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

REVENUE LEGISLATION AMENDMENT BILL 2002

EXPLANATORY MEMORANDUM

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Revenue Legislation Amendment Bill 2002

Summary

The *Revenue Legislation Amendment Bill 2002* amends the *Payroll Tax Act 1987* and the *Rates and Land Tax Act 1926* to implement revenue initiatives introduced in Budget 2002-2003.

Overview

1. Effective from 1 July 2002, Part 2 of this Bill amends the *Payroll Tax Act 1987* to bring the wages base into line with other jurisdictions. These changes, and the intention to apply them to the financial year beginning 1 July 2002, were announced on 25 June 2002 in Budget 2002-2003. Although these measures have a retrospective application, the early announcement has minimised the effect on taxpayers. The process of calculating payroll tax will actually be simplified as businesses already calculate the grossed up value of fringe benefits for *Income Tax Assessment Act 1936* (Cwlth) purposes. There will also be administrative cost savings for employers paying payroll tax across jurisdictions. The provisions:

- (a) change the value of fringe benefits to the “fringe benefits taxable amount” which is the grossed up, or tax inclusive, value of the fringe benefit; and
- (b) include in the definition of wages, lump sum payments for annual leave and associated bonuses and loadings, payments for unused long service leave, and so much of any eligible termination payment that would be included in the assessable income of an employee.

2. Effective from 1 October 2002 Part 3 of this Bill amends the *Rates and Land Tax Act 1926* to:

- (a) broaden the land tax base to make residential property owned by a company or trustee liable to land tax, with several specified exemptions; and
- (b) increase the marginal land tax rates imposed on non-residential parcels of land with average unimproved values above \$100,000.

3. The *Rates and Land Tax Act 1926* is to be republished on 1 July 2002. The section numbers in this Bill reflect the section numbers in the republication.

Details of the Bill are attached.



Details of the Revenue Legislation Amendment Bill 2002

Part 1 Preliminary

Clause 1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2002*.

Clause 2 Commencement

Provides for the commencement of different Parts as described in the Overview.

Part 2 Payroll Tax Act 1987

Clause 3 Act amended – pt 2

This part amends the *Payroll Tax Act 1987*.

Clauses 4 Section 3 (1), definition of wages, paragraph (h)

Allows for the insertion of a new paragraph.

Clause 5 Section 3 (1), definition of wages, new paragraph (i)

A new paragraph is inserted which amends the definition of wages to include paragraph (i):

- (i) lump sum payments made in respect of unused annual leave, a bonus, loading or other additional payment relating to that leave;
- (ii) an amount paid in respect of unused long service leave; and
- (iii) so much of any eligible termination payment paid or payable by an employer that would be included in the assessable income of an employee under the *Income Tax Assessment Act 1936* (Cwlth), Part 3, Division 2, Subdivision AA if the whole of the eligible termination payment had been paid to the employee.

This definition does not include payments (such as those made for years of service) that are not assessable for income tax.

Clause 6 Section 3 (1), new definitions of annual leave, eligible termination payment, and long service leave

The stated definitions in the *Income Tax Assessment Act 1936* (Cwlth) are adopted for section 3 (1) of the Payroll Tax Act.

Clause 7 Section 3 (5) (a)

This omission brings this paragraph in line with section 3A.

Clause 8 Value of benefits Section 3A

The value of any benefit provided by an employer during a financial year or a group year is the amount, in relation to that year, that would be the fringe benefits taxable amount for the *Fringe Benefits Tax Assessment Act 1986* (Cwlth). This replaces the aggregate fringe benefits amount previously used as the value of the benefit.

Clause 9 **New Section 22 Revenue Legislation Amendment Act 2002 – transitional effect.**

This provides transitional arrangements.

Part 3 Rates and Land Tax Act 1926

Clause 10 **Act amended – part 3**

This part amends the *Rates and Land Tax Act 1926*.

Clause 11 **Interpretation for Act Section 4 (1), new definition of *development lease***

A modernised, but otherwise unchanged definition of *development lease* is inserted into section 4 (1) so it now applies to the whole Act.

Clause 12 **Unimproved value Section 5 (3), definition of development lease**

The old definition is omitted from section 5 (3).

Clause 13 – Interpretation for pt 4 Section 22AB (1), new definition of *trustee*

This provision excludes the executor of a will or the administrator of the estate of a dead person, and a guardian or manager of the property of a person under a legal disability from the definition of trustee. This is to ensure there is no land tax liability on residential property under these circumstances.

Clause 14 – Section 22A Imposition of land tax

Subsection (1) states that land tax at the appropriate rate mentioned in subsection (2) is imposed for a quarter for each parcel of rateable land that is not exempt from land tax.

Under subsection (2), land tax is now imposed on residential land that is owned by a company or trustee or where the property is rented. Land tax is imposed on non-residential land at a different rate.

The table sets out two differential annual rates of land tax for each part of the average unimproved value. The first rate (column 3) applies to residential land mentioned in section 22A (2) (a) and the second rate (column 4) applies to non-residential land.

This section is subject to section 24A (Unit subdivisions).

Clause 15 – Exempt land – Section 22B (1) (a)

This paragraph is omitted. There is no longer a need to exempt residential land that is not rented from land tax as the new section 22A (2) (a) specifies that land tax is to be imposed at the appropriate rate on residential land that “is rented”.

Clause 16 – Section 22B (1) (b)

This paragraph provides that a parcel of land leased for residential purposes can be exempt from land tax if it is rented and the owner is absent for compelling compassionate reasons **only if** the owner is not a company or a trustee.

Clause 17 – Section 22B (1)

This section is to be renumbered when the Act is next republished.

Clause 18 – New sections 22B (1A), (1B), (1C) and (1D)

New provisions are inserted to provide exemption from land tax imposed in accordance with section 22A (2) (a) in particular cases under the following sections:

22B (1A) a parcel of land held under a development lease by a company;

22B (1B) a parcel of land held under a lease by a trustee under the will of a dead person and occupied by a person with a life estate in the land under the will, if the land is not rented;

22B (1C) a parcel of land owned by a not-for-profit housing company; and

22B (1D) a parcel of land owned by a company carrying on business as a builder or land developer. The exemption is for 2 years commencing on the first prescribed date after the company becomes the owner of the land if the following apply:

- (a) the land is used by the company for the sole purpose of constructing new residential premises; and
- (b) the new residential premises are to be sold by the company on completion.

Clause 19 – New section 22B (2A)

Subsection (1) (i) does not apply to a parcel of residential land leased to a trustee or a company.

Clause 20 – Section 22B (3), new definitions of *new residential premises*, *not-for-profit housing company*, *residential premises* and *substantial renovations*.

These new definitions are to clarify eligibility for the new exemptions under section 22B (1C) and (1D).

Clause 21 – Section 22B

This section is to be renumbered when the Act is next republished.

Clause 22 – Multiple dwellings Section 22DA (1)

This provision is to ensure that where land leased for residential purposes contains multiple dwellings any of which is rented by a tenant, the liability to land tax based on the floor area rented cannot apply to an owner who is a company or a trustee.

Clause 23 – New section 22DB Land partly owned by a company or trustee

This provides that where residential land that is not rented is partly owned by a company or trustee, the land tax imposed by section 22A applies to the average unimproved value in proportion to the interests held by the owners who are companies or trustees. The land tax payable in accordance with section 22A (2) (a) is payable by the owners who are companies or trustees.

Clause 24 – Objections Section 22GE (2) (b)

A person who claims that, on the relevant prescribed date, the parcel of land was not rented may lodge an objection to the assessment of land tax in respect of the parcel, with the

Commissioner. This provision extends the objection rights to where an owner claims a parcel of land was not owned by a company or trustee on the relevant prescribed date.

Clause 25 – Section 22GE (4) (d)

In respect of an objection lodged under section 22GE (2), if the commissioner is satisfied that, on the relevant prescribed date, the parcel of land was not rented or owned by a company or trustee, the assessment will be withdrawn and any land tax paid will be refunded.