

## Commercial and Industrial Property Tax reform in Victoria — What you need to know

The *Commercial and Industrial Property Tax Reform Bill* (the Bill) was introduced into the Victorian Parliament on 20 March 2024. The reforms are expected to pass into law in early May before commencing on 1 July 2024. (Note: the Act was passed in the same terms as the Bill).

The reforms are intended to abolish land transfer duty (often referred to as stamp duty) and landholder duty (duty resulting from a transfer of shares or units in certain entities that own land) from transactions involving commercial and industrial property in Victoria. The loss of duty revenues will be made up through a new annual 'Commercial and Industrial Property Tax' (CIPT).

Practitioners and conveyancers acting on land transfers or commercial transactions involving entities that own land in Victoria need to be aware of these significant reforms. The implementation period is short, and the potential risk of mistakes is high.

Here we provide a comprehensive overview as a guide to the reforms and CIPT tax.

### Summary

From 1 July 2024, commercial and industrial properties will transition to the new tax reform scheme when they are sold or transacted (known as the 'entry transaction'). CIPT will then apply from 10 years after the land has been brought into the new scheme.

CIPT is intended to apply annually at a rate of 1% of the 'site value' (also known as the unimproved value) of the land. A concessional rate of 0.5% will apply to 'BTR land' (land that qualifies for a build-to-rent land tax benefit). CIPT will be payable in addition to land tax.

Once land is brought within the scheme it is referred to as 'tax reform scheme land'.

Duty will apply for a final time to entry transactions involving a dutiable transaction (land transfer) or a relevant acquisition (acquisition of shares or units in a landholder). Land may also be brought within the tax reform scheme through land consolidations or subdivisions.

Generally speaking, any future transactions involving tax reform scheme land will then be exempt from transfer duty and landholder duty (as the case may be).

The final duty liability is to be paid as an upfront lump sum (as currently applies) or, for certain eligible transactions and purchasers, it can instead be paid through annual instalments over a 10 year period through a transitional loan facilitated by the [Treasury Corporation of Victoria](#).

The legislation governing the reforms will, once enacted, apply from 1 July 2024. There are transition rules that may apply to agreements or arrangements that are entered into prior to that date.

The following guidance assumes the Bill will be passed in its current form and without amendment.

## How is land brought into the tax reform scheme?

### What is 'tax reform scheme land'?

This term will be used in the Commercial and Industrial Property Tax Act (CIPT Act) to refer to land with a qualifying use that has been entered into the tax reform scheme.

### When does land have a 'qualifying use'?

Land can only be entered into (and remain within) the tax reform scheme if it has a 'qualifying use'.

'Qualifying use' will be defined in the CIPT Act to mean land that has been allocated an Australian Valuation Property Classification Code (AVPCC) in the following ranges:

- 200 - 299 (Commercial)
- 300 - 399 (Industrial)
- 400 - 499 (Extractive Industries)
- 600 - 699 (Infrastructure and Utilities)

Land that is used solely or predominantly for eligible student accommodation will also have a qualifying use.

Other land will not qualify. This includes land classified as used for residential, primary production, community or heritage purposes.

The AVPCC will be determined by the Valuer General. It is expected the classification will be noted on future land valuations.

### What if the land is used for mixed purposes?

If land has been allocated more than one AVPCC, and one or more of the codes is outside the ranges listed above, the land will have a 'qualifying use' if it is solely or primarily used for a purpose described in the AVPCC ranges listed above.

### How is land entered into the tax reform scheme?

Land is brought within the tax reform scheme if, in respect of the land, there is an:

- Entry Transaction
- Entry Consolidation
- Entry Subdivision

### What is the 'entry date' for land brought within the tax reform scheme?

For entry transactions, the land is brought within the tax reform scheme on the date of the transaction (i.e. the settlement date for land transfers or the acquisition date for relevant share or unit transfers).

For entry consolidations, it is the first date on which land that forms a part of the consolidation entered the tax reform scheme.

For entry subdivisions, it is the date on which the land that was subdivided entered the tax reform scheme.

### **Example**

The Bill includes an example of two parcels of land (outside the scheme) that are consolidated with three parcels of tax reform scheme land on 1 July 2026.

The three parcels of tax reform scheme land were entered on different dates, being 1 January 2025, 1 December 2025 and 1 February 2026.

In this example, the entry date for the consolidated land is the first of those dates, being 1 January 2025.

### **Example**

The Bill also includes an example of a parcel of land (parent lot) that enters the tax reform scheme on 1 November 2025. It is subsequently subdivided into four parcels (child lots) on 1 February 2027.

Each of the child lots is taken to have entered the tax reform scheme on the earlier date of 1 November 2025.

### **What is an 'entry transaction'?**

Section 8 of the CIPT Act will define an 'entry transaction' to mean:

- a 'qualifying dutiable transaction' or
- a 'qualifying landholder transaction'.

On the date of the transaction, the land must have a 'qualifying use' as described above.

Further, the transaction must relate to an interest in the land that is either:

- a 'qualifying interest', which is defined as an interest of 50% or more in the land or
- an interest that amounts to a qualifying interest when aggregated with other interests in the land (where those interests were also acquired through a qualifying dutiable transaction or qualifying landholder transaction).

**IMPORTANT NOTE:** Whilst the entry transaction may only relate to a partial interest in the land, 100% of the land will be brought into the tax reform scheme as a result of the entry transaction. The whole of the land will be 'tax reform scheme land'.

### **What is a 'qualifying dutiable transaction'?**

Most dutiable transactions (as that term is defined in the Duties Act 2000) relating to land in Victoria will be 'qualifying dutiable transactions'.

However, the definition will exclude:

- Most dutiable transactions relating to leases (other than some long-term leases)
- Dutiable transactions relating to economic entitlements
- Exempt dutiable transactions
- 'Eligible transactions' (as defined in section 250A of the Duties Act) that qualify for a duty concession under the corporate reconstruction provisions.

### **What is a 'qualifying landholder transaction'?**

A qualifying landholder transaction is a 'relevant acquisition' (as defined in the Duties Act) of shares in a company or units in a unit trust that is a landholder and has certain types of interests in land in Victoria.

The types of interests in the land that will be relevant are those listed in section 10(1)(a) of the Duties Act and include:

- an estate in fee-simple
- a life estate
- an estate in remainder
- a Crown leasehold estate
- a term referred to in section 153 of the Property Law Act 1958 that may be enlarged into a fee-simple under that section and
- a land use entitlement.

The limiting of the definition to these types of interests means that a relevant acquisition of an interest in a landholder that only has valuable leasehold interests (for example) will not be a qualifying landholder transaction.

Further, relevant acquisitions will not be a qualifying landholder transaction if:

- the relevant acquisition is exempt from duty or
- the relevant acquisition is an 'eligible transaction' (as defined in section 250A of the Duties Act) and qualifies for a duty concession under either the corporate consolidation or corporate reconstruction provisions.

### **What is the extent of the interest in the land that is acquired through a qualifying landholder transaction?**

Where a transaction is a qualifying landholder transaction, the acquirer will be deemed to have acquired an interest in the land which is to be determined in accordance with a formula set out in section 12 of the CIPT Act.

The formula is based on the percentage interest that the acquirer has obtained in the landholder and the interest that the landholder has in the land.

### **Example**

Assume a unit trust has a 50% interest in a parcel of land. An investor has purchased 50% of the units in the unit trust.

The investor will be taken to have acquired a 25% interest in the land.

### **Transition arrangement — pre 1 July 2024 agreement and arrangements**

As a transition measure, dutiable transaction and relevant acquisitions that occur 'pursuant to an agreement or arrangement that was entered into before the commencement of [the CIPT Act]' are not qualifying dutiable transactions or qualifying landholder transactions.

The term 'agreement' is not defined but should apply to sale contracts or agreements. The term 'arrangement' is similarly not defined.

The Victorian State Revenue Office (SRO) may provide guidance on what it considers an 'arrangement' to mean. It could potentially include option arrangements, heads of agreement, term sheets or other arrangements that can be evidenced in writing.

### **What is an 'entry consolidation'?**

An 'entry consolidation' will occur as a result of the consolidation of tax reform scheme land and either:

- land that has not entered the tax reform scheme or
- other tax reform scheme land.

An entry consolidation will only be taken to have occurred if more than 50% of the consolidated land (based on area) is tax reform scheme land.

If less than 50% (based on area) of the consolidated land is tax reform scheme land, the land will cease to be tax reform scheme land.

Two or more parcels of land will be taken to be 'consolidated' if a plan of subdivision is registered in relation to the parcels of land.

### **What is an 'entry subdivision'?**

If tax reform scheme land (parent lot) is subdivided, an 'entry subdivision' will occur. Consequently the new lots (child lots) created will be taken to have entered the tax reform scheme.

## The application of the Commercial and Industrial Property Tax (CIPT)

### What is CIPT Taxable Land?

CIPT will be imposed on 'CIPT Taxable Land'. This will be defined in the CIPT Act to mean, in relation to a land tax year, land that as at midnight on 31 December immediately preceding the tax year:

- was tax reform scheme land and
- was not still within the transition period in relation to that land and
- had a qualifying use and
- was 'taxable land' as defined in the Land Tax Act 2005.

**IMPORTANT NOTE:** As explained above in relation to entry transactions, the whole of the land will be 'tax reform scheme land' and potentially subject to CIPT following an entry transaction. This is notwithstanding the entry transaction may have only related to a partial interest in the land.

### What is the transition period?

The term 'transition period' will be defined in the CIPT Act to mean the period of 10 years starting on the entry date in relation to the land.

As explained above, the entry date may vary depending on whether the land has been brought into the tax reform scheme through an entry transaction, an entry consolidation or an entry subdivision.

### Who is liable for the CIPT?

The owner of the land is liable. Generally, this will be the same as the owner of the land for land tax purposes (with some exceptions).

### What is the rate of CIPT?

For land other than BTR land, the rate is 1% based on the taxable value.

For BTR land, the rate is 0.5%.

The term taxable value has the same meaning as in the Land Tax Act 2005. That is the 'site value', otherwise referred to as the unimproved value.

The term 'BTR land' refers to land that qualifies for a build-to-rent land tax benefit (which is a 50% reduction).

### Does CIPT replace land tax or other taxes?

No. Section 21 in the CIPT Act will confirm that CIPT applies in addition to other taxes, including:

- land tax
- windfall gains tax
- local government rates and charges
- fire service property levies

### **Long-term leases that commenced before 30 December 1978**

If the land is subject to a lease that commenced before 30 December 1978, both the owner of the freehold estate and the lessee will be assessed for CIPT on the land.

The Commissioner may apportion the liability between the owner and the lessee.

### **Can the Commissioner issue Reassessments?**

Yes, section 26 of the CIPT Act will permit the Commissioner to issue reassessments.

The Commissioner will not be restricted to a 5 year reassessment period and may go back further. This is different to most State Taxes for which there is generally only a 5 year reassessment period.

### **Will the CIPT be a charge on the land?**

Yes, unpaid CIPT will be a first charge on the land on which the CIPT is payable.

### **Will clearance certificates be issued?**

Yes, the Commissioner will issue clearance certificates.

A bona fide purchaser for value will not be at risk for unpaid CIPT in excess of the amount (if any) set out the certificate.

### **Can the Commissioner recover unpaid CIPT from third parties?**

Yes, the Commissioner will have powers to recover unpaid CIPT from third parties that have a connection with the land as a lessee, occupier or mortgagee.

### **Can the owner pass on CIPT to lessees or purchasers?**

The CIPT Act will not permit CIPT to be passed on a tenant under a 'residential rental agreement'.

The same restrictions that apply to the passing on of land tax to retail tenants will also apply to CIPT.

Consistently, the restrictions relating to recovery of land tax as an adjustment at settlement on the sale of land will also apply to CIPT.

**If the whole of the land is tax reform scheme land, but a part of the land is used for a non-qualifying purpose, will there be an apportionment and CIPT reduction?**

No. There is no provision in the current draft of the CIPT Act to permit an apportionment where tax reform scheme land is used for a mix of purposes (some of which are non-qualifying).

**The Duty Reforms — what are they?**

**What is a 'tax reform scheme transaction'?**

A new section 69AN will be inserted into the Duties Act 2000 to define the term 'tax reform scheme transaction'.

The term will apply where:

- a dutiable transaction (other than a transaction relating to leases or economic entitlements) occurs and
- the dutiable property involves certain interests in land in Victoria (being those listed in section 10(1)(a) of the Duties Act) and
- the land is tax reform scheme land and
- on the date of the dutiable transaction (i.e. on settlement for a sale transaction), the land has a qualifying use.

**Exemption for tax reform scheme transactions**

The Duties Act will be amended to provide transfer duty exemptions for tax reform scheme transactions.

Whether the exemptions will be immediately available will depend on whether 100% of the tax reform scheme land was brought into the scheme in a manner that was subject to duty.

If duty was not paid on a 100% interest as the land was brought into the tax reform scheme, the exemption will only be available if more than 3 years has passed since the land was brought into the tax reform scheme.

The term 'entry interest' is important in this context. It is defined to mean a 'qualifying interest' in tax reform scheme land that was obtained through an 'entry transaction' (i.e. a dutiable transaction or relevant acquisition).



The following new provisions will apply:

- Section 69AO will provide a transfer duty exemption for a tax reform scheme transaction that occurs at least three years after the date the dutiable property the subject to the transaction become tax reform scheme land.
- Section 69P will provide a transfer duty exemption that may apply immediately (i.e. without the need to wait three years) to a tax reform scheme transaction if the 'entry interest' was a 100% interest (i.e. the whole interest was assessed for duty on the transaction that brought the land into the tax reform scheme).
- Section 69AP(1) will provide a transfer duty exemption that may apply immediately to a tax reform scheme transaction if there is a 100% interest in the land that was acquired through multiple entry transactions which were subject to duty.

If the qualifying interest was less than 100%, but further interests have been brought into the scheme through entry transactions that were subject to duty (and the total aggregated interest is 100%), an exemption will be available under section 69AP(2) without the need to wait 3 years.

A pro rata exemption will apply to a tax reform scheme transaction that involves land for which only a part interest was liable to duty when the land was entered into the tax reform scheme (if the land is sold within 3 years of becoming tax reform scheme land).

### Example

The Duties Act will include an example in which Person A acquired a 50% interest in tax reform scheme land on 1 January 2026 and a further 30% interest in the same land on 1 January 2027.

Person B owns the remaining 20%. It is implied that the 20% interest was acquired before 1 July 2024 and duty did not apply in respect of that interest at the time the land became tax reform scheme land.

Person C acquires 100% of the land from Person A and Person B on 1 July 2027. Pursuant to section 69AQ(1), the 80% interest transferred by Person A will be exempt from duty while the transfer of the 20% interest by Person B will be subject to duty.

While it is not stated in the example, the sale of the full 100% interest by both Person A and Person B should be exempt from duty if it occurred after 1 July 2029 (being more than 3 years after the land become tax reform scheme land).

### Imposition of transfer duty on a change of use for the land

If a tax reform scheme transaction is exempt from duty under the provisions discussed above, and the use of the land is changed such that it no longer has a qualifying use, duty may be imposed under section 69AR(1) in respect of that exempt transaction.

The duty will only be imposed under section 69AR(1) if the transferee under the dutiable transaction continues to hold an interest in the tax reform scheme land at the time the use is changed.

Duty may not be imposed if there are other transfer duty exemptions available.

The duty imposed will be discounted at a rate of 10% for each calendar year that has elapsed following the date of the dutiable transaction being assessed. Accordingly, no duty will apply after 10 years.

The duty that is imposed may need to be apportioned if the land has been subdivided to create child lots and the change of use only applies to some of those child lots.

The fact the land may have been consolidated will not matter when determining whether a duty liability arises on a change of use under section 69AR(1).

### **Reduction in land value for landholder duty purposes**

Similar duty benefits will also apply to relevant acquisitions in a landholder.

Under section 89FA, the unencumbered value of the land that is used to calculate any applicable landholder duty may be reduced to the extent the land is tax reform scheme land.

As for transfer duty, whether the reduction is immediately available (without the need to wait 3 years) will depend on whether duty was paid on 100% of the land when it was brought into the tax reform scheme.

### **Example**

The Duties Act will include an example in which Person A acquires a 50% interest in a landholder on 1 September 2025. The landholder has a 100% interest in the land. The acquisition is an entry transaction and Person A has a qualifying interest of 50% in the land.

Person B holds the other 50% interest in the landholder.

Person C acquired 100% of the landholder from Person A and Person B.

The value of the land will be reduced by 50%, reflecting that Person A paid landholder duty when acquiring the 50% interest in the landholder.

Again, while not addressed in the example that will be included in the Duties Act, it should be the case that a 100% value reduction is available if Person C acquires the whole of the landholder after 1 September 2028 (being more than 3 years after the land owned by the landholder become tax reform scheme land).

### **Imposition of landholder duty if the use of the land changes**

If landholder duty was calculated on a reduced land value under section 89FA, and the use of land changes so it no longer has a 'qualifying use', the Commissioner must determine if duty (or additional duty) is payable on the transaction in accordance with section 89FB.

Consistent with the position that will apply in a landholder duty context, there will be a 10% discount in the duty that may otherwise be imposed for each calendar year that has elapsed since the date of the relevant acquisition in the landholder.

## Transition loans program

As a part of the reforms, the Treasury Corporation of Victoria (**Corporation**) may provide 'transition loans' to entities that are liable for duty on an 'entry transaction' that brings the land within the tax reform scheme.

The program will be administered in accordance with a determination made by the Treasurer and notified to the Corporation.

Entities liable for duty are not required to apply for a loan and the Corporation is not required to provide a loan (even if all eligibility criteria are met).

No determination has yet been made. However, based on previously announced details, it is likely the arrangements will be as follows:

- The loan term will be 10 years.
- The loan will be repaid annually in 10 equal instalments (including interest determined when the loan is granted). It will be repaid earlier if the land is sold.
- Interest will apply based on the Corporation's bond rate plus a risk margin.
- There may be break fees for early repayments.
- The loan cannot be transferred to another party.
- The Corporation will have a first ranking charge on the land for any outstanding loan amounts.

It is expected loans will only be available for transfer duty transactions involving land purchases (not transactions involving shares or units in a landholder). If the purchase price exceeds a threshold (expected to be \$30 million), a loan won't be available.

It is further expected that borrowers will need to be Australian citizens or permanent residents or an Australian corporation. Foreign persons will likely be excluded.

## Illustrative examples

### Example

Person A acquires a 50% interest in land through a dutiable transaction that occurred on 1 July 2025. The transaction was a qualifying dutiable transaction and caused the land to be tax reform scheme land.

Person B holds the other 50% interest in the land which was acquired before 1 July 2024.

Albeit Person A's entry transaction only related to a 50% interest in the land, it will cause 100% of the land (including the 50% interest held by Person B) to be tax reform scheme land.

CIPT will apply to the whole of the land from 1 January 2036 (being the first tax year to commence after the 10th anniversary of Person A's entry transaction).

### Example

Person A owns 1 parcel of land that is not tax reform scheme land. Person A subsequently purchased 2 adjoining parcels of land on 1 January 2026. Those parcels are tax reform scheme land and the purchase was an entry transaction for both of those parcels.

Person A registers a plan of subdivision in respect of all three parcels on 1 October 2028, meaning the parcels are deemed to have been consolidated on that date.

An 'entry consolidation' has acquired in relation to the 1 parcel that was not tax reform scheme land. The entry date for that parcel is 1 January 2026, not the later consolidation date.

CIPT will apply to all three parcels from 1 January 2037, being the first tax year following the 10th anniversary of the entry date.

## Risk management — what you should do

### Real property lawyers and conveyancers

- Solicitors and conveyancing practitioners acting on dutiable transactions (land transfers) need to read and understand the Bill **now**.
- Practitioners negotiating land sale contracts or other agreements (including options) that may complete after 1 July 2024 need to advise clients of the potential CIPT and duty implications.
- For proposed land transactions, clients should be made aware of the transition arrangements that apply to contracts or arrangements entered into before 1 July 2024. After that date it may be too late.
- When acting in relation to the subdivision or consolidation of land which includes tax reform scheme land, practitioners need to advise clients of the potential CIPT implications which may apply to the entire subdivision or consolidation.

### **Commercial lawyers**

- Practitioners acting on commercial transactions involving entities that own land in Victoria need to read and understand the Bill **now**.
- Practitioners negotiating transaction documents relating to dealings in shares or units in a landholder should advise clients about the potential CIPT and duty risks.
- Clients should be made aware of the transition arrangements that apply for agreements or arrangements entered into before 1 July 2024. After that date it may be too late.

### **All lawyers and conveyancers**

- Update checklists and precedents to highlight CIPT and duty risks.
- Advise clients as early as possible about the issues raised in this alert.
- Update precedent advice letters to warn clients that certain dutiable transactions or relevant acquisitions may bring land within the tax reform scheme, potentially exposing the land to a future CIPT liability.
- Conduct CIPT and duty training for all staff, including conveyancers, who act on real property transactions or commercial transactions involving landholders.
- Don't dabble in complex CIPT and duty matters. If necessary, seek instructions to engage specialist expert advice for the client.

### **More Information**

[Department of Treasury and Finance — Commercial and Industrial Property Tax Reform](#)

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