

Queensland



# **LAND TAX LEGISLATION AMENDMENT ACT 1991**

**Act No. 73 of 1991**



# LAND TAX LEGISLATION AMENDMENT ACT 1991

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Queensland



**Land Tax Legislation Amendment Act  
1991**

**No. 73 of 1991**

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**An Act to amend certain Acts in relation to land tax**

*[Assented to 21 November 1991]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Land Tax Legislation Amendment Act 1991*.

### **Commencement**

2.(1) Section 10(9) is taken to have commenced on 29 June 1985.

(2) Section 10(1), 10(2), 10(3), 10(4), 10(10) and 10(11) is taken to have commenced on 29 June 1989.

(3) Sections 4, 6, 7, 8, 9, 10(5), 10(6), 10(7), 10(8), 11, 12, 14, 15, 16, 24 and 25 are taken to have commenced on 29 June 1991.

(4) Sections 13, 21 and 28 commence on 2 January 1992.

## **PART 2—AMENDMENT OF LAND TAX ACT 1915**

### **Amended Act**

3. The *Land Tax Act 1915* is amended as set out in this Part.

### **Amendment of s.3. (Interpretation)**

4.(1) Section 3—

*insert—*

‘ “**parcel**” means an area of land that is the subject of a separate valuation made by the Valuer-General under the *Valuation of Land Act 1944*;

- ‘ **“parcel of land”** has the same meaning as parcel;
- ‘ **“retirement village”** has the meaning given by section 6 of the *Retirement Villages Act 1988*;’.

(2) Section 3 (definition **“owner”**)—

after ‘, includes every person’—

*insert*—

‘(other than a mortgagee in possession)’.

(3) Section 3 (definition **“owner”**)—

omit—

‘mortgagee in possession.’.

#### **Amendment of s.4A (Secrecy)**

5. After section 4A(2)—

*insert*—

‘(3) Despite subsections (1) and (2), a person may give to a lessee or tenant details of the land tax that would be payable on the land the subject of the lease or tenancy agreement if the land were the only land owned by the owner.’.

#### **Omission of s.6 (Report by Commissioner)**

6. Section 6—

*omit.*

#### **Amendment of s.9 (Amounts and rates of land tax)**

7.(1) Section 9(2)—

*omit* ‘2.1’, *insert* ‘1.8’;

(2) Table after section 9(3)—

*omit, insert*—

**‘TABLE**

Column 1 Taxable value	Column 2 Tax payable
Less than \$4 000	.20c in each \$
\$4 000—\$5 999	\$8 00 plus .36c in each \$ more than \$4 000
\$6 000—\$9 999	\$15.20 plus .52c in each \$ more than \$6 000
\$10 000—\$29 999	\$36.00 plus .70c in each \$ more than \$10 000
\$30 000—\$49 999	\$176.00 plus .87c in each \$ more than \$30 000
\$50 000—\$199 999	\$350.00 plus 1.03c in each \$ more than \$50 000
\$200 000—\$349 999	\$1 895.00 plus 1.2c in each \$ more than \$200 000
\$350 000—\$499 999	\$3 695.00 plus 1.37c in each \$ more than \$350 000
\$500 000—\$649 999	\$5 750.00 plus 1.54c in each \$ more than \$500 000
\$650 000—\$799 999	\$8 060.00 plus 1.71c in each \$ more than \$650 000
\$800 000—\$949 999	\$10 625.00 plus 1.89c in each \$ more than \$800 000
\$950 000—\$1 099 999	\$13 460.00 plus 2.01c in each \$ more than \$950 000
\$1 100 000—\$1 249 999	\$16 475.00 plus 2.23c in each \$ more than \$1 100 000
\$1 250 000—\$1 299 999	\$19 820.00 plus 2.44c in each \$ more than \$1 250 000
\$1 300 000—\$1 349 999	\$21 040.00 plus 2.66c in each \$ more than \$1 300 000
\$1 350 000—\$1 399 999	\$22 370.00 plus 2.87c in each \$ more than \$1 350 000
\$1 400 000—\$1 449 999	\$23 805.00 plus 3.09c in each \$ more than \$1 400 000

**TABLE**—*continued*

Column 1 Taxable value	Column 2 Tax payable
\$1 450 000—\$1 499 999	\$25 350.00 plus 3.3c in each \$ more than \$1 450 000

’.

**Amendment of s.11 (Taxable value)****8.(1)** Section 11(4)(a)(ii)—*omit ‘150 000’, insert ‘160 000’.*

(2) Section 11(4)(b)—

*omit ‘150 000’, insert ‘160 000’.*

(3) Section 11(8)—

*omit.***Amendment of s.11C (Deduction—home unit companies)****9.(1)** Section 11C(1)—*omit ‘, but for this section,’ and ‘but for this section’.*

(2) After section 11C(1)—

*insert—***‘(1A)** For the purposes of this section, the amount that would otherwise be payable is **t**, calculated as follows—

- (a) divide the unimproved value of the company land by the number of units on the land; and
- (b) ascertain the tax payable on that amount; and
- (c) multiply the tax payable on that amount by the number of units.’.

**Amendment of s.13 (Land exempted from tax)**

**10.(1)** Section 13(1)(i)—

*omit, insert—*

‘(i) land owned by the Commonwealth, the State or a local or public authority unless the authority is subject to State taxation under an Act of the Commonwealth or a State;’.

**(2)** After section 13(1)(iii)—

*insert—*

‘(iv) vacant land owned by or held in trust for, an exempt charitable institution at 29 June 1989;’.

**(3)** Section 13(1)(v)—

*omit ‘used’, insert ‘used predominantly’.*

**(4)** After section 13(1)(v)—

*insert—*

‘(vi) vacant land (other than land mentioned in section 13(1)(iv)) owned by, or held in trust for, an exempt charitable institution if the land is intended to be used for a qualifying exempt purpose within 3 years of acquisition or such extended period as the Commissioner allows;’.

**(5)** Section 13(1)(x)—

*omit ‘35 000’, insert ‘40 000’.*

**(6)** Section 13(1)(xi)—

*omit ‘35 000’, insert ‘40 000’.*

**(7)** Section 13(1)(xii)—

*omit ‘35 000’, insert ‘40 000’.*

**(8)** After section 13(1)(xv)—

*insert—*

~~‘(vii)~~ ‘(vii) used for premises or facilities for residents of a retirement village;’.

**(9)** After section 13(1)(xvi)—

*insert—*

~~(and it)~~ held by the trustees of the estates of the late James O’Neil Mayne and Mary Emelia Mayne.’.

**(10)** After section 13(2)—

*insert—*

**‘(2A)** If land mentioned in section 13(1)(iv) is used for a purpose that is not a qualifying exempt purpose or is sold, the land is no longer exempt.

**‘(2B)** If land mentioned in section 13(1)(vi)—

- (a) is not used for a qualifying exempt purpose within the period set out in that paragraph; or
- (b) is used for a purpose that is not a qualifying exempt purpose within the period set out in that paragraph; or
- (c) is sold;

it is no longer exempt.

**‘(2C)** If land mentioned in subsection (2B) is sold, the owner before the sale is liable to the land tax that would have been payable from the date of acquisition of the land by the owner had it not been exempt.’.

**(11)** Section 13(5) (definition “**qualifying exempt purpose**”)—

after (i) *insert—*

‘or

- (j) any other activity that the Commissioner is satisfied is not primarily the carrying on of a business on a commercial basis, after considering—
  - (i) its relationship to the purpose of the exempt charitable institution; and
  - (ii) the way in which similar activities are carried on by other persons on a commercial basis.’.

### **Amendment of s.16 (Taxpayer to furnish returns)**

**11.(1)** Section 16(1)(a)—

*omit* ‘35 000’, *insert* ‘40 000’.

(2) Section 16(1)(aa)—

omit ‘35 000’, *insert* ‘40 000’.

(3) Section 16(1)(b)—

*omit* ‘156 667’, *insert* ‘179 143’.

(4) Section 16(1)—

*omit* ‘shall’, *insert* ‘must, unless otherwise notified by the Commissioner,’.

### **Amendment of s.18 (Assessments, assessment registers, and notice)**

12. Section 18(3)—

*omit* ‘20’ (twice occurring), *insert* ‘100’ (twice occurring).

### **Amendment of s.22 (Lessee to pay the tax with remedy over)**

13. Section 22—

*omit* ‘shall, subject to any agreement between himself and the owner,’,  
*insert* ‘is to’.

### **Amendment of s.24 (Mortgagees)**

14. Section 24—

*omit* the last 3 paragraphs.

### **Insertion of new s.26AB**

15. After section 26A—

*insert*—

### **‘Assessment relief for trustee**

‘26AB. Despite section 26A, a trustee for—

- (a) a person under the *Bankruptcy Act 1966* of the Commonwealth;
- or

- (b) an incapacitated person within the meaning given by the *Public Trustee Act 1978*;

is to be assessed as if the land held on trust for the person were owned by an individual who is not an absentee or trustee.’.

### **Amendment of s.26B (Assessment of beneficiaries)**

- 16.** After section 26B(2)—

*insert—*

‘**(2A)** If a beneficiary is not separately assessed under subsection (2), the land is taken, for the purposes of assessment, to be held by the deceased until the administration of the deceased’s estate is complete.’.

### **Replacement of s.33 (Additional tax in case of default)**

- 17.** Section 33—

*omit, insert—*

### **‘Interest on unpaid tax**

‘**33. (1)** If land tax is unpaid after the day it was notified as payable in the notice of assessment, interest is payable on the amount unpaid from time to time at 20 per cent per annum or such other rate as is prescribed, from the day land tax is originally due until it is paid.

‘**(2)** Interest is calculated by applying the interest rate applicable from time to time during the period the land tax is unpaid.

‘**(3)** The Commissioner may, after considering the taxpayer’s circumstances, reduce or waive the interest.’.

### **Insertion of new s.33A**

- 18.** After section 33—

*insert—*

**‘Deferment of land tax during lifetime**

**‘33A. (1)** A taxpayer may apply to the Commissioner for deferment of payment of land tax during the lifetime of the taxpayer.

**‘(2)** If the Commissioner is satisfied that payment of land tax during the lifetime of the taxpayer would cause hardship to the taxpayer, the Commissioner may defer payment of the tax until the death of the taxpayer.

**‘(3)** After subsequently considering the taxpayer’s circumstances, the Commissioner may cancel the deferment.

**‘(4)** Interest is payable on the land tax deferred and is calculated in accordance with section 33.

**‘(5)** The Commissioner may, after considering the taxpayer’s circumstances, reduce or waive the interest.’.

**Amendment of s.34 (Recovery of tax)**

**19.** Section 34(2)—

*omit* ‘including any additional tax’.

**Amendment of s.36 (Provision when tax not paid during lifetime)**

**20.** Section 36—

*omit* ‘returns:—’, *insert* ‘returns or where tax has been deferred under section 33A—’.

**Amendment of s.44 (Contracts to evade tax void)**

**21.** Section 44—

*omit* the last paragraph.

**Insertion of new s.44A**

**22.** After section 44—

*insert*—

**‘Provision to pay land tax etc. unenforceable**

**‘44A.(1)** A provision in a lease entered into after 1 January 1992 requiring a lessee to—

- (a) pay land tax; or
- (b) reimburse the lessor for land tax;

is unenforceable.

**‘(2)** A lease entered into after 1 January 1992 does not include a lease that arises from—

- (a) a renewal under an option to renew contained in a lease entered into on or before 1 January 1992; or
- (b) an assignment or transfer of a lease entered into on or before 1 January 1992.’.

## **PART 3—AMENDMENT OF LAND TAX (ADJUSTMENT) ACT 1989**

**Amended Act**

**23.** The *Land Tax (Adjustment) Act 1989* is amended as set out in this Part.

**Amendment of s.5 (Interpretation)**

**24.** Section 5—

*insert—*

‘**“parcel”** means an area of land that is the subject of a separate valuation made by the Valuer-General under the *Valuation of Land Act 1944*;

‘**“parcel of land”** has the same meaning as parcel;’.

**Amendment of s.6 (Unimproved value for the purposes of the Land Tax Act)**

**25. (1)** Section 6(1)(b) and (c)—

*omit, insert—*

‘or

(b) if the parcel of land came into existence as a separate parcel, or was freeholded, during the previous financial year—

(i) if the fresh unimproved value is not more than 150% of the former notional value—the fresh unimproved value; or

(ii) if the fresh unimproved value is more than 150% of the former notional value—150% of the former notional value.’.

**(2)** Section 6(2)—

*omit ‘(1)(c)’, insert ‘(1)(b)’.*

**PART 4—AMENDMENT OF RETAIL SHOP LEASES ACT 1984****Amended Act**

**26.** The *Retail Shop Leases Act 1984* is amended as set out in this Part.

**Insertion of new s.7A**

**27.** After section 7—

*insert—*

**‘Provision to pay land tax etc. unenforceable**

**‘7A.(1)** A landlord must not include in a retail shop lease entered into after 1 January 1992 a provision that requires a tenant to—

(a) pay land tax; or

- (b) reimburse the landlord for land tax.

Penalty: 100 penalty units.

‘(2) A provision in a retail shop lease entered into after 1 January 1992 requiring a tenant to—

- (a) pay land tax; or
- (b) reimburse the landlord for land tax;

is unenforceable.

‘(3) A retail shop lease entered into after 1 January 1992 does not include a retail shop lease that arises from—

- (a) a renewal under an option to renew contained in a retail shop lease entered into on or before 1 January 1992; or
- (b) an assignment or transfer of a retail shop lease entered into on or before 1 January 1992.’.

### **Amendment of s.12 (Sharing of expenses)**

**28.** After section 12(5)—

*insert—*

‘(6) Subsection (5) does not apply to a retail shop lease entered into after 1 January 1992.

‘(7) A retail shop lease entered into after 1 January 1992 does not include a retail shop lease that arises from—

- (a) a renewal under an option to renew contained in a retail shop lease entered into on or before 1 January 1992; or
- (b) an assignment or transfer of a retail shop lease entered into on or before 1 January 1992.’.