)—

(a) for the definition of "Commissioner" substitute—

' "Commissioner" means Commissioner of State Revenue under the Taxation Administration Act 1997';

(b) in the definition of "depositor" for "Parts VI, VII, VIII and IX" substitute "Part IX";

(c) for the definition of "Deputy Commissioner" substitute—

' "Deputy Commissioner" means Deputy Commissioner of State Revenue under the Taxation Administration Act 1997';

(d) the definitions of "duty" and "premises" are repealed;

(e) in the definition of "financial institution" for "Parts VI, VII, VIII and IX" substitute "Part IX";

(f) in the definition of "financial institutions duty" after "section 32(1)" insert "or (1A)";

(g) in the definition of "securities" for "the Securities Industry (Victoria) Code" substitute "section 9 of the Corporations Law";
(h) for the definition of "trustee" substitute—

' "trustee" includes—

(a) a person who is a trustee under an implied or constructive trust;

(b) in relation to a deceased person, an executor of the will, or an administrator of the estate, of the deceased person;

(c) a receiver or manager of the property of a company, or a liquidator of a company for the purpose of its winding up;

(d) a receiver, guardian, committee or manager of the property of a person under a legal or other disability;

(e) a person having possession, control or management of a business or property of a person who is under a legal or other disability;

(f) any person acting in a fiduciary capacity;'.

7.4 In section 4(3) for "this Act" substitute "sections 8 and 10".

7.5 Part II is repealed.

7.6 After section 24 insert—

'24A. Joint and several liability of group members

(1) A person who, during a period, is or was a member of a group within the meaning of section 23 or 24 is jointly and severally liable with the other persons who are or were members of the group during that period to pay duty payable by members of that group in respect of that period.

(2) In this section—

"duty" means financial institutions duty, and includes penalty tax and interest payable under Part 5 of the Taxation Administration Act 1997 in relation to financial institutions duty.
24B. **Time for payment of duty**

A person liable to pay financial institutions duty must pay the duty within the period within which the person is required by this Act to lodge the return of the receipts, average daily liability or deposits in respect of which the duty is payable.

24C. **Deemed payment of duty in certain cases**

(1) If—

(a) a financial institution pays financial institutions duty at the rate of 0.06% of the total dutiable receipts received by it during a month (other than receipts of, or exceeding, $2 000 000); or

(b) a depositor pays financial institutions duty at the rate of 0.06% of the total dutiable deposits made by the depositor during a month (other than deposits of, or exceeding, $2 000 000)—

the financial institution or depositor is to be taken to have paid duty in respect of each receipt or deposit included in that total.

(2) If a registered financial institution, in accordance with the prior written approval of the Commissioner, does not during a month pay an amount to the credit of an exempt bank account kept in its name by a bank (other than a short-term dealing account), the financial institution is to be taken to have paid duty in respect of the receipt of money by it during that month that, under this Act, could have been paid to the credit of an exempt bank account, other than a short-term dealing account.

24D. **Person leaving Victoria**

When the Commissioner has reason to believe that a financial institution or depositor may leave Victoria before any financial institutions duty becomes due and payable by them, the duty becomes due and payable on the date fixed by the Commissioner by notice served on the financial institution or depositor.'
7.7 After section 31 insert—

"31A. Offence where certain payments to exempt accounts

A person in whose name an exempt account is kept by a bank must not pay, cause to be paid or permit or authorise to be paid an amount to the credit of that account in contravention of this Part.

Penalty: 100 penalty units.".

7.8 In section 32(1)—

(a) omit "in the prescribed form";

(b) omit "Penalty: 100 penalty units.".

7.9 After section 33(1) insert—

"(1A) A financial institution that fails to comply with sub-section (1) is guilty of an offence.

Penalty: 100 penalty units.".

7.10 Section 34 is repealed.

7.11 In sections 35(1), 35(2)(a) and 35A omit "in accordance with the prescribed form and manner,".

7.12 In section 38 omit ", in the prescribed form and manner,".

7.13 After section 40(1) insert—

"(1A) A person who fails to apply for registration as a depositor as required by sub-section (1) is guilty of an offence.

Penalty: 100 penalty units.".

7.14 Section 41 is repealed.

7.15 In section 42(1) and 42(2)(a) omit "in the prescribed form and manner".

7.16 Sections 45, 46, 47, 47A, 47B, 48, 49, 50, 51, 52, 58 and 59, Parts VII and VIII, sections 74, 77, 78, 79, 80, 81, 82, 83, 84, 85, 85A and 86(1)(c) and (f) and the Schedule are repealed.

8. Friendly Societies Act 1986

In section 125(2)(c)—

(a) for sub-paragraph (iv) substitute—

"(iv) the Commissioner of State Revenue; or";
(b) sub-paragraph (v) is repealed.

9. **Hospital Benefits (Levy) Act 1982**

In sections 2(3)(ii), 3, 6, 7, 8 and 9(1) for "Comptroller of Stamps" (wherever occurring) substitute "Commissioner of State Revenue".

10. **Land Tax Act 1958**

10.1 In section 3(1) after the definition of "business of primary production" insert—

"'Commissioner' means Commissioner of State Revenue under the Taxation Administration Act 1997;'.

10.2 In section 3(5) for "Commissioner of Land Tax" substitute "Commissioner".

10.3 For section 4(1) substitute—

"(1) The Commissioner has the general administration of this Act and the regulations.".

10.4 In section 4—

(a) sub-sections (2) and (3) are repealed;

(b) in sub-section (4) paragraph (b) is repealed.

10.5 Sections 4A and 5 are repealed.

11. **Pay-roll Tax Act 1971**

11.1 For the long title substitute—

"An Act to impose a tax on employers in respect of certain wages and for other purposes.".

11.2 After section 1 insert—

"2. Taxation Administration Act 1997

This Act is to be read together with the Taxation Administration Act 1997 which provides for the administration and enforcement of this Act and other taxation laws.".

11.3 In section 3(1)—

(a) for the definition of "Commissioner" substitute—

"'Commissioner' means Commissioner of State Revenue under the Taxation Administration Act 1997;';
(b) the definition of "tax" is repealed;

(c) for the definition of "trustee" substitute—

"trustee" includes—

(a) a person who is a trustee under an implied or constructive trust;

(b) in relation to a deceased person, an executor of the will, or an administrator of the estate, of the deceased person;

(c) a receiver or manager of the property of a company, or a liquidator of a company for the purpose of its winding up;

(d) a receiver, guardian, committee or manager of the property of a person under a legal or other disability;

(e) a person having possession, control or management of a business or property of a person who is under a legal or other disability;

(f) any person acting in a fiduciary capacity;'.

11.4 Part II is repealed.

11.5 After section 8 insert—

"8A. Joint and several liability of group members

(1) A person who, during a period, is or was a member of a group within the meaning of section 9A is jointly and severally liable with the other persons who are or were members of the group during that period to pay tax payable by members of that group in respect of that period.

(2) For the avoidance of doubt, sub-section (1) applies whether or not the person was an employer during the relevant period.

8B. Time for payment of tax

A person who is liable to pay pay-roll tax in respect of taxable wages must pay the tax within 7 days after the end of the month during which those wages were paid or payable.
8C. **Employer leaving Australia**

When the Commissioner has reason to believe that an employer may leave Australia before any pay-roll tax becomes due and payable by the employer, the tax becomes due and payable on the date fixed by the Commissioner by notice served on the employer.

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11.6 In section 9B(5) **omit** "in the prescribed form".

11.7 In section 11B—

(a) in sub-section (2)(a)—

(i) **omit** "or rebate";

(ii) for "under section 19" **substitute** "otherwise than under this section";

(b) in sub-section (3)—

(i) **omit**, notwithstanding section 19,;";

(ii) **omit** "or rebate".

11.8 In section 12—

(a) at the foot of sub-section (1) **insert**—

"Penalty: 50 penalty units.";

(b) sub-section (3) is **repealed**;

(c) at the foot of sub-section (4) **insert**—

"Penalty: 50 penalty units.".

11.9 For section 13(1), (2) and (3) **substitute**—

"(1) Every employer who is registered or required to apply for registration in accordance with the provisions of section 12 must, within 7 days after the end of each month, furnish to the Commissioner a return relating to that month.".

11.10 In section 13(6)(a) **omit** "in accordance with the form and in the manner prescribed,".

11.11 Sections 14, 16, 17, 18, 18A, 19, 19A, 19B, 20, 21, 22, 23, 24, 25(8), 25(9), 26(3), 30 and 31, Parts VI and VII, sections 41, 44, 45, 45A, 46, 46A, 47, 48, 49, 49A and 50(1)(f) and Schedule Five are **repealed**.
12. **Racing Act 1958**

In sections 90(2), 92 and 119 for "Comptroller of Stamps" (wherever occurring) substitute "Commissioner of State Revenue".

13. **Stamps Act 1958**

13.1 In section 3, after the definition of "broker's agent" insert—

""Comptroller" and "Comptroller of Stamps" mean
Commissioner of State Revenue under the **Taxation Administration Act 1997**;.

13.2 In section 137Q—

(a) in paragraph (b) for "Commissioner of Pay-roll Tax" substitute "Commissioner of State Revenue";

(b) in paragraph (c) for "Commissioner of Land Tax" substitute "Commissioner of State Revenue";

(c) in paragraph (e) for "Commissioner of Business Franchises" substitute "Commissioner of State Revenue".

13.3 In section 137S for "Commissioner of Land Tax under the **Land Tax Act 1958**" substitute "Commissioner of State Revenue".

13.4 For section 140 substitute—

"**140. Administration**

The Comptroller has the general administration of this Act and the regulations.".

13.5 Section 140AA is **repealed**.

14. **Taxation (Interest on Overpayments) Act 1986**

14.1 In section 3(1)—

(a) before the definition of "Decision to which this Act applies" insert—

""Commissioner" means Commissioner of State Revenue under the **Taxation Administration Act 1997**;.

(b) in the definition of "Decision to which this Act applies"—

(i) in paragraph (a) for "a relevant Commissioner" substitute "the Commissioner";
(ii) in paragraph (d) for "Commissioner of Land Tax" substitute "Commissioner";

(c) the definitions of "Deputy Commissioner" and "Relevant Commissioner" are repealed;

(d) in the definition of "Objection" paragraphs (c) and (e) are repealed;

(e) in the definition of "Relevant tax" paragraphs (c) and (e) are repealed.

14.2 Section 4 is repealed.

14.3 In section 5(2), in the definitions of "Relevant Act" and "Secrecy provisions" paragraphs (c) and (e) are repealed.

14.4 In sections 6(1)(a) and 6(2) for "a relevant Commissioner" (wherever occurring) substitute "the Commissioner".

14.5 In section 6(3)—

(a) in paragraph (a) for "a relevant Commissioner" substitute "the Commissioner".

(b) for "the relevant Commissioner" substitute "the Commissioner".

14.6 In section 6(4)—

(a) for "a relevant Commissioner" substitute "the Commissioner".

(b) for "the relevant Commissioner" (wherever occurring) substitute "the Commissioner".

14.7 In section 7(1)(a) for "a relevant Commissioner" (wherever occurring) substitute "the Commissioner".

14.8 In section 10 for "A relevant Commissioner" substitute "The Commissioner".

15. Taxation (Reciprocal Powers) Act 1987

15.1 In section 3(1), in the definition of "State Commissioner"—

(a) for paragraph (a) substitute—

"(a) The Commissioner of State Revenue;";

(b) paragraphs (b) and (c) are repealed.

15.2 In section 3(1), in the definition of "State Taxation Act", after paragraph (g) insert—

"(h) Taxation Administration Act 1997.".
16. **Valuation of Land Act 1960**

16.1 In section 2(1), in the definition of "rating authority", for paragraph (f) substitute—

"(f) the Commissioner of State Revenue;".

16.2 In section 37(3), 38 and 40(1) for "Commissioner of Land Tax" (wherever occurring) substitute "Commissioner of State Revenue".
NOTES

† Minister's second reading speech—
Legislative Assembly: 10 April 1997
Legislative Council: 30 April 1997

The long title for the Bill for this Act was "to make general provision for the administration and enforcement of taxation laws, to make consequential amendments to other Acts and for other purposes."

Constitution Act 1975:
Section 85(5) statement:
Legislative Assembly: 10 April 1997
Legislative Council: 30 April 1997

Absolute majorities:
Legislative Assembly: 30 April 1997
Legislative Council: 14 May 1997

1 The following table contains a summary of the provisions of sections 30, 31 and 32—

<table>
<thead>
<tr>
<th>Penalty Category</th>
<th>Prime Rate</th>
<th>Voluntary Disclosure Before Investigation</th>
<th>Voluntary Disclosure During Investigation</th>
<th>Concealment or Hindrance in Establishing Under Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure to take reasonable care but no intentional disregard of the law</td>
<td>25%</td>
<td>5%</td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td>Intentional disregard of the law</td>
<td>75%</td>
<td>15%</td>
<td>60%</td>
<td>90%</td>
</tr>
</tbody>
</table>

2 Sections 84 and 85 deal with retention of possession and return of documents and things produced or provided to the Commissioner or another authorised officer.
NOTES—continued

3 Part 5 of the Administrative Appeals Tribunal Act 1984 provides for appeals from the Tribunal to the Supreme Court on questions of law and for the Tribunal to refer questions of law to the Supreme Court.

4 See note 3.