

Australian Capital Territory

Revenue Legislation Amendment Act 2021

A2021-10

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Australian Capital Territory

Revenue Legislation Amendment Act 2021

A2021-10

An Act to amend legislation about revenue collection, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2021*.

2 Commencement

(1) This Act, other than amendment 1.11, commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

(2) Amendment 1.11 commences, or is taken to have commenced, on the earlier of—

(a) the day after this Act’s notification day; and

(b) 30 June 2021.

3 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Duties Act 1999

[1.1] Section 10 (1) (i)

substitute

(i) an interest in any dutiable property mentioned in paragraphs (a) to (h), except to the extent that—

(i) it is, or is attributable to, an option over dutiable property; or

(ii) it is an interest under a commercial lease or a sublease of a commercial lease, other than a commercial lease with premium.

[1.2] Table 16, item 1, column 2

after

dutiable property

insert

, other than dutiable property mentioned in s 10 (1) (h)

[1.3] Table 16, new item 1A

insert

|  |  |  |  |
| --- | --- | --- | --- |
| 1A | transfer of dutiable property mentioned in s 10 (1) (h) | when the option to purchase is granted | 90 days |

[1.4] Section 73B (2)

omit

[1.5] New section 109

in part 3.4, insert

109 Disability exemption

(1) Duty under this part is not payable by a person who acquires a land use entitlement by an allotment of shares or an issue of units if—

(a) each of the following applies:

(i) the person receives an NDIS amount as a participant under the [National Disability Insurance Scheme Act 2013](https://www.legislation.gov.au/Series/C2013A00020) (Cwlth) or someone else receives the NDIS amount on the person’s behalf;

(ii) the person receives or holds 1 of the following and has done so for at least 1 year immediately before the date of the acquisition of the land use entitlement:

(A) an age pension under the [Social Security Act 1991](https://www.legislation.gov.au/Series/C2004A04121) (Cwlth);

(B) an age service pension under the [Veterans’ Entitlements Act 1986](https://www.legislation.gov.au/Series/C2004A03268) (Cwlth);

(C) a disability support pension under the [Social Security Act 1991](https://www.legislation.gov.au/Series/C2004A04121) (Cwlth);

(D) a current gold card;

(iii) the commissioner is satisfied that the land the subject of the land use entitlement is to be used as the principal place of residence of the person; or

(b) the land use entitlement—

(i) is acquired by a special disability trust; and

(ii) the commissioner is satisfied that the land the subject of the land use entitlement is to be used as the principal place of residence of the beneficiary of the trust.

(2) For subsection (1)—

(a) the shares allotted or units issued for the land use entitlement must be in a corporation or trust that is—

(i) a charitable organisation for a tax law, registered as a charity under the [Australian Charities and Not-for-profits Commission Act 2012](https://www.legislation.gov.au/Series/C2012A00168) (Cwlth); or

(ii) a not-for-profit housing corporation; and

(b) the land the subject of the land use entitlement must be used for supportive housing; and

(c) any other criteria determined under subsection (3) must be satisfied.

(3) The Minister may determine other criteria for an exemption from duty under this section, including criteria relating to the purpose of the land use entitlement under subsection (2) (b).

(4) A determination is a disallowable instrument.

(5) In this section:

charitable organisation, for a tax law—see section 232.

gold card means a card known as the Repatriation Health Card—For All Conditions that evidences a person’s eligibility, under the [Veterans’ Entitlements Act 1986](https://www.legislation.gov.au/Series/C2004A03268) (Cwlth) or the [Military Rehabilitation and Compensation Act 2004](https://www.legislation.gov.au/Series/C2004A01285) (Cwlth), to be provided with treatment for all injuries or diseases.

NDIS amount—see the [National Disability Insurance Scheme Act 2013](https://www.legislation.gov.au/Series/C2013A00020) (Cwlth), section 9.

not-for-profit housing corporation—see the [Land Tax Act 2004](http://www.legislation.act.gov.au/a/2004-4), section 11 (2).

retirement village—see the [Retirement Villages Act 2012](http://www.legislation.act.gov.au/a/2012-38), section 10.

supportive housing—

(a) means premises used to provide residential accommodation for people with physical or intellectual disability; but

(b) does not include a retirement village or premises used for student accommodation.

Example—par (a)

housing for people with intellectual disability that fosters independent living

[1.6] Dictionary, new definition of special disability trust

insert

special disability trust—see the [Social Security Act 1991](https://www.legislation.gov.au/Series/C2004A04121) (Cwlth), section 1209L.

Part 1.2 Land Tax Act 2004

[1.7] Section 11A (1)

substitute

(1) This section applies if a parcel of land is, on the 1st day of a quarter—

(a) owned by someone other than a corporation or trustee; and

(b) occupied as the principal place of residence of 1 or more owners of the parcel of land.

[1.8] Section 11B (1)

after

parcel of land

insert

, other than a parcel of land owned by a corporation or trustee

[1.9] Section 11C (1)

after

person

insert

, other than a corporation or trustee,

[1.10] Sections 11CA (1) and 11D (1) (a)

after

parcel of land

insert

, other than a parcel of land owned by a corporation or trustee,

[1.11] Section 13A (7)

omit

Part 1.3 Land Titles (Unit Titles) Act 1970

[1.12] New section 7 (1) (d) (iv)

before the notes, insert

(iv) no lease variation charges, payable or deferred under a deferral arrangement under the [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24), division 9.6.3 (Variation of nominal rent leases), are outstanding at the time the units plan is to be registered;

[1.13] Section 7 (1) (d), note 2

substitute

Note 2 A person may apply for a certificate of duty, land tax, rates and other charges under the [Duties Act 1999](http://www.legislation.act.gov.au/a/1999-7), s 244, [Land Tax Act 2004](http://www.legislation.act.gov.au/a/2004-4), s 41, [Rates Act 2004](http://www.legislation.act.gov.au/a/2004-3), s 76 and [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24), s 279AE.

[1.14] New section 7 (3)

insert

(3) In this section:

deferral arrangement, for a lease variation charge—see the [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24), section 279AB (2).

lease variation charge—see the [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24), dictionary.

Part 1.4 Payroll Tax Act 2011

[1.15] Sections 9 (1) (b) and 87 (2) (b)

omit

21 days

substitute

28 days

Part 1.5 Planning and Development Act 2007

[1.16] Section 276D (1), note 1

substitute

Note 1 The notice of assessment is an assessment under the [Taxation Administration Act 1999](http://www.legislation.act.gov.au/a/1999-4) as if the lease variation charge were a tax liability of the lessee under that Act (see this Act, s 279B (1)). However, no obligation to pay the lease variation charge arises on the giving of the notice (see s 279B (2)). The planning and land authority must not execute a variation of the lease unless the lessee has paid the assessed lease variation charge or the amount has been deferred (see s 276B (1)).

[1.17] Section 276E (2)

substitute

(2) In considering whether to determine a lease variation charge for a s 276E chargeable variation, the Treasurer must—

(a) obtain advice from an accredited valuer at least once every 3 years; and

(b) have regard to that advice; and

(c) comply with any other requirement prescribed by regulation.

[1.18] Section 279AA (2)

after

defer

insert

the time for

[1.19] Section 279B (1)

omit

tax payable

substitute

tax liability

[1.20] Section 279B (2) and note

substitute

(2) However, the tax liability is only payable if the planning and land authority executes a variation of the lease to which the chargeable variation relates.

Note 1 The time for payment of the tax liability for the lease variation charge may be extended to a time after the date of execution of the lease variation under a deferral arrangement (see s 279AB (2)).

Note 2 A charge on the land under the [Taxation Administration Act 1999](http://www.legislation.act.gov.au/a/1999-4), s 56H arises when the tax liability becomes payable.

Note 3 The planning and land authority must not execute a variation of a nominal rent lease unless the lessee has paid, or deferred, the lease variation charge worked out under s 276C less any remission under s 278, plus any increase under s 279 (see s 276B (1) and s 276C).

Part 1.6 Rates Act 2004

[1.21] Section 20 heading

substitute

20 Disapplication of provisions of Taxation Administration Act

[1.22] Section 20

omit

, division 5.2 (Penalty tax)

[1.23] New section 20A

insert

20A Penalty tax

(1) The [Taxation Administration Act](http://www.legislation.act.gov.au/a/1999-4/default.asp), division 5.2 (Penalty tax) does not apply to unpaid overdue rates.

(2) However, the commissioner may impose penalty tax for unpaid overdue rates payable by a corporation or trust.

(3) If the commissioner imposes penalty tax on a corporation or trust, the [Taxation Administration Act](http://www.legislation.act.gov.au/a/1999-4/default.asp), division 5.2 applies to the corporation or trust as if—

(a) the unpaid overdue rates were a tax default; and

(b) a reference to interest under that [Act](http://www.legislation.act.gov.au/a/1999-4/default.asp), division 5.1 were a reference to interest under this Act, section 21; and

(c) a reference to a taxpayer were a reference to the corporation or trust; and

(d) a reference to the amount of tax unpaid were a reference to the amount of the unpaid overdue rates.

(4) Subsection (2) applies in relation to rates that are unpaid and overdue on or after 1 August 2021.

(5) In this section:

trust does not include a special disability trust.

[1.24] Section 31 (1) (b) (ii) (B)

substitute

(B) intends to start the development not later than 2 years after the day the application is made.

Example—working out the 2-year period

ABC Mixed Developments Pty Ltd plans to make a qualifying development application for a parcel of land on 1 July 2021.When the application is made, ABC Mixed Development Pty Ltd must intend to start the development on the parcel on or before 1 July 2023.

[1.25] Section 31 (3) (b)

substitute

(b) if the development approval has been given—a copy of the development approval; and

[1.26] New section 31 (4)

insert

(4) In this section:

development approval—see the [Planning and Development Act 2007](http://www.legislation.act.gov.au/a/2007-24), dictionary.

[1.27] Section 40E (2)

substitute

(2) For the purposes of working out the growth index over a calendar year, the commissioner must give Canberra Airport information about the calculation of the growth index on 1 January in the calendar year, by 31 July in that year.

[1.28] Section 45, definition of special disability trust

omit

[1.29] New section 70 (aa)

before section 70 (a), insert

(aa) a decision under section 20A (2) to impose penalty tax for unpaid overdue rates payable by a corporation or trust;

[1.30] Section 71 (2)

substitute

(2) The objection must be made within—

(a) 60 days after the day the commissioner gives notice under section 12 (2) of the amount determined as the unimproved value of the parcel; or

(b) if the Minister determines a longer period—the period determined.

(2A) A determination is a disallowable instrument.

[1.31] Dictionary, definition of special disability trust

omit

, for part 7 (Deferral and rebates)

Part 1.7 Taxation Administration Act 1999

[1.32] New section 56H (2A)

insert

(2A) The commissioner may give the registrar-general written notice of the charge.

Note If the registrar-general is given notice that land is affected by a territory or Commonwealth law, or anything done under it, under the [Land Titles Act 1925](http://www.legislation.act.gov.au/a/1925-1), s 14 (3), the registrar-general must record the effect of the law in the register kept under that [Act](https://www.legislation.act.gov.au/a/1925-1), s 43.

[1.33] Section 56H (4) (a)

substitute

(a) the charge has been recorded in the register under the [Land Titles Act 1925](http://www.legislation.act.gov.au/a/1925-1); and

[1.34] New section 56H (7) (a) (ia)

insert

(ia) for tax payable under the [Land Rent Act 2008](http://www.legislation.act.gov.au/a/2008-16)—the [Land Rent Act 2008](http://www.legislation.act.gov.au/a/2008-16), section 31 (Certificate of land rent and other charges) in relation to the parcel before the purchase; or

[1.35] New section 56H (8)

insert

(8) In this section:

register—see the [Land Titles Act 1925](http://www.legislation.act.gov.au/a/1925-1), dictionary.

[1.36] Section 56L heading

substitute

56L Creation of charge on other land

[1.37] New section 56L (1) (d)

insert

(d) the tax debt is not related to the parcel or parcels of land.

Note Section 56H deals with tax payable that relates to a parcel of land.

[1.38] Section 56L (3)

substitute

(3) The commissioner may, by written notice to the registrar-general, create a charge on 1 of the parcels.

Note If the registrar-general is given notice that land is affected by a territory or Commonwealth law, or anything done under it, under the [Land Titles Act 1925](http://www.legislation.act.gov.au/a/1925-1), s 14 (3), the registrar-general must record the effect of the law in the register kept under that [Act](https://www.legislation.act.gov.au/a/1925-1), s 43.

[1.39] Section 56L (4)

omit

application

substitute

written notice

[1.40] Section 56L (5) and (6)

substitute

(5) However, the commissioner may create the charge only if the commissioner has—

(a) taken reasonable steps to make arrangements for the debtor to pay the tax debt; and

(b) if the charge is to be created on a jointly-owned parcel—considered from the information available whether the charge is likely to cause substantial hardship to the debtor, the joint owner or other people; and

Example

partner or dependent children occupying the parcel as their principal place of residence

(c) notified the debtor and any joint owner, in writing, that the commissioner intends to create a charge on the parcel not earlier than 28 days after the date of the notice to the debtor and joint owner.

(6) If the commissioner creates a charge under subsection (3), the commissioner must notify the debtor and any joint owner, in writing, of the existence of the charge.

[1.41] Section 56M (1)

substitute

(1) This section applies if a charge on a parcel of land is created under section 56L (3).

[1.42] New section 56M (6) (a) (ia)

insert

(ia) for tax payable under the [Land Rent Act 2008](http://www.legislation.act.gov.au/a/2008-16)—the [Land Rent Act 2008](http://www.legislation.act.gov.au/a/2008-16), section 31 (Certificate of land rent and other charges) in relation to the parcel before the purchase; or

[1.43] Section 97 (e) (vii) to (xi)

substitute

(vii) for the administration or execution of a tax law or the [Fair Trading (Australian Consumer Law) Act 1992](http://www.legislation.act.gov.au/a/1992-72)—the commissioner for fair trading;

(viii) for the administration or execution of the [Australian Bureau of Statistics Act 1975](https://www.legislation.gov.au/Series/C2004A00282) (Cwlth) or the [Census and Statistics Act 1905](https://www.legislation.gov.au/Series/C1905A00015) (Cwlth)—the Australian statistician;

(ix) for the administration or execution of the [Australian Crime Commission Act 2002](https://www.legislation.gov.au/Series/C2004A02905) (Cwlth), or a law of the Territory, a State or another Territory that makes provision for the operation of the Commission in the State or Territory—the Australian Crime Commission;

(x) for the administration or execution of the [Corporations Act](http://www.comlaw.gov.au/Series/C2004A00818) or the [Australian Securities and Investments Commission Act 2001](https://www.legislation.gov.au/Series/C2004A00819) (Cwlth), part 3 (Investigations and information‑gathering)—ASIC;

(xi) for investigating an offence against, or enforcing, a law of the Territory, the Commonwealth, a State or another Territory—

(A) a Commonwealth enforcement body, in connection with its functions; or

(B) a Commonwealth intelligence body, in connection with its functions;

(xii) for the administration or execution of the [Australian Charities and Not-for-profits Commission Act 2012](https://www.legislation.gov.au/Series/C2012A00168) (Cwlth)—the Australian Charities and Not-for-profits Commission;

(xiii) for the administration or execution of the [Child Support (Registration and Collection) Act 1988](https://www.legislation.gov.au/Series/C2004A03596) (Cwlth) or the [Child Support (Assessment) Act 1989](https://www.legislation.gov.au/Series/C2004A03872) (Cwlth)—the Child Support Registrar;

(xiv) for the administration or execution of the [Paid Parental Leave Act 2010](https://www.legislation.gov.au/Series/C2010A00104) (Cwlth) or the [A New Tax System (Family Assistance) (Administration) Act 1999](https://www.legislation.gov.au/Series/C2004A00491) (Cwlth)—the Chief Executive Centrelink;

(xv) for the administration or execution of the [Foreign Acquisitions and Takeovers Act 1975](https://www.legislation.gov.au/Series/C2004A01402) (Cwlth) and supporting the administration of matters in relation to foreign investment—

(A) the body known as the Foreign Investment Review Board; or

(B) the Treasurer of the Commonwealth;

(xvi) for supporting the provision of community waste and recycling services, only if the information relates to the ownership of property—the director‑general of the administrative unit responsible for transport and city services;

(xvii) for the administration or execution of the [Government Procurement Act 2001](http://www.legislation.act.gov.au/a/2001-28), part 2B (Secure local jobs code)—the secure local jobs code registrar;

(xviii) a Minister, to enable the Minister to respond to a constituent about the constituent’s obligations under a tax law (whether about the payment of tax or otherwise);

(xix) a person prescribed by regulation for this section.

[1.44] New section 97 (2) and (3)

insert

(2) If a tax officer may disclose information to a person under subsection (1) (e) (the primary recipient) for a particular purpose, the tax officer may also disclose the information to another person (the secondary recipient) to enable the secondary recipient to exercise a function, for or on behalf of the primary recipient, in relation to that purpose.

(3) In this section:

ASIC means the Australian Securities and Investments Commission under the [Australian Securities and Investments Commission Act 2001](https://www.legislation.gov.au/Series/C2004A00819) (Cwlth).

Australian Crime Commission means the Australian Crime Commission established by the [Australian Crime Commission Act 2002](https://www.legislation.gov.au/Series/C2004A02905) (Cwlth).

Chief Executive Centrelink—see the [Human Services (Centrelink) Act 1997](https://www.legislation.gov.au/Series/C2004A05130) (Cwlth), section 7.

Child Support Registrar means the Child Support Registrar under the [Child Support (Registration and Collection) Act 1988](https://www.legislation.gov.au/Series/C2004A03596) (Cwlth).

Commonwealth enforcement body means the following:

(a) the Office of National Intelligence established under the [Office of National Intelligence Act 2018](https://www.legislation.gov.au/Series/C2018A00155) (Cwlth), section 6;

(b) that part of the Defence Department known as the Defence Intelligence Organisation;

(c) that part of the Defence Department known as the Australian Geospatial-Intelligence Organisation;

(d) the Integrity Commissioner appointed under the [Law Enforcement Integrity Commissioner Act 2006](https://www.legislation.gov.au/Series/C2006A00085) (Cwlth), section 175.

Commonwealth intelligence body—see the [Information Privacy Act 2014](http://www.legislation.act.gov.au/a/2014-24), section 25 (2).

Defence Department—see the [Information Privacy Act 2014](http://www.legislation.act.gov.au/a/2014-24), section 25 (2).

secure local jobs code registrar means the secure local jobs code registrar appointed under the [Government Procurement Act 2001](http://www.legislation.act.gov.au/a/2001-28), section 22V.

[1.45] Dictionary, note 2

insert

 administrative unit

 Corporations Act

Part 1.8 Taxation Administration Regulation 2004

[1.46] Section 4 heading

substitute

4 Permitted disclosure of information—Act, s 97 (1) (e) (xix)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 31 March 2021.

2 Notification

Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 19 May 2021.

3 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au/).

I certify that the above is a true copy of the Revenue Legislation Amendment Bill 2021, which was passed by the Legislative Assembly on 12 May 2021.

Clerk of the Legislative Assembly

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