

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY RATES AND LAND TAX ORDINANCE 1986

No 89, 1986

The Rates Ordinance 1926 ("the Principal Ordinance") provides for the making and levying of rates on land in the Territory.

The Rates and Land Tax Ordinance 1986 ("the Ordinance") amends the Principal Ordinance to provide for the imposition of land tax on land in the Territory. Land tax was announced in the 1986 Budget.

The Principal Ordinance provides that all land in the Territory, with the exception of certain specified land, is rateable. It provides that rates are imposed at a percentage of the unimproved value, determined from time to time, of each parcel of rateable land. The Ordinance provides that land tax is applicable to all rateable land in the Territory, with the exception of land leased or used for certain specified purposes, and further that the land tax is imposed at a certain percentage of the unimproved value of each taxable parcel of land.

Details of the Ordinance are as follows:

Section 1 deals with interpretation.

Section 2 provides for the Proposed Ordinance to come into operation on 1 January 1987.

Sections 3 and 4 deals with interpretation.

Section 5 inserts the heading "Part I - Preliminary" before section 1 of the Principal Ordinance.

Section 6 amends section 1 of the Principal Ordinance to provide that it may be cited as the "Rates and Land Tax Ordinance 1926".

Section 7 inserts the heading "Part II - Unimproved Value" before section 5 of the Principal Ordinance.

Section 8 repeals section 12A of the Principal Ordinance, which made special provision for the interpretation of the principal Ordinance in the case of land subdivided under the Unit Titles Ordinance 1970.

Section 9 inserts before section 13 of the Principal Ordinance the headings "Part III - Rates Division 1 - Imposition and payment".

Section 10 inserts the heading "Division 2 - Enforcement" before section 17 of the Principal Ordinance.

Sections 11, 12 and 13 amends sections 18, 19 and 22 respectively of the Principal Ordinance by removing from them the references to penalty. These references are to a previous penalty on overdue rates which was abolished in the early 1970's, and were inadvertently left in place by the abolishing amendments.

Section 14 inserts the headings "Part IV - Land Tax Division 1 - Imposition and payment" after section 22 of the Principal Ordinance and the heading "Part V - Miscellaneous" before section 15 of the Principal Ordinance. It also inserts new sections 22A, 22B, 22C, 22D, 22E, 22F and 22G into the Principal Ordinance.

The new section 22A provides that except in the cases listed under section 22B land tax is imposed in respect of all parcels of rateable land in the Territory and that the Minister may, by instrument published in the Gazette, declare that land tax for a specified year shall be imposed at a specified percentage of the unimproved value of each parcel of land, but that the percentage shall not exceed 4 percent.

The new section 22B provides that parcels of land leased solely for residential purposes, parcels of land leased primarily for the purpose of primary production, parcels

of land leased primarily for residential purposes but also for the purpose of primary production and parcels of land used for the provision by the Commonwealth of welfare services are exempt from land tax. 'Primary production' is defined as production resulting directly from the cultivation of land, fishing or forest operations and the maintenance of animals or poultry in order to sell them or their bodily produce and includes the manufacture of dairy produce by the person who produced the raw material used in the manufacture. A reference to parcels of land leased solely for residential purposes is expressed to include a reference to parcels of land on which are boarding houses, hostels, refuges or similar buildings maintained by the Commonwealth.

The new section 22C provides for notices of assessment of land tax to be prepared and given to the owners of taxable parcels of land. Special provision is made for correction of errors in the preparation of assessments. These provisions parallel the provisions for the making and issuing of notices of assessment of rates in section 14 of the Principal Ordinance. In addition provision is made for a notice of assessment for land tax to be incorporated in a notice of assessment for rates issued under section 14 of the Principal Ordinance.

The new section 22D makes special provision for the imposition and payment of land tax in the period from the commencement of the Ordinance to 30 June 1987, as the accounting period for rates, and the proposed land tax, is from 1 July of one year to 30 June of the next.

The new section 22E provides for the payment of land tax in terms parallel to those in section 15 of the Principal Ordinance, which provides for payment of rates. The section provides that land tax is payable by the owner of the land on the due date specified in the notice of assessment, provided that date is not earlier than 28 days after the date of issue of the notice. In addition provision is made for the land tax to be paid in instalments in the same way as rates.

The new section 22F provides that when land tax is unpaid for a year the Minister may give notice to the owner that the land tax is in arrears. That provision

parallels the provision in section 17 of the Principal Ordinance in respect of rates.

The new section 22G provides for sections 18, 19, 20, 21 and 22 of the Principal Ordinance to apply to land tax as well as to rates. Those sections provide for recovery of rates in arrears for a year or more by the Minister taking possession of the land and leasing or selling it, or by the Minister suing the owner for the amount owed.

Section 15 amends section 23 of the Principal Ordinance by removing the reference to penalties, which are references to previous penalties abolished in the 1970's but inadvertently left in place by the abolishing amendments, and providing for that section to apply to land tax as well as to rates. Section 23 provides that an owner shall give notice in writing to the Minister when selling rateable land or disposing of an interest in a lease of rateable land and that until that notice is given the owner shall remain liable for rates on the land.

Section 16 amends section 24 of the Principal Ordinance by providing that it applies to land tax as well as rates. That section provides that joint owners shall be jointly and severally liable for rates, but that a joint owner who pays more of the rates than is proportionate to the value of his interest in the land can recover the excess from the other owner or owners.

Section 17 inserts a new section 24A after section 24 in the Principal Ordinance. This proposed new section will replace the provisions of section 12A of the Principal Ordinance which will be repealed by the Proposed Ordinance. It will provide for the levying and payment of rates and land tax with respect to units. It provides that rates and land tax are to be calculated on the unimproved value of the whole parcel of land. The rates and land tax are payable by the members of the body corporate and not the body corporate itself. The amount of rates payable by each member will be in the same proportion to the total as his unit entitlement is to the aggregate of all the unit entitlements on the registered units plan. The amount of land tax payable by a member whose unit is taxable will be a proportion

which his unit entitlement bears to the aggregate unit entitlement of all the units subject to land tax. No separate valuation is to be made of the units as the section provides that the unimproved value of the whole parcel is to be determined and notice forwarded to the body corporate. Accordingly it provides that only the body corporate can object to or appeal against the determination of the unimproved value. However, the section provides for notices of assessment for rates and land tax to be sent to each individual unit owner.

Section 18 amends section 26 of the Principal Ordinance, which provides for service of notices of assessment, by making it applicable to land tax as well as to rates, by altering paragraph (1)(c) to allow for notices to be posted to a non-residential address of which written notification has been given by the owner, and by omitting sub-section (2) the substance of which is now provided for by section 18 of the Interpretation Ordinance 1967.

Section 19 amends section 28 of the Principal Ordinance, which provides that the Minister may by notice in the Gazette exempt for a specified period the owner of a parcel of land from paying rates or a specified portion of the rates in respect of that land, by adding a further sub-section to extend those provisions to land tax.

Section 20 amends section 28A of the Principal Ordinance, which provides that the Minister may refund or remit rates if he is satisfied that it is just and equitable to do so, by extending its application to land tax.

Section 21 amends section 33 of the Principal Ordinance, which provides that rates are payable and may be recovered despite a pending application for variation of the determination of unimproved value, by extending its application so that land tax is payable and may be recovered while such an application is pending.

Section 22 amends section 34 of the Principal Ordinance, which deals with the effect of a re-determination, by extending its application to land tax, so that there are provisions for giving notice of a variation of a

determination of unimproved value, preparing a re-assessment of rates or land tax as a consequence of such a variation and for refunding a resulting overpayment or recovering a resulting underpayment.

Section 23 amends section 35 of the Principal Ordinance, which makes provision for certificates by the Secretary to be accepted as evidence of certain matters, by extending its application to matters relating to land tax.

Section 24 and 25 make consequential amendments.