

1991

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

RATES AND LAND TAX (AMENDMENT) BILL 1991

EXPLANATORY MEMORANDUM

Circulated by the Authority of the Chief Minister

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Rates and Land Tax (Amendment) Bill 1991

Outline of Amendment

The Rates and Land Tax Act 1926 provides for the imposition of municipal rates and land tax in the Australian Capital Territory.

This Bill provides for the use of the 1991 triennium land revaluations for the 1991-92 rating year (under the existing Act these would have applied from the 1992-93 rating year) and for the introduction of annual revaluations of Territory land from 1 July 1992. It also introduces measures to improve administration of the Act.

The Bill provides for:

- . the costs incurred in the recovery of overdue rates and land tax to be applied as a charge on the land;
- . a lessee to be ineligible for a discount of rates when rates are owing in respect of any previous year;
- . the second, third and final rates instalments to be equal whole dollar amounts with the first instalment being equal to the balance of the account;
- . where a property is jointly owned and one or more of the owners is exempt by virtue of being the Commonwealth or an authority of the Commonwealth which is exempt from Territory taxes each of the other non-exempt joint owners is to be liable for the whole of the rates, land tax, interest, recovery costs and expenses;
- . the Act to bind the Crown in right of the Territory, the States and other Territories;

Financial Implications

With the issue of a combined rates and an annual revaluation notice administrative savings will amount to \$25,000. Additional revenue will be raised from land tax charges in the second and third years of annual revaluations when compared with tax revenue based on triennial land valuations.

Details of the proposed Bill are attached.

DETAILS OF THE RATES AND LAND TAX (AMENDMENT) BILL 1991.

Short title

Clause 1 - Provides for the short title for this Act to be the Rates and Land Tax (Amendment) Act 1991.

Commencement

Sub-clause 2(1) - Provides for Sections 1 and 2 to commence on the day the Act is notified in the Gazette.

Sub-clause 2(2) - provides for the remaining provisions to commence on 1 July 1991.

Principal Act

Clause 3 - Refers to the Principal Act being amended, being the Rates and Land Tax Act 1926.

Insertion

Clause 4 - provides that the following section is inserted after section 4 of the Principal Act:

Act Binds Crown

4A. This Act binds the Crown.

This provision will bind the Crown in right of the Territory, the States and other Territories. The Crown in right of the Commonwealth will not be bound by the Principal Act unless a regulation is made under the Australian Capital Territory (Self-Government) Act 1988 of the Commonwealth for the purpose of Section 27 of that Act.

Automatic revaluations

Sub-clause 5(a) amends Section 8 of the Principal Act by omitting from subsection (1) "1988" and substituting "1991". This provision requires the Commissioner for ACT Revenue to redetermine the unimproved value as at 1 January 1991 of all parcels of Territory land that were rateable on that date.

Sub-clause 5(b) amends Section 8 of the Principal Act by omitting from subsection (1A) "the third calendar year after" and substituting "the calendar year next following". This provision provides for the Commissioner for ACT Revenue to redetermine the unimproved value of all parcels of land in the Territory at 1 January, annually.

Application of determination or re-determination to rates:

Sub-clause 6(a) and (b) amends Section 11 of the Principal Act by:

(a) omitting from subsection (2) "next succeeding the calendar year" and

(b) omitting "third calendar year" and substituting "calendar year next". These changes provide for the unimproved land values redetermined annually under Section 8 (by virtue of the amending Act) to be used for calculating rates and land tax charges from 1 July in the calendar year in which the land values are redetermined.

Payment of rates

Sub-clause 7(a) amends Section 15 of the Principal Act by omitting subsection (4). Section 15 provides for the payment of rates and various provisions of the section are interdependent. Subsection (4) which referred to subsection (5) is therefore superfluous.

Sub-clause 7(b) amends Section 15 of the Principal Act by inserting in subsection (5)(a) "and any arrears of rates in respect of previous years have been paid in full" after "a year". This means that where a rates assessment notice is issued each year by virtue of Section 14 of the Principal Act, the ratepayer is unable to obtain a discount on those rates unless arrears of rates for previous years have all been paid, and the required amount for the current year is paid in full by the due date.

Sub-clause 7(c) amends Section 15 of the Principal Act by inserting in subsection (5AA) "or (5A)(c)" after "(5)(a)". This provision ensures that where fractions of a cent arise in the calculation of the first rates instalment under the new subsection (5A)(c) a fraction of a cent below half a cent will be disregarded while a fraction of a cent above half a cent will be regarded as one cent in accordance with subsection (5AA) of the Principal Act.

Sub-clause 7(d) amends Section 15 of the Principal Act by omitting "and" from subsection (5A)(a).

Sub-clause 7(e) amends Section 15 of the Principal Act by omitting sub-clause (5A)(b) and substituting paragraphs (b) and (c) which provide for each instalment to be a whole dollar amount except the first instalment. The first instalment will include the sum of the remainder of each instalment.

Insertion

Clause 8 - provides for the insertion of Section 21A after Section 21.

Charge of rates and land tax on rateable land

Subsection 21A(1) makes rates, land tax, associated recovery costs, expenses and interest on all such amounts a charge on the land.

Subsection 21A(2) makes a charge on the land not applicable to a purchaser of a property, who has had no notice of any liability of the charge in a certificate obtained by that person from the Commissioner indicating the amount due in respect of rates, land tax, interest, costs and expenses.

Recovery of rates

Clause 9 - amends Section 22 of the Principal Act by:

(a) amending paragraph 4(a) of the Principal Act thereby ensuring that interest is payable on unpaid costs and expenses reasonably incurred in recovering rates and land tax; and

(b) inserting a new subsection (4AA) after subsection (4) which makes a person who is liable to pay an amount of unpaid rates or interest also liable to pay to the Territory costs and expenses reasonably incurred in attempting to recover those rates and interest.

Joint owners, lessees and licensee

Clause 10 - amends Section 24 of the Principal Act by adding a new subsection which makes the other joint owners each liable to pay the full amount of rates, land tax, interest, costs and expenses on a property that is jointly owned with the Commonwealth, or a statutory authority established by or under a law of the Commonwealth which is exempt, or purports to be exempt, from such charges.

Transitional

Sub-clause 11(1) - provides that unimproved property values that have been determined or redetermined under Section 7, or redetermined under Section 8, of the former Act, and would have ceased to apply in respect of rates on 30 June 1992 will now cease to apply in respect of rates on 30 June 1991. This means that the current land values will have

been used for rating purposes for two years only, rather than for the three years that would have applied but for the introduction of annual land revaluations in this Bill.

Sub-clause 11(2) - provides that the recovery provisions for rates, land tax, interest, costs and expenses in the amending Act will also apply to arrears of rates or land tax, or both, (including interest), which have not been discharged and proceedings had not been instituted to recover these debts prior to 1 July 1991.

Sub-clause 11(3) - provides for specific definitions to apply for the purpose of Section 11.