

1992  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Mr Kaine)

**Rates and Land Tax (Amendment) Bill  
(No. 2) 1992**

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**A BILL  
FOR**

**An Act to amend the *Rates and Land Tax Act 1926***

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

**Short title**

- 5     **1.** This Act may be cited as the *Rates and Land Tax (Amendment) Act (No. 2) 1992*.

**Principal Act**

2. In this Act, "Principal Act" means the *Rates and Land Tax Act 1926*.<sup>1</sup>

**Interpretation**

- 10     **3.** Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of "instalment day" and substituting the following definition:

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“ ‘instalment day’ means—

- (a) in relation to rates—15 August, 15 November, 15 February or 15 May;
- (b) in relation to land tax—15 September, 15 December, 15 March or 15 June;”.

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#### Exempt land

4. Section 22B of the Principal Act is amended—

(a) by omitting paragraph (1) (a) and substituting the following paragraph:

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“(a) a parcel of land leased for residential purposes that—

(i) on the prescribed date, was a place of residence of a person; and

(ii) is not used to produce income;”;

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(b) by omitting sub-subparagraph (1) (b) (ii) (A) and substituting the following sub-subparagraph:

“(A) and was intended to be used as the place of residence of a person; or”;

(c) by omitting subsection (1A) and substituting the following subsection:

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“(1A) For the purposes of paragraph (1) (a), a parcel of land shall not be taken to be used to produce income by reason only that it is used for that purpose during a period when the parcel is not occupied by the person referred to in subparagraph (1) (a) (i) if that period does not exceed—

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(a) if the reason for the person’s absence is related to his or her employment or occupation—

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(i) 3 years if he or she occupies the parcel for a continuous period of 2 years in any period of 5 years that commenced on the relevant prescribed date; or

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(ii) a period exceeding 3 years that is agreed with the Commissioner if the Commissioner is satisfied that the person intends to retain the parcel as his or her residence on resuming occupation at the end of that agreed period;

- 5 (b) if the Commissioner is satisfied that by reason of the death or illness of any person or on some other compassionate ground the firstmentioned person has a compelling reason for not occupying the parcel for a longer period than 12 months—that longer period; or
- (c) in any other case—12 months.”; and
- (d) by omitting subsection (3).

**Application for exemption of residential land**

5. Section 22BA of the Principal Act is amended—

- 10 (a) by inserting in paragraph (1) (d) “or (aa)” after “paragraph (2) (a)”;
- (b) by omitting from paragraph (2) (a) “or” (last occurring); and
- (c) by inserting after paragraph (2) (a) the following paragraph:
- 15 “(aa) where the facts disclosed in, or the circumstances of, an application are so complex or uncertain, or for any other reason, it is difficult or impracticable for the Commissioner to determine whether the parcel is exempt from land tax without undue delay or expense—defer consideration of the application and, by instrument, declare that the parcel is exempt from land tax for the
- 20 period specified in the instrument; or”.

**Assessment**

6. Section 22C of the Principal Act is amended by inserting after subsection (1) the following subsection:

- “(1A) A notice of assessment shall—
- 25 (a) set out the classes of land that are exempt from land tax under this Act;
- (b) describe the procedure for making an application to the Commissioner under section 22BA; and
- 30 (c) be accompanied by a form approved by the Commissioner as suitable for such an application.”.

**Payment of land tax**

7. Section 22E of the Principal Act is amended by omitting all subsections after subsection (3) and substituting the following subsections:

- 35 “(4) Where the date of the notice in respect of land tax for a year given under section 22C to the owner of a parcel of rateable land is a date later

than 28 days before the last instalment day in that year, that tax is payable on the due date for the payment of that tax.

“(5) A person may pay the land tax in respect of which a notice of assessment has been given—

- 5 (a) if the amount payable is for a year and any arrears of land tax in respect of previous years have been paid in full—by paying, on or before the due date for the payment of the land tax, the amount of the land tax less the amount ascertained by applying the determined discount rate to the amount of that tax;
- 10 (b) if the amount payable is for part of a year—by paying the total amount of the land tax on or before the due date for the payment of that tax;
- (c) by paying instalments—
- 15 (i) the number and amount of which are ascertained in accordance with subsection (7);
- (ii) the first of which is paid on or before the due date for the payment of that tax; and
- 20 (iii) the remainder of which are paid on or before the succeeding instalment days in the year in respect of which the tax is imposed; or
- (d) by paying such amounts, on such days, as the person wishes, but so that the total amount paid by the person on or before a day in a year is not less than the total amount that the person would have paid on that day if the person were paying the tax by instalments in accordance with paragraph (c).
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“(6) Where an amount payable under a notice of assessment is for a period exceeding a year, paragraph (5) (a) applies only in relation to the payment of that part of the amount payable that is for a year.

“(7) For the purpose of paragraph (5) (c)—

- 30 (a) the number of instalments is a number equal to one more than the number of instalment days remaining, after the due date for the payment of the tax, in the year in respect of which the tax is imposed;
- 35 (b) the amount of each instalment, disregarding any remainder, is a whole dollar amount calculated by dividing the total amount of tax payable by the number of instalments ascertained in accordance with paragraph (a); and

- (c) the amount of the first instalment shall include the sum of each remainder, if any, ascertained in respect of each instalment in accordance with paragraph (b).

5 “(8) Subject to subsection (9), where a parcel of land is subject to land tax for a part only of a year, the amount of tax payable in respect of that year is the amount that bears the same proportion to the amount of land tax that would have been payable if that parcel had been subject to land tax for the whole of the year as the number of days in that part of the year bears to 365.

10 “(9) If the amount of land tax paid for a year by an owner of a parcel of land to which subsection (8) applies exceeds the amount payable by the owner under that subsection, the owner is entitled to a refund of an amount equal to the excess.

15 “(10) In paragraph (5) (a), ‘determined discount rate’ means a discount rate determined by the Minister by instrument for the purposes of this subsection.

“ (11) A determination under subsection (10) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

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NOTE

1. Reprinted as at 31 March 1992. See also Act No. 31, 1992.