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# ***New South Wales Budget 2016-17***

*21 June 2016*

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## ***In brief***

The 2016-17 New South Wales (NSW) Budget was delivered by the NSW Treasurer on 21 June 2016 and includes the following significant taxation changes:

- the abolition of stamp duty on unlisted marketable securities, non-land business assets and business mortgages
- introducing a 4 per cent duty surcharge on acquisitions of residential land by foreign persons and a 0.75 per cent land tax surcharge on residential land owned by foreign persons, and
- increasing the payroll tax rebate for the second year of employment from \$3,000 to \$4,000 for eligible employment commencing on or after 31 July 2016.

The key taxation measures and/or incentives announced in the Budget are as follows.

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## ***In detail***

### ***Foreign investor duty surcharge***

From 21 June 2016, a flat transfer duty surcharge of 4 per cent will apply to all acquisitions of NSW residential real estate by foreign purchasers, including foreign individuals, corporations, trusts and governments. The surcharge will also apply to landholder transactions if the underlying land is residential land and the purchaser of shares or units in the landholder is a foreign person.

The meaning of a 'foreign person' is taken from the Foreign Investment Review Board (FIRB) definition provided in the Foreign Acquisitions and Takeovers Act 1975 with some modifications. These modifications provide that the definition of a foreign person does not include an Australian citizen (irrespective of where they reside) or a New Zealand citizen who is ordinarily resident in Australia, provided that they hold a special category visa and their continued presence in Australia is not subject to any legal time limitations.

The definition of 'residential land' is broader than existing definitions in the NSW Duty Act. However, according to announcements made by the Office of State Revenue and the Treasurer, the surcharge will not apply to retirement villages or 'commercial residential premises' (for example, hotels, motels, inns, hostels or boarding houses, caravan parks, camping grounds or premises used to provide accommodation in connection with a school). While this is welcome and is a sensible policy outcome, given the expansive definition of 'residential land', a specific exclusion in the legislation for these asset classes would be preferred.

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The surcharge purchaser duty will apply in respect of all transactions that occur on or after 21 June 2016. Transitional provisions will apply so that if an agreement was made prior to 21 June 2016 but completes after 21 June 2016, no surcharge duty will apply.

Unlike the Victorian legislation, NSW's draft bill does not appear to provide any exemption for foreign developers and therefore it is expected that the surcharge will apply to foreign developers who acquire land to build and on-sell as residential land.

The current concession for residential off-the-plan purchases (which allows for a delay of up to 12 months in the payment of duty) will no longer be available to foreign persons.

### ***Foreign investor land tax surcharge***

Commencing from the 2017 land tax year (i.e. 1 January 2017), a land tax surcharge of 0.75 per cent will apply to holdings of NSW residential land by foreign persons. There will be no tax free-threshold. Accordingly, foreign investors will still be subject to the surcharge on all owned residential land even if the total land value is below the current land tax threshold. In addition, there is no principal place of residence exemption for this surcharge.

If the land is owned by a foreign person and non-foreign persons, the surcharge is assessed on the proportion of the interest held by the foreign person.

The same definition of a 'foreign person' applies to the land tax surcharge provisions (i.e. the definition takes its meaning from FIRB legislation with some modifications for Australian and New Zealand citizens). Likewise, the definition of 'residential land' is the same. Accordingly, it is expected that 'commercial residential premises' are excluded.

### ***Other stamp duty changes***

The Government had previously announced and legislated the abolition of stamp duty on selected dutiable property. This has been confirmed in the 2016-17 Budget. On and from 1 July 2016, duty will not be imposed on the transfer of:

- Unlisted marketable securities
- Non-land business assets, or
- Business mortgages.

### ***Payroll tax***

Amendments to the Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011 have increased the payroll tax rebate for the second year of employment from \$3,000 to \$4,000 for eligible employment commencing on or after 31 July 2016. The rebate amount for the first year of employment is \$2,000 and is increased to \$4,000 for the second year, making it a total of \$6,000 per employee. The amendment restricts the rebate payable in relation to employment commencing on or after 31 July 2016 to employers that have fifty or less full time equivalent employees not including the new employee or employees.

### ***Levy on point to point transport services***

The NSW Government has been progressively introducing reforms to the taxi, hire car and rideshare industry, and has set aside \$250 million industry assistance package to assist licence owners to adjust to the new framework. A levy on all point to point transport providers equivalent to \$1 per trip for up to five years will be introduced to partly fund this. Presumably, this will be passed on to customers.

### ***Other highlights***

Other highlights announced in the 2016-17 Budget include:

- Infrastructure investment of \$73.3 billion over the forward estimates. The infrastructure programme is characterised by substantial funding in the transport clusters over 2016-17, specifically:

- \$2.9 billion allocated to WestConnex (including funding for the Western Harbour Tunnel and Beaches Link)
- \$1.5 billion allocated to Pacific Highway duplication, and
- \$2.7 billion allocated to deliver Sydney Metro.
- Increased investment in health services (\$21 billion), education (\$13.3 billion), and community safety (\$8.1 billion).

### ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact:

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