

Taxation (Reciprocal Powers) Bill

EXPLANATORY MEMORANDUM

Clause 1—This clause sets out the purpose of the Bill.

Clause 2—Usual commencement clause.

Clause 3

Sub-clause (1) This sub-clause defines various terms used in the Bill and in particular sets out the State Taxation Acts to which the Bill applies.

Sub-clause (2) This sub-clause empowers the Governor in Council to declare that certain laws of the Commonwealth, another State or Territory correspond to Victorian Taxation Acts and that certain offices under those Acts correspond to the office of Victorian Taxation Commissioner.

Clause 4

Sub-clause (1) This sub-clause allows a visiting Taxation Commissioner or an authorised officer to exercise, subject to the approval of the Victorian Commissioner, taxation investigation powers in Victoria. The sub-clause has the effect that the visiting investigator cannot exceed the powers of the investigator's jurisdiction and cannot exceed the powers existing in Victoria.

Sub-clause (2) The Victorian Commissioner may at any time vary or revoke an approval or alter a condition of approval.

Clause 5—This clause allows a Victorian Commissioner at the request of an ex-Victorian Commissioner to conduct a taxation investigation on behalf of the ex-Victorian Commissioner. The investigation is to be subject to any conditions specified by the ex-Victorian Commissioner and to any conditions determined by the Victorian Commissioner. The clause has the effect that the Victorian Commissioner cannot exceed the investigation powers existing in Victoria or those in the ex-Victorian Commissioner's jurisdiction.

Clause 6

Sub-clause (1) This sub-clause sets out the maximum powers available to an investigator in Victoria when conducting a taxation investigation.

Sub-clauses (2), (3) and (4) These sub-clauses set out the power to require a person to furnish information about taxation matters and to attend and give evidence to a Commissioner about taxation matters.

Sub-clauses (5), (6) and (7) These sub-clauses enable a search warrant to be obtained in connection with a taxation matter.

Sub-clause (8) This sub-clause requires a person who stores information in a non-physical form to produce that information in physical form where he is obliged to provide information under the investigation powers.

Sub-clause (9) This is a penalty provision for failing to comply with a duly authorised request under this Bill.

Clause 7

Sub-clause (1) This sub-clause is an enabling provision which entitles a Victorian Commissioner to communicate certain information to a number of persons and organisations. This provision is consequential upon the deletion of an equivalent provision from the various State Taxation Acts.

Sub-clause (2) This sub-clause allows an ex-Victorian Commissioner with the consent of a Victorian Taxation Commissioner to communicate information obtained under this Bill to certain persons.

Sub-clause (3) This sub-clause allows a Victorian Taxation Commissioner who obtains information in a corresponding jurisdiction under a corresponding law to communicate that information to certain persons where the corresponding Commissioner consents.

Sub-clause (4) This sub-clause prohibits the divulging of information obtained under this Bill or under a corresponding law except in the circumstances mentioned in sub-clauses (2) and (3) unless the divulgence is with the consent of the person from whom the information was obtained or the divulgence is in connection with the administration of taxation legislation or for the purposes of legal proceedings arising out of taxation legislation.

Clause 8—This is an evidentiary provision so that copies of documents will be as valid and factual as the original when the copy is certified as a copy by a corresponding Commissioner.

Clause 9—This clause sets out the usual power of the Governor in Council to make regulations.

Clause 10—This clause sets out consequential amendments made to State Taxation legislation as a result of the provisions of this Bill.

Schedule 1

This schedule sets out the form of search warrant that may be obtained under the provisions of this Bill.