

1995

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

RATES AND LAND TAX (AMENDMENT) BILL 1995

EXPLANATORY MEMORANDUM

Circulated by the authority of the Chief Minister and Treasurer

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Rates and Land Tax (Amendment) Bill 1995

Summary

The Rates and Land Tax Act 1926 (the Act) provides for the levying, imposition and payment of rates and land tax on land in the Territory

This Bill will amend the Act to provide for

- a) the 1994 unimproved values to be used in assessing 1995-96 rates and land tax,
- b) municipal rates for individual ratepayers for the 1995-96 financial year to only increase in line with the forecast CPI (4%),
- c) staggered billing of rates and land tax assessments, and
- d) for land tax to be assessed on a quarterly basis

The Bill also removes the obligation on the Commissioner for ACT Revenue to redetermine land values as at 1 January 1995

Financial Implications

The net financial effect of the initiatives is estimated to result in rates revenue increasing by \$3.5m and land tax revenue decreasing by \$2.25m over 1994/95 collections. Costs of implementation by the ACT Revenue Office for these proposals are \$0.465m in 1995/96 and \$0.375m in future years.

Details of the Bill are attached

Details of the Rates and Land Tax (Amendment) Bill 1995

Title

Clause 1 - provides for the short title for this Act to be the Rates and Land Tax (Amendment) Act 1995

Commencement

Clause 2 - provides for this Act to commence on the date of gazettal

Principal Act

Clause 3 - refers to the Principal Act being amended as the Rates and Land Tax Act 1926

Interpretation

Clause 4 - amends section 4 of the principal Act to provide a new definition of "instalment day" as being those days specified in the annual rates assessment notice. The change allows instalment days to be varied to suit the new staggered billing process.

Insertion

Clause 5 - inserts section 11A into the Principal Act which provides that

- a) unimproved land values required to be determined as at 1 January 1995 under the Principal Act can only be made in accordance with the provisions of section 11A,
- b) where the unimproved value of a parcel of land is to be determined or redetermined under the Principal Act as at 1 January 1995 that value shall be the unimproved value of the parcel as at 1 January 1994,
- c) the unimproved value of a parcel of land as at 1 January 1994 is to be the value of the parcel as at 1 January 1995. There is no right of objection or appeal against the maintenance of 1994 values.

Imposition

Clause 6 - amends section 13 of the Principal Act to omit the current rates and sets the level of the rates to be charged in 1995-96 at

- a) for land inside the City Area the rate is 1 0296% of the unimproved value, and
- b) for land outside the City Area (rural land) the rate is 0 5148% of the unimproved value

Assessment of Rates

Clause 7 - amends section 14 of the Principal Act to provide that the annual rates notice issued to owners will specify the due dates for payment of rates in full or by instalments

Payment of Rates

Clause 8 - amends section 15 of the Act to -

- a) omit section 4A which provides for an owner to have 28 days to pay a rates bill even if this is after the last instalment date The provision is redundant with the introduction of staggered billing,
- b) omit and substitute various provisions relating to instalment payments which allow -
 - i) flexible instalment days,
 - ii) each instalment to be a quarter of the total to the nearest whole dollar amount with any balance to be added to the first instalment amount, and
 - iii) three months between each instalment payment
- c) alter subsections 7 and 8 to provide for rates to be calculated over the number of days in an ordinary year or a leap year,

Exemption from Payment of Rates

Clauses 9 - repeals section 16 of the Principal Act which provides an exemption from payment of rates to persons on weekly or fortnightly tenancies The provision has become superfluous because of recent changes to the definition of owner which make such persons no longer liable to payment of rates

Substitution

Clause 10 - repeals section 22AAB and substitutes a new section 22AAB which provides definitions in respect of land tax

Interpretation

New section 22AAB provides for the definition of prescribed date to be omitted and new definitions to be provided for

- i) "prescribed date" and "quarter" which set the liability dates for residential land tax and for it to be assessed on a quarterly basis,
- ii) "rent" is defined to mean any valuable consideration It includes a benefit or advantage accruing to a property owner for the use of the land but the payment of rates, taxes, insurance premiums, repairs and maintenance will not in itself be regarded as rent for the purposes of the Act,
- iii) "tenancy agreement" includes circumstances where a person grants to another person for value the right of occupation of a residence, whether expressed or implied in writing or otherwise, and whether exclusive occupation is given It will not apply, however, to an agreement in respect of a boarder or lodger,
- iv) "tenant" is given its normal meaning and is a person who has the right of occupation under the agreement or that person's legal representative, heir or assign,

Provision is also made where property is rented in a quarter for liability to land tax to continue for the next succeeding quarter unless the owner notifies the Commissioner that the property has not and will not be rented in that next succeeding quarter

Imposition

Clause 11 - amends section 22A of the Principal Act to provide for the charging of land tax on a quarterly basis

Exempt Land

Clause 12 - amends section 22B of the Principal Act to delete exemptions relating to the residential land tax scheme primarily based on the use as the principal place of residence and substitutes exemptions for residential land tax based on rented property New exemptions are provided for

- a) a parcel of land leased for residential purposes which is not rented on the prescribed date,
- b) a parcel of land leased for residential purposes which is rented on the prescribed date but the Commissioner for ACT Revenue has, after considering an application under section 22BA, provided an exemption to the owner on the grounds that the absence was for compelling compassionate reasons,

- c) a parcel of land leased for the purpose of a retirement village or a nursing home or a combination of the two, and
- d) a parcel of land leased by a religious institution or order which is used for residential accommodation and in connection with the work of a member of that institution or order

Provision is also made to allow an exemption for land being used for a prescribed purpose

Clause 12(c) provides that under new section 22B(1A) the exemptions referred to in a) and b) above do not apply to a parcel of land used in the business of a boarding house and consequently makes the owner of such premises liable to pay land tax

Nursing home and retirement village are defined. Businesses connected with the conduct of a retirement village or nursing home may be conducted on the parcel of land without affecting the exemption

Application for Exemption - Compelling Compassionate Cases

Clause 13 - amends section 22BA of the Principal Act to require a person seeking an exemption on compelling compassionate grounds to make application to the Commissioner for ACT Revenue. After considering all information the Commissioner may grant an exemption for a period specified in a notice sent to the applicant. Such a period cannot exceed 12 months

Assessment

Clause 14 - amends section 22C of the Principal Act to provide for land tax assessments to be issued on a quarterly basis

Substitution

Clause 15 - repeals section 22DA of the Principal Act and substitutes a new section 22DA which provides for charging residential land tax on that part of a multiple dwelling which is rented. Such dwellings would include residential flats, dual occupancies, company title units as defined but not units formed under the Unit Titles Act 1970

Payment of Land Tax

Clause 16 - amends section 22E of the Principal Act to provide for -

- a) the due date for payment of land tax to be a date specified in the land tax assessment notice each quarter,

- b) omit subsection 4 which provides for an owner to have 28 days to pay a land tax bill even if this is after the last instalment date The provision is redundant with the introduction of quarterly charging of land tax,
- c) "year" to be substituted with "quarter" in paragraphs (5)(a) and (5)(b) because of quarterly charges,
- d) the omission of paragraph (5)(c) which relates to payment by instalments which is now redundant because of quarterly charges,
- e) the omission of paragraph (5)(d) and substituting a similar provision which relates to payment of smaller amounts of land tax charges as long as the amount paid equals that required to be paid by the due date set out in the assessment notice,
- f) omitting subsection 7 which related to the now redundant instalment payments,
- g) "year" to be replaced by quarter wherever occurring in subsection 8 due to quarterly charging of land tax,
- i) removing the reference to 365 (days in the year) from subsection 8 and substituting a reference to days in a quarter

Land Not Previously Valued

Clause 17 - amends section 22EA of the Principal Act to delete references in paragraph (4)(b) to annual land tax and substitute quarterly land tax

Objection

Clause 18 - amends section 22GE of the Principal Act to provide for an objection against the Commissioner for Revenue's decision on the taxable proportion of a rented multiple dwelling

Unit Subdivisions

Clause 19 - amends section 24A of the Principal Act to insert a reference to the imposition of quarterly land tax

Application

Clause 20 - provides for the Principal Act as amended by this Act to apply in respect of the year commencing on 1 July 1995 and subsequent years