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**STAMP DUTY UPDATES**

**State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022**

The State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022 commenced on 19 May 2022, substantially amending the Duties Act 1997.

One amendment was the introduction of section 8(1)(b)(ix), imposing duty on certain transactions that result in a change in beneficial ownership.

One of the most important transactions captured by the new provisions is the grant of a call option, which creates an equitable interest in land for the grantee of an option. The grant of a call option to purchase land in NSW is now dutiable on the greater of the consideration for the grant of the call option (the call option fee) and the value of the option. This means that duty will be payable on both the grant of the option and the exercise of the option (being duty on the contract for sale arising from the exercise of option).

A call option deed must be lodged for stamping (even if the call option fee is nominal). If the call option fee is nominal, the call option must still be stamped for \$10 duty.

**First Home Buyers Legislation Amendment Act 2023**

The First Home Buyers Legislation Amendment Act 2023 commenced on 1 July 2023, expanding the First Home Buyers Assistance Scheme.

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**DISCLAIMER**

**The above are summaries only. They are not intended to take the place of legal advice.**

For contracts exchanged on or after 1 July 2023, eligible first home buyers will receive a transfer duty exemption for purchases of new or existing homes valued up to \$800,000 (previously \$650,000). A concessional rate of duty will apply for new or existing homes valued between \$800,000 and \$1M (previously \$650,000 to \$800,000).

In addition, the residence requirement for the First Home Buyers Assistance Scheme has increased from 6 months to 12 months. This means a purchaser seeking to rely on the First Home Buyers Assistance Scheme must occupy the property as their principal place of residence for a continuous period of 12 months, commencing within 12 months of settlement. First home buyers will also be required to occupy the property as their principal place of residence for a continuous period of at least 12 months to be eligible for a First Home Owner Grant (applicable to new homes only).

To be eligible for the First Home Buyers Assistance Scheme, the following requirements apply:

1. the purchaser must be an individual (not a company or trust);
2. the purchaser must be over 18;
3. the purchaser and their spouse must have never owned or co-owned residential property in Australia;
4. the purchaser and their spouse must have never previously received an exemption or concession under the First Home Buyers Assistance Scheme;
5. at least one of the purchasers must be an Australian citizen or permanent resident.

The First Home Buyers Legislation Amendment Act 2023 also amends the Property Tax (First Home Buyer Choice) Act 2022 to prevent a person making an election to pay property tax rather than stamp duty (known as the First Home Buyer Choice Scheme) on a transfer of land occurring on or after 1 July 2023, unless the transfer conforms with an agreement for sale or transfer entered into before 1 July 2023.

**For more information about this update, please contact Diarna Cuda.**

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