

**2017**

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

**Revenue Legislation Amendment Bill  
2017**

**EXPLANATORY STATEMENT**

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# REVENUE LEGISLATION AMENDMENT BILL 2017

## Summary

The Revenue Legislation Amendment Bill 2017 amends the following:

- *Duties Act 1999* (Duties Act);
- *Land Tax Act 2004* (Land Tax Act); and
- *Rates Act 2004* (Rates Act).

## Overview

The Bill amends the Duties Act, Land Tax Act and Rates Act to give effect to decisions arising from the 2015-16 and 2016-17 Budget. They include:

- changes to the method for calculating rates and land tax for residential unit subdivisions;
- the repeal of insurance duty legislation; and
- a technical change to the rebate on rates for pensioners.

### Rates and Land Tax unit methodology

The current method for calculating rates and land tax on a residential unit in the ACT has resulted in lower rates and land tax payable for units as compared with the rates and land tax payable for houses of similar market value.

In the 2016-17 Budget, the ACT Government announced a change to the methodology for calculating rates and land tax on units in order to reduce the gap between houses and residential units of similar value. To do this the total average unimproved value (AUV) of the parcel of land will be used as a basis for the rates and land tax calculation, instead of the AUV of the parcel as it relates to the individual unit entitlement.

The amendments to the Land Tax Act and the Rates Act in this Bill implement this change in methodology.

### Insurance duty repeal

The ACT Government announced in the 2015-16 Budget the abolition of insurance duty effective from 1 July 2016. This was implemented in 2016 by disallowable instruments to set the rate of duty to zero and to suspend obligations for insurers to lodge returns.

The repeal of the legislative provisions in the Duties Act in this Bill will complete the abolition of insurance duties in the ACT.

## Pensioner rates rebate

In 2016, the *Rates (Pensioner Rebate) Amendment Act 2016* (2016 Act) amended the uncapped rebate scheme under the Rates Act to improve equity between the uncapped and capped rebate programs. However, the 2016 Act only came into effect on 18 August 2016, after the start of the rates assessment year.

To address this, a disallowable instrument was notified for the period from 1 July 2016 to 17 August 2016. The instrument artificially increased the fixed charge payable by ‘uncapped’ pensioners whose rates assessment notices had been issued in the aforementioned period, thereby increasing their rebate available. This effectively produced the same result as that intended by the 2016 Act. Remaining pensioners whose rates were assessed on or after 18 August 2016 were not affected as their rebate was calculated based on the statutory formula of the 2016 Act.

A technical amendment to the Rates Act is required to ensure that the benefit of the increased rebate, as provided for by instrument for the affected pensioners, is disregarded for 2017-18 and future rates assessment years. This amendment ensures that the amount of the rebate is calculated correctly for the pensioners subject to the instrument, on the same basis as the pensioners subject to the 2016 Act. Further, the amendment removes any doubt that the instrument was only meant as a temporary measure, and removes any long-term impact the artificially raised rebate will have on the way the pensioner rebate will be calculated in the future.

## **Human rights**

This Bill does not have human rights implications.

## **Commencement**

The amendments will commence on 1 July 2017.

## Details of the Revenue Legislation Amendment Bill 2017

### **Part 1 Preliminary**

#### **Clause 1 Name of Act**

This clause provides the name of the Act is the *Revenue Legislation Amendment Act 2017*.

#### **Clause 2 Commencement**

This clause provides the Act commences on 1 July 2017.

#### **Clause 3 Legislation amended**

This clause provides the Act amends the *Duties Act 1999* (Duties Act), the *Land Tax Act 2004* (Land Tax Act), and the *Rates Act 2004* (Rates Act).

### **Part 2 Duties Act 1999**

#### **Clause 4 Insurance, Chapter 8**

This clause omits Chapter 8 of the Duties Act that provides for the imposition and payment of insurance duty.

#### **Clause 5 Minimum amount of duty, section 229 (2)**

This clause omits section 229 (2) as it relates to the imposition of insurance duty.

#### **Clause 6 Objections Section 252 (o) to (r)**

This clause omits sections 252 (o) to (r) that provide for objection rights in respect of decisions made by the commissioner for insurance duty purposes.

#### **Clause 7 Dictionary**

This clause omits the definitions of *general insurance*, *general insurer*, *insurer*, *life insurance*, *life insurance rider*, and *paid* applicable in respect of insurance duty.

#### **Clause 8 Dictionary, definition of *premium***

This clause amends the definition of *premium* by removing the part of the definition that refers to general insurance duty.

#### **Clause 9 Dictionary, definitions of *registered insurer* and *third-party insurance***

This clause omits the definition of *registered insurer* and *third-party insurance* that relate to insurance duty.

### **Part 3            Land Tax Act 2004**

#### **Clause 10        Imposition of land tax, section 9 (2)**

This clause amends the description of *appropriate rate* to insert a reference to section 27 (3) of the Land Tax Act that applies to unit subdivisions, and to provide that the appropriate rate of land tax for a parcel of land that is a unit subdivision is worked out under section 27 (4).

In any other case, the appropriate rate is worked out using the standard formula, being:

$$FC + (AUV \times P)$$

#### **Clause 11        Unit subdivisions—land tax, section 27 (3) (b)**

This clause omits the reference to ‘subsection (5)’ in section 27 (3) (b) and substitutes it with ‘subsection (4), (5) or (6), whichever applies’ to reflect that the amount of land tax payable by a unit owner whose unit is subject to land tax is the amount worked out under section 27 (4).

#### **Clause 12        Section 27 (4) to (7)**

This clause substitutes new sections 27 (4) to (7) in the place of sections 27 (4) to (6). It sets out in new section 27 (6) the new formula by which the rate of land tax for a unit that is part of a unit subdivision, is generally worked out:

$$FC + AUVRUP \times \frac{UE}{TUER}$$

The formula factors in the average unimproved value (AUV) of the parcel of land that is a unit subdivision, as it relates to the proportion of residential units in the parcel. This is a change to the old formula which only utilised the AUV of the parcel of land as it related to the individual unit entitlement.

This ensures that the land tax calculation for a residential unit is based on the higher AUV of the parcel of land and corresponding percentage rate, before it is multiplied against the unit entitlement of the residential unit.

For example, Ms Cook owns one unit in a unit subdivision comprised of three residential units. Under the unit plan, Ms Cook’s unit entitlement is three unit entitlements (UE = 3) out of a total unit entitlement of ten (TUE = 10). The AUV of the parcel of land is \$250,000.

Using the new formula, the land tax on Ms Cook's unit is calculated as follows:

$$FC = \$1,090; \text{ and}$$

$$AUVRUP = 1,277.50 \text{ (see calculation below for AUVRUP).}$$

For the purposes of this example the fixed charge (FC) and percentage rates (P) for 2016-17 (set out in DI2016-110) were applied.

AUVRUP = AUVRU (defined as  $AUV \times \frac{TUER}{TUE}$ ) multiplied by P, calculated as follows:

1.  $AUVRU = AUV \times \frac{TUER}{TUE} = \$250,000 \times \frac{10}{10} = 250,000$
2.  $AUVRUP = AUVRU \times P$ 

$= \$250,000 \times P =$	$\$75,000 \times 0.41\%$	$=$	$\$307.50$
	$\$75,000 \times 0.48\%$	$=$	$\$360.00$
	$\$100,000 \times 0.61\%$	$=$	$\$610.00$
	<b>Total</b>	$=$	<b><math>\\$1,277.50</math></b>

Applying the new formula therefore, the land tax payable on Ms Cook's unit is:

$$\$1,090 + \left(1,277.50 \times \frac{3}{10}\right) = \mathbf{\$1,473.25.}$$

Using the old formula, the land tax would have been **\$1,397.50**, calculated as follows:

$$FC + \left(\frac{UE}{TUE} \times AUV\right) \times P$$

1.  $\frac{UE}{TUE} \times AUV = \frac{3}{10} \times 250,000 = 75,000$
2.  $75,000 \times P = \$75,000 \times 0.41\% = \$307.50$
3.  $\$307.50 + \$1,090 = \$1,397.50.$

This clause also inserts new formulae for the calculation of land tax in specific scenarios that is where a unit contains multiple-dwellings (new section 27 (4)), and where a unit is partly owned by corporations or trustees (new section 27 (5)). These formulae are reflective of the scenarios described in sections 15 and 16 of the Land Tax Act, but operate to ensure that land tax is calculated in these situations in accordance with the new methodology for residential units.

New section 27(5) provides that if a unit, owned by someone other than a corporation or trustee, contains multiple dwellings, and at least one of the dwellings is rented by a tenant, the rate of land tax for the unit is worked out as follows:

$$\left(FC \times \frac{FA}{TFA}\right) + \left(\left(AUVRUP \times \frac{UE}{TUER}\right) \times \frac{FA}{TFA}\right)$$

For a unit that is not rented and is owned by either a corporation or trustee, and another person who is neither a corporation nor a trustee, the rate of land tax is worked out as follows:

$$\left(FC \times \frac{C\&TI}{AI}\right) + \left(\left(AUVRUP \times \frac{UE}{TUER}\right) \times \frac{C\&TI}{AI}\right)$$

Definitions of the component parts of the formulae are described in new section 27 (7).

**Clause 13 Working out amounts with fractions for Act, section 40 (2)**

This clause updates section 40 (2) to remove the reference to ‘section 27 (5)’ and substitutes it with ‘section 27 (4), section 27 (5) or section 27 (6)’ for the purposes of working out the AUV in relation to unit subdivisions and disregarding any fractions in dollar amounts.

**Part 4 Rates Act 2004**

**Clause 14 Imposition of rates, section 14 (2)**

This clause amends section 14 (2) of the Rates Act to include a reference to section 29 that applies to unit subdivisions and to provide that rates are imposed for a parcel of rateable land that is a unit subdivision in accordance with the formula in section 29 (4).

In any other case, the standard formula applies, being:

$$FC + (AUV \times P)$$

**Clause 15 Unit subdivisions—rates, section 29 (3) (b)**

This clause omits the reference to ‘subsection (5)’ in section 29 (3) (b) and substitutes it with ‘subsection (4)’ to reflect that the amount of rates payable by a unit owner is the amount worked out under section 29 (4).

**Clause 16 Section 29 (4) to (6)**

This clause inserts new sections 29 (4) and (5) in the place of sections 29 (4) to (6). It outlines different formulae by which rates are imposed on a unit other than a residential unit (a non-residential unit), and on a unit that is a residential unit.

The formula for calculating the rates on a non-residential unit in new section 29 (4) (a) has not changed. It continues to calculate rates on the basis of the AUV of the parcel of land as it relates to the individual unit entitlement. This is worked out:

$$FC + (AUVU \times P)$$

A new formula is outlined in new section 29 (4) (b) for the calculation of rates for a residential unit:

$$FC + AUVRUP \times \frac{UE}{TUER}$$

It factors in the AUV of the parcel of land that is a unit subdivision as it relates to the proportion of residential units in the parcel. This is a change to the old formula which only utilised the AUV of the parcel of land as it related to the individual unit entitlement.

This ensures that the rates payable on a residential unit is based on the higher AUV of the parcel of land and corresponding percentage rate, before it is multiplied by the unit entitlement of the residential unit.

Definitions of the component parts of the formulae are described in new section 29 (5).

For example, Mr Archer owns a unit in a block of five residential units. Under the unit plan, Mr Archer's unit entitlement is two unit entitlements (UE = 2) out of a total unit entitlement of ten (TUE = 10). The AUV of the parcel of land is \$300,000.

Using the new formula, the rates on Mr Archer's unit is calculated as follows:

FC = \$765; and

AUVRUP is 966.90 (see calculation below for AUVRUP).

For the purposes of this example the fixed charge (FC) and percentage rates (P) for 2016-17 (set out in DI2016-143) were applied.

AUVRUP = AUVRU (defined as  $AUV \times \frac{TUER}{TUE}$ ) multiplied by P, calculated as follows:

1.  $AUVRU = AUV \times \frac{TUER}{TUE} = \$300,000 \times \frac{10}{10} = 300,000$
2.  $AUVRUP = AUVRU \times P$ 

$= \$300,000 \times P =$	$\$150,000 \times 0.2746\%$	$= \$411.90$
	$\$150,000 \times 0.3900\%$	$= \$585.00$
	<i>Total</i>	$= \$966.90$

Applying the new formula therefore, the rates payable on Mr Archer's unit is:

$$\$765 + (966.90 \times \frac{2}{10}) = \mathbf{\$964.38}.$$

Using the old formula, the rates would have been **\$929.76**, calculated as follows:

$$FC + (\frac{UE}{TUE} \times AUV) \times P$$

1.  $\frac{UE}{TUE} \times AUV = \frac{2}{10} \times 300,000 = 60,000$
2.  $60,000 \times P = \$60,000 \times 0.2746\% = \$164.76$



3.  $\$164.76 + \$765 = \$929.76$ .

**Clause 17      Rebate of rates—eligible person since 30 June 1997, New section 63 (5A) to (5C)**

This clause inserts new sections 63 (5A) to (5C) in the Rates Act. It ensures that the artificially increased 2016-17 rates and uncapped rebate of a pensioner (for eligible persons since 30 June 1997), affected by the interim disallowable instrument DI2016-150, is disregarded in the calculation of the uncapped rebate in the 2017-18 financial year. These sections expire on 30 June 2018.