A loophole in stamp duty arrangements related to ‘put’ and ‘call’ options is being closed to stop tax avoidance schemes.

From today, the existing stamp duty laws applying to “put” and “call” will be strengthened as a result of recent avoidance activities targeted at these laws.

A “call” option is a right to require an owner of property to sell that property to you and a “put” option is a right held by an owner of property to require another person to buy that property from the property owner.

Where both a “put” and a “call” option exist in relation to the same property, this effectively creates an offer to sell and an offer to buy, binding the parties as if a standard contract for sale had been made.

The previous government introduced stamp duty avoidance provisions where the period of “put” and “call” options overlap, but a new avoidance scheme has been discovered that side-steps these provisions.

Treasurer Syd Stirling said legislation would be introduced on Friday to ensure that, with effect from today, the existing ‘put’ and ‘call’ option anti-avoidance provisions are strengthened to knock-out this latest tax scheme so that the stamp duty is the same as for a purchaser using a standard contract for sale.

“There are very limited commercial reasons for using these options other than to avoid the payment of stamp duty,” Mr Stirling said.

“However, where the Commissioner of Taxes is satisfied that the “put” and “call” option arrangement is not aimed at avoiding tax, and is between the proprietors of a business for the sole purpose of providing continuity of that business on the death, total and permanent disablement, retirement or bankruptcy of a proprietor, the provisions will not apply.”

On a related matter, Mr Stirling also sought to clarify the position regarding “off the plan” purchases following suggestions that purchasers were not liable for stamp duty.

Stamp duty is payable on “off the plan” purchases, although the Commissioner of Taxes extends the time for payment of duty by the purchasers of “off the plan” residential properties, as long as certain criteria are met.

For further information on ‘put’ and ‘call’, phone Jim Richards (Treasury) on 8999 5169.

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