

1990

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

RATES AND LAND TAX (AMENDMENT) BILL (NO 2) 1990

EXPLANATORY MEMORANDUM

**Circulated by the Authority of the Minister for Finance
and Urban Services**

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RATES AND LAND TAX (AMENDMENT) BILL (NO. 2) 1990

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 introduces measures which complement provisions introduced in 1989 to aid recovery of outstanding rates and land tax (i.e. penalty interest on outstanding rates and land tax accounts and discount for full payment of rates by the first due date). It also provides for a change to the urban, rural and land tax rates for 1990/91.

The Bill provides for a general rate for land in the City Area of 1.312% per annum of the unimproved value and 0.656% per annum of the unimproved value for rural land for 1990/91. Land tax is increased from 0.75% to 1.0% per annum of the unimproved value from 1 July 1990.

The Bill also provides for:

- . the continued charging of interest on unpaid rates and land tax after 1 July 1990;
- . maintaining the rate of interest charged on unpaid rates and land tax at 20% after judgment has been entered in the Courts;
- . recovery of rates and land tax from debtors of a defaulting rate or land tax payer;
- . the purchaser or transferee of a property to be also responsible for notifying the Commissioner for ACT Revenue of the transfer of ownership; and
- . the dates for levying rates and land tax, where a property valuation has been corrected or there has been a change of circumstances in regards to the lease, to be the correct date and the date the circumstances changed, respectively.

Financial Implications

Additional revenue from increasing the rate is estimated to be \$10.6 million in 1990/91 and \$3.4 million in respect of the increase in land tax. Additional revenue will be gained also from the continuation of interest charges on unpaid land tax and the maintenance of these interest charges after judgment has been entered in the Courts. Some savings are anticipated with the improvement to administrative procedures.

Details of the proposed Bill are attached.

DETAILS OF THE RATES AND LAND TAX (AMENDMENT) BILL (NO. 2) 1990

Short title

Clause 1 - Provides for the short title for this Act to be the Rates and Land Tax (Amendment) Act (No.2) 1990.

Commencement

Sub-clause 2 (1) - Provides for Sections 1,2,3 and 15 to commence on the day the Act is notified in the Gazette.

Sub-clause 2 (2) provides that the remaining provisions commence on 1 July 1990.

Principal Act

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

Application of certain amendments

Sub-clause 4(1) - Provides that sub-sections 11(3), of the Principal Act, as amended by this Act, applies only to redeterminations of the unimproved value of a parcel of land under Section 10 of the Principal Act, where:

- . in respect of sub-clause 4(1)(a) a clerical error occurs on or after 1 July 1990; and**
- . in respect of sub-clause 4(1)(b) a change of circumstances arises on or after 1 July 1990.**

Sub-clause 4(2) - Provides for Section 23 of the Principal Act, as amended by this Act, and relating to the transfer of land, to only apply to the transfer of an estate or interest in land on or after 1 July 1990.

Application of determination or redetermination of rates

Sub-clause 5(a) - Provides reference to a period for rating purposes under sub-section 11(1) of the Principal Act by replacing "year that commenced" with "period commencing";

Sub-clause 5(b) - Provides for the closing of the period for rating purposes mentioned in 5(a) by adding to the end of sub-section 1 "and ending at the expiration of the day immediately before the day on which the next following redetermination under Section 8 applies in respect of rates for that parcel of land"; and

Sub-clause 5(c) - Omits sub-sections (5), (5A) and (6) of the Principal Act and substitutes a new provision, sub-section (3), which provides for determinations made under Section 10 of the Principal Act to commence a period for rating purposes, as follows:

(3)(a) in respect of sub-section 10(1)(a) of the Principal Act relating to the correction of a clerical error, - on the same date that it would have commenced, under Section 7 or 8 of the Principal Act, had the error not occurred;

3(b) in respect of sub-section 10(1)(b) of the Principal Act applying, as a consequence of a final order under Section 11A of the City Area Leases Act 1936, - on the date of the final order; and

3(c) in respect of sub-section 10(1)(b) applying to any other change of circumstances, - on the day of the relevant change of circumstances;

and end the period at the end of the day immediately before the day on which a new redetermination made under Section 8 of the Principal Act applies in respect of rates for the relevant parcel of land.

Imposition of rates

Clause 6 - Amends Section 13 of the Principal Act which provides for the City Area rate and the rural rate.

Sub-clause (1) provides that the rate for City Area properties, other than prescribed land, is 1.312 per cent per annum of the unimproved value of a parcel of land.

Sub-clause (2) provides that the rate for properties outside the City Area and prescribed land is 0.656 per cent per annum of the unimproved value of a parcel of land.

Recovery of rates

Clause 7 - Section 22 of the Principal Act is amended by providing after sub-section (4) a new sub-section (4A), which

allows for the continuation of the interest charges imposed on unpaid rates after judgment is entered in the Courts, except that such interest is to be reduced by the amount of judgment interest applicable to the debt;

Where the Court enters judgment for payment of an amount for rates or interest under sub-sections 22(1) or (3) respectively, or an amount that includes such an amount for rates or interest -

New paragraph (4A)(a) provides that the amount for rates or interest under 22(1) or (3) shall still be due and payable notwithstanding judgment was entered; and

New paragraph (4A)(b) provides that if interest is payable on the judgment debt the amount of rates and interest payable under sub-sections 22(1) or (3) shall be reduced -

- . (4A)(b)(i) where the judgment applies to rates and interest only - by the amount of judgment interest; and
- . (4A)(b)(ii) where the judgement applies to rates and interest and other amounts - by a proportional amount of interest as the amount of rates and interest bears to the judgment debt.

Payment by rate-payer's debtor

Clause 8 - Inserts a new section, 22AAA, to provide the procedures and mechanisms for the Commissioner for ACT Revenue to recover unpaid rates and interest charges from the debtors of a defaulting ratepayer;

Sub-clause (1) provides for the Commissioner for ACT Revenue to serve a notice on a person who owes money to a ratepayer requiring that person to pay to the Commissioner an amount equal to that owed to the ratepayer (by the person) or equal to the ratepayer's liability, whichever is less;

Sub-clause (2) provides for the Commissioner to specify the time within which the debt is to be paid by the person that owes money to the ratepayer;

Sub-clause (3) provides where the debt to the ratepayer is payable in instalments the Commissioner may specify in the notice to the person who owes money to the ratepayer the amount of money that is to be paid out of each instalment until the debt owing on the rates is paid;

Sub-clause (4) provides for the Commissioner to have a copy of the notice served on the ratepayer;

Sub-clause (5) provides for the payments made by the person who owes money to the ratepayer, in accordance with the notice, to have been made with the authority of the ratepayer and of each other person served with the notice or a copy of the notice;

Sub-clause 6 provides that a ratepayer's shares held in a building society (not being shares listed for quotation on the stock exchange) shall, for the purposes of this Section, be taken to be-

- . if the shares repayment money is payable on demand - a debt due to the ratepayer, and
- . in any other instance - money that will become a debt due to the ratepayer;

Sub-clause (7) provides that where money is not due or payable to the ratepayer unless a condition is fulfilled, the money is, for the purposes of this section, due or payable notwithstanding that the condition has not been fulfilled;

Sub-clause (8) provides that where a person who owes money to the ratepayer contravenes a requirement under subsection (1), without reasonable excuse, is punishable on conviction of an offence by a fine not exceeding \$1,000;

Sub-clause (9) provides that where a person who owes money to a ratepayer is convicted of an offence against this Section, the Court may, in addition to imposing a penalty on the person also order the person to pay to the Commissioner the amount required to satisfy the debt owed by the ratepayer for rates;

Sub-clause (10) provides that the Commissioner must apply amounts paid by debtors of a ratepayer against the relevant liability; and

Sub-clause (11) provides that for the purposes of the section "rates" includes

- (a) interest payable under sub-section 22(3);
- (b) a judgment debt or costs in respect of rates; and
- (c) a fine or costs imposed by a court in respect of an offence against the Act.

Imposition

Clause 9 provides that Land Tax imposed under Section 22A of the Principal Act is to be 1.0% per annum of the unimproved value of a parcel of land.

Repeal

Clause 10 - Repeals section 22FA of the Principal Act.

Remedies for non-payment of land tax

Clause 11 - Provides for the newly inserted provision relating to recovery of rates from the debtors of a defaulting ratepayer (clause 8) to also apply in respect of land tax.

Notice of transfer

Clause 12 - Repeals Section 23 of the Principal Act and substitutes a new Section 23 containing the following provisions:

Sub-clause 23(1) of the Act provides that where rateable land is transferred both the seller (transferor) and buyer (transferee) shall advise the Commissioner for ACT Revenue of details relating to the transfer of their estate or interest in the land;

Sub-clause 23(2) specifies the detail to be provided in a form approved by the Commissioner; and

Sub-clause 23(3) provides that a person who contravenes the provision is punishable on conviction of an offence by a fine not exceeding \$500.

Unit subdivisions

Clause 13 - Provides for amendment of Section 24A of the Principal Act by replacing in paragraph (4)(a), "(5A)" and substituting "(3)".

Repeal

Clause 14 - Repeals the Second Schedule to the Principal Act.

Recovery of Land Tax

Clause 15 - Repeals Section 14 (2) of the Rates and Land Tax (Amendment) Act 1989 (No. 10 of 1989) which would have stopped the charging of interest on unpaid land tax from 1 July 1990.



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