

Queensland

Land Tax Act 2010

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Land Tax Act 2010

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Land Tax Act 2010

An Act about land tax and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Land Tax Act 2010*.

2 Commencement

This Act commences on 30 June 2010.

3 Dictionary

The dictionary in schedule 4 defines particular words used in this Act.

4 Relationship of Act with Administration Act

(1) This Act does not contain all the provisions about land tax.

(2) The Administration Act contains provisions dealing with, among other things, each of the following—

(a) assessments of tax;

(b) payments and refunds of tax;

(c) imposition of interest and penalty tax;

(d) objections and appeals against, and reviews of, assessments of tax;

(e) record keeping obligations of taxpayers;

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(f) investigative powers, offences, legal proceedings and evidentiary matters;

(g) service of documents;

(h) registration of charitable institutions.

Note—

Under the Administration Act, section 3, that Act and this Act must be read together as if they together formed a single Act.

5 Act binds all persons

(1) This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

Part 2 Imposition of land tax

6 Imposition of land tax on taxable land

(1) This Act imposes land tax, for each financial year, on all taxable land.

(2) Land tax is imposed on the taxable value of taxable land.

7 When a liability for land tax arises

A liability for land tax for a financial year arises at midnight on 30 June immediately preceding the financial year.

8 Who is liable to pay land tax

The owner of taxable land when a liability for land tax arises is liable to pay the tax.

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Part 3 Some basic concepts

Division 1 What is taxable land?

9 Meaning of *taxable land*

Taxable land is land in Queensland that—

(a) has been alienated from the State for an estate in fee simple; and

(b) is not exempt land.

Editor's note—

Acts Interpretation Act 1954, schedule 1—

land includes messuages, tenements and hereditaments, corporeal or incorporeal, of any tenure or description, and whatever may be the interest in the land.

Division 2 Who is the owner of land?

10 Meaning of *owner*

(1) The ***owner*** of land includes the following—

(a) a person jointly or severally entitled to a freehold estate in the land who is in possession;

(b) a person jointly or severally entitled to receive rents and profits from the land;

(c) a person taken to be the owner of the land under this Act.

(2) The fact that a person is the owner of land under a provision of this Act does not prevent another person also being the owner of the land.

(3) This section is subject to sections 12 to 14, 22 and 23.

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11 Sellers and buyers of land

(1) For this Act, if an agreement has been made for the sale of land—

(a) the seller is taken to be the owner of the land until the buyer is in possession of it; and

(b) the buyer is taken to be the owner of the land as soon as the buyer is in possession of it.

(2) This section applies whether or not the agreement has been completed.

12 Community titles schemes, building units and group titles

To remove doubt, it is declared that, for this Act—

(a) a body corporate for a community titles scheme is not the owner of the scheme land for the scheme; and

(b) a body corporate under the *Building Units and Group Titles Act 1980* is not the owner of land comprised in a BUGTA plan.

Note—

Although the scheme land, or land comprised in a BUGTA plan, is valued under the Land Valuation Act, the owner of each lot is liable to pay land tax on the lot based on an apportionment of the valuation. See section 29.

13 Mortgagees

(1) For this Act, a mortgagee of land is taken not to be the owner of the land.

(2) This section applies even if the mortgagee is in possession of the land.

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13A Boost to buy arrangements and help to buy arrangements

(1) For this Act, the State and the Queensland Treasury Corporation are taken not to be the owner of land purchased under a boost to buy arrangement.

(2) Also, for this Act, the Commonwealth and Housing Australia are taken not to be the owner of land purchased under a help to buy arrangement.

(3) In this section—

boost to buy arrangement means an arrangement between the Queensland Treasury Corporation, on behalf of the State, and an individual under which the individual participates in the boost to buy scheme.

boost to buy scheme see the *Rural and Regional Adjustment Regulation 2011*, section 2A.

help to buy arrangement see the *Help to Buy Act 2024* (Cwlth), section 6.

Housing Australia means Housing Australia continued in existence under the *Housing Australia Act 2018* (Cwlth), section 7.

Queensland Treasury Corporation means the corporation sole mentioned in the *Queensland Treasury Corporation Act 1988*, section 5(2) as preserved and continued in existence under the name and style 'Queensland Treasury Corporation'.

14 Life estates—persons entitled to reversion or remainder

(1) This section applies if a person is entitled to a life estate in possession in land.

Note—

This person is the owner of the land under section 10(1)(a).

(2) A person entitled to the fee simple interest in reversion or remainder is taken not to be the owner of the land.

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15 Time-sharing schemes

For this Act, the person who manages a time-sharing scheme is taken to be the owner of the land that is the subject of the scheme.

Division 3 Concepts about the value of land

16 Taxable value

(1) The ***taxable value***, of land for a financial year, is the lesser of—

(a) the Land Valuation Act value of the land for the financial year; or

(b) the averaged value of the land for the financial year.

(2) However, if section 18A applies to land for a financial year, the ***taxable value*** of the land for the financial year is the capped value of the land.

Note—

See also section 90 in relation to the capping of the taxable value of land for the financial year starting 1 July 2010.

17 Land Valuation Act value

The ***Land Valuation Act value***, of land for a financial year, is its value under the Land Valuation Act when a liability for land tax arises for the financial year.

18 Averaged value

(1) The ***averaged value***, of land for a financial year, is—

(a) if there are Land Valuation Act values of the land for the financial year and the previous 2 financial years—the amount that is the average of those 3 values; or

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(b) otherwise—the amount equal to the Land Valuation Act value of the land for the financial year multiplied by the averaging factor for the year.

(2) For subsection (1), the ***averaging factor*** for a financial year is the number calculated to 2 decimal places using the following formula—

$$\frac{\mathbf{T}}{\mathbf{3V}}$$

where—

T means the total of the Land Valuation Act values, for the financial year and the previous 2 financial years, of all land for which there is or was a Land Valuation Act value for that year.

V means the total of the Land Valuation Act values of all land for which there is a Land Valuation Act value for the financial year.

18A Capped value of taxable land for 2011–12 financial year

(1) This section applies to taxable land for the 2011–12 financial year if—

(a) section 30 does not apply to the land for the 2011–12 financial year; and

(b) the land had a Land Valuation Act value for the previous financial year; and

(c) the uncapped value of the land for the 2011–12 financial year is more than 150% of the taxable value of the land for the previous financial year.

(2) The ***capped value*** of the taxable land for the 2011–12 financial year is 150% of the taxable value of the land for the previous financial year.

(3) In this section—

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2011–12 financial year means the financial year starting 1 July 2011.

uncapped value, of taxable land for the 2011–12 financial year, means the lesser of the following—

(a) the Land Valuation Act value of the land for the financial year;

(b) the averaged value of the land for the financial year.

Division 4 Concepts about foreign companies and trustees of foreign trusts

18B What is a *foreign company*

(1) Each of the following is a ***foreign company***—

(a) a corporation incorporated outside Australia;

(b) a corporation in which foreign persons have a controlling interest.

(2) A corporation is taken to be a corporation mentioned in subsection (1)(b) if, taking their interests together, 1 or more persons who are foreign persons or related persons of foreign persons—

(a) are in a position to control at least 50% of the voting power in the corporation; or

(b) are in a position to control at least 50% of the potential voting power in the corporation; or

(c) have an interest in at least 50% of the issued shares in the corporation.

(3) In this section—

potential voting power see the *Foreign Acquisitions and Takeovers Act 1975* (Cwlth), section 22.

voting power see the *Foreign Acquisitions and Takeovers Act 1975* (Cwlth), section 22.

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18C What is a *foreign trust*

(1) A trust is a ***foreign trust*** if at least 50% of the trust interests in the trust are foreign interests.

(2) In this section—

foreign interest means—

(a) a trust interest of an individual who is not an Australian citizen or permanent resident; or

(b) a trust interest of a foreign company; or

(c) a trust interest of a trustee of a foreign trust; or

(d) a trust interest held by a related person of a person mentioned in any of paragraphs (a) to (c).

18D Who is a *foreign person*

Each of the following is a ***foreign person***—

(a) an individual who is not an Australian citizen or permanent resident;

(b) a foreign company;

(c) the trustee of a foreign trust.

18E Who is a *related person*

(1) A person is a ***related person*** of another person if—

(a) for individuals—they are members of the same family; or

(b) for an individual and a corporation—the person or a member of the person's family is a majority shareholder, director or secretary of the corporation or a related body corporate of the corporation, or has an interest of 50% or more in it; or

(c) for an individual and a trustee—the person or a related person under another provision of this section is a beneficiary of the trust; or

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(d) for corporations—they are related bodies corporate; or

(e) for a corporation and a trustee—the corporation or a related person under another provision of this section is a beneficiary of the trust; or

(f) for trustees—

(i) there is a person who is a beneficiary of both trusts; or

(ii) a person is a beneficiary of 1 trust and a related person under another provision of this section is a beneficiary of the other trust; or

(g) they are partners in a partnership.

(2) However, a person is not a ***related person*** of another person under subsection (1), other than subsection (1)(d), if the commissioner is satisfied the interests of the persons as beneficiaries in a trust—

(a) were acquired independently and, when the liability for land tax arises, are being used independently; and

(b) were not acquired for a common purpose and, when the liability for land tax arises, are not being used for a common purpose.

Note—

See section 7 for when a liability for land tax arises.

(3) In this section—

related bodies corporate means bodies corporate that are related under the Corporations Act, section 50.

18F What is a *trust interest*

(1) A ***trust interest*** is a person's interest as a beneficiary of a trust, other than a life interest.

(2) For a trust that is a discretionary trust, only a taker in default of an appointment by the trustee can have a trust interest.

(3) Also, for a trust that is a superannuation fund, a member of the fund has a trust interest in the fund.

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18G Beneficiary's trust interest is percentage of or proportionate to property held on trust

(1) A beneficiary's trust interest is—

(a) for a beneficiary who is a taker in default under a discretionary trust—

(i) the percentage of the trust income or trust property the beneficiary would receive in default of appointment by the trustee; or

(ii) if the beneficiary would receive both trust income and trust property in default of appointment by the trustee, the greater percentage of the trust income or trust property the beneficiary would receive; or

(b) for a beneficiary of a trust, other than a discretionary trust, whose entitlement is solely to income of the property held on trust—the proportion that the value of the beneficiary's entitlement bears to the value of the entitlements of all beneficiaries expressed as a percentage; or

(c) for another beneficiary—the proportion that the beneficiary's entitlement under the trust bears to the unencumbered value of the property held on trust expressed as a percentage.

(2) For subsection (1)(c), the beneficiary's entitlement under the trust is—

(a) the amount of the unencumbered value of the property held on trust that the beneficiary could receive as a result of the acquisition of the beneficiary's trust interest determined when liability for land tax arises; or

(b) the entitlement stated in subsection (3) if—

(i) the beneficiary's entitlement under the trust is not subject to a prior life interest; and

(ii) the beneficiary's entitlement under the trust may increase, including from nothing, on the fulfilment of any condition, contingency or the exercise or non-exercise of any power or discretion; and

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(iii) the condition, contingency, power or discretion is part of an arrangement a significant purpose of which is to lessen the amount of the beneficiary's entitlement at a particular time.

(3) For subsection (2)(b), the beneficiary's entitlement under the trust is the maximum interest in the property held on trust that the beneficiary would have on the fulfilment of the condition or contingency or the exercise or non-exercise of the power or discretion.

(4) In this section—

unencumbered value, of property, means the value of the property determined without regard to—

(a) any encumbrance to which the property is subject, whether contingently or otherwise; or

(b) any liabilities of the trust, including a liability to indemnify the trustee.

Part 4 Assessment of land tax

Division 1 Aggregation of land

19 General principle—taxable land is aggregated

(1) A taxpayer's liability for land tax must be assessed on the total taxable value of all taxable land owned by the taxpayer when the liability arises.

Example—

An individual owns 2 properties that are both taxable land. The properties each have a taxable value of $500,000. The taxpayer's liability for land tax is worked out using the total taxable value of $1,000,000.

(2) This section is subject to sections 20 and 21.

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20 Separate assessment of trust land

(1) The liability for land tax of a taxpayer who is a trustee of a trust must be separately assessed on the taxable land that is subject to the trust, as if that land were the only land owned by the taxpayer as a trustee.

(2) However, subsection (1) does not apply if—

(a) the taxpayer is trustee of more than 1 trust; and

(b) the interests of the beneficiaries of 2 or more of the trusts are, when the taxpayer's liability for land tax arises, the same.

(3) If subsection (1) does not apply, the taxpayer's liability for land tax as trustee of the trusts mentioned in subsection (2)(b) must be assessed on the total taxable value of all taxable land that is subject to those trusts.

21 Separate assessment of land subject to time-sharing scheme

For assessing a taxpayer's liability for land tax on land that is the subject of a time-sharing scheme, that land is taken to be the only land owned by the taxpayer.

Division 2 Co-owners

22 Assessment of co-owners of land

(1) A co-owner of land—

(a) is taken to own part of the land in proportion to the co-owner's interest in the land; and

(b) subject to section 19, must be severally assessed.

(2) For subsection (1)(a), co-owners who hold their interests as joint tenants are taken to hold equal interests in the land.

(3) Part 6 does not confer a benefit on a co-owner of land if—

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(a) requirements about the owner of exempt land are provided for under the part; and

(b) the co-owner does not satisfy the requirements.

(4) Despite subsection (1), the commissioner may make 1 assessment as if the land were owned by 1 co-owner as the trustee of the other co-owners.

(5) The commissioner may make an assessment mentioned in subsection (4) only if—

(a) there are at least 5 co-owners of the land; and

(b) the commissioner considers the land is used for investment or commercial purposes.

(6) For deciding whether the land is used for investment or commercial purposes, the commissioner must consider the following factors—

(a) the purposes for which the land is used;

(b) the number of co-owners of the land;

(c) whether the co-owners are individuals, trustees or companies;

(d) whether the relationship between the co-owners is predominantly a commercial or business relationship;

(e) the value of the land;

(f) any other relevant matter.

(7) If the commissioner may make an assessment mentioned in subsection (4), the commissioner may make the assessment as if the land were owned by a trustee of a foreign trust if—

(a) 1 or more of the co-owners are any of the following—

(i) an absentee;

(ii) a foreign company;

(iii) a trustee of a foreign trust; and

(b) the co-owners mentioned in paragraph (a) together own at least a 50% interest in the land.

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Division 3 Trust land

22A Assessment of trustees

(1) If land is owned by 2 or more trustees of the same trust, the commissioner must make 1 assessment as if the land were owned by 1 person.

(2) This section applies despite section 22.

(3) Also, this section does not limit section 23.

23 Deceased estates

(1) This section applies if an estate administrator owns land in that capacity when a liability for land tax arises.

(2) The estate administrator may give the commissioner a request, in the approved form, to assess the relevant beneficiaries as if they were the owners of the land.

(3) If a request is made under subsection (2) and the commissioner is satisfied this section applies, for this Act—

(a) each relevant beneficiary is taken to be the owner of part of the land in proportion to the beneficiary's interest in the land; and

(b) the estate administrator is taken not to be the owner of the land.

(4) To the extent subsection (3) does not apply to the land, if the estate administrator would, apart from this section, be liable to pay land tax on the land, then, for the purpose of assessing a liability for land tax, until the administration of the estate is complete—

(a) the deceased person is taken to be the owner of the land; and

(b) the estate administrator is taken not to be the owner of the land.

(5) Land that is taken to be owned by the deceased person under subsection (4)(a), or a part of that land, is exempt land, for the

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purpose of assessing a liability for land tax arising on the next 30 June after the date of death, if—

(a) as at the last 30 June before the date of death, the land or part was exempt land; and

(b) as at the next 30 June after the date of death—

(i) the land or part is not being used and has not been used since the date of death; or

(ii) the land or part is being used, and has been used since the date of death, only for a purpose for which it was being used on the last 30 June before the date of death.

(6) A reference in subsection (5) to the next 30 June after the date of death is, if the date of death is 30 June, a reference to that day.

(7) In this section—

estate administrator means—

(a) an executor or administrator of a deceased estate; or

(b) a trustee of a trust created under a will.

relevant beneficiary means a beneficiary of the deceased estate or trust who has an interest in the land when a liability for land tax arises.

24 Beneficiaries of discretionary trusts

(1) The beneficiaries of a discretionary trust when a liability for land tax arises are the persons in whose favour a power of appointment has been exercised during the 12 month period ending when the liability arises.

Note—

See also schedule 4, definition *beneficiary*.

(2) In this section—

discretionary trust means a trust over property for which a person has a power of appointment.

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Division 4 Home unit companies

25 Definition for div 4

In this division—

owner, of a unit, means the person who is entitled to exclusively occupy the unit because the person owns shares in the home unit company that owns the land on which the unit is located.

26 What is a *home unit*

(1) For this division, a ***home unit*** is a unit used as the home of—

(a) the owner of the unit; or

(b) if the owner of the unit holds the owner's shares in the home unit company in trust—all beneficiaries of the trust.

(2) However, subsection (3) applies if—

(a) a unit that is trust property of a trust (***trust 1***) is used as the home of all beneficiaries of the trust; and

(b) a beneficiary of trust 1 is a prescribed relative of a beneficiary of another trust (***trust 2***); and

(c) the trust property of trust 2 includes—

(i) a home unit forming part of any building; or

(ii) exempt land used as the home of all beneficiaries of trust 2.

(3) The unit mentioned in subsection (2)(a) is not a home unit unless the commissioner is satisfied that trust 1 and trust 2 were not established by or on the instructions of the same person.

(4) If a home unit is also used for a non-exempt purpose—

(a) the commissioner must apportion the use of the unit between use as a home and use for non-exempt purposes, having regard to—

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(i) the proportion of the gross floor area of the unit used for each purpose; and

(ii) the extent to which each proportion is used for the purpose; and

(b) the fraction equivalent to the proportion of the unit used for non-exempt purposes must be used for calculating the value of ***b*** for section 27.

(5) For this section, part 6, division 1, subdivision 2 applies to a unit—

(a) as if references in the subdivision to land, a residential area on land, and a residence on land, included a reference to a unit; and

(b) as if the reference in section 36(2)(f) to the person's acquisition of the land were a reference to the person's acquisition of shares in the home unit company; and

(c) with any other necessary modifications.

27 Calculation of home unit company's liability

(1) The amount of a home unit company's liability for land tax for a financial year is the amount calculated as follows—

a × **b**

where—

a is the amount of land tax that would be payable by the company if—

(a) section 32 applied; and

(b) the average unit value was the taxable value of the taxable land owned by the company.

b is the number of units, other than home units, forming part of a building located on taxable land owned by the company.

(2) For this section, ***average unit value*** means the amount calculated as follows—

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$$\frac{t}{u}$$

where—

t is the taxable value of the taxable land owned by the home unit company.

u is the number of units forming part of a building located on the land.

(3) This section applies despite sections 6(2) and 32.

28 Reassessment—demolition or renovations

(1) This section applies if—

(a) a home unit company's liability for land tax for a financial year (the ***relevant year***) is calculated on the basis that a unit is used as a person's home under section 38 as applied by section 26(5); and

(b) the person mentioned in section 38 does not resume using the unit as the person's principal place of residence before a liability for land tax arises for the next financial year.

(2) The home unit company must give notice to the commissioner stating the person did not resume using the unit as his or her principal place of residence before a liability for land tax arose for the next financial year.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(3) The notice mentioned in subsection (2) must be given within 28 days after the day on which the liability mentioned in subsection (1)(b) arises.

(4) The commissioner must make a reassessment of the home unit company's liability for land tax for the relevant year on the basis that the unit was not a home unit.

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Division 5 Other provisions about assessments

29 Lots in community titles schemes or on BUGTA plans

(1) For assessing a taxpayer's liability for land tax on a lot included in a community titles scheme or shown on a BUGTA plan—

(a) the commissioner must apportion the taxable value of the relevant land between the lots included in the community titles scheme or shown on the BUGTA plan in proportion to the relevant lot entitlements; and

(b) the taxable value of each lot is taken to be the amount apportioned to it under paragraph (a); and

(c) each lot is taken to be a separate parcel.

(2) If all or some of the lots included in the community titles scheme or shown on the BUGTA plan are included in a time-sharing scheme—

(a) the lots included in the time-sharing scheme are taken to be 1 lot (the ***time-sharing lot***); and

(b) the relevant lot entitlement of the time-sharing lot is taken to be the total of the relevant lot entitlements for the lots included in the time-sharing scheme.

(3) This section applies despite section 16 and the BCCM Act, section 194.

(4) In this section—

relevant land means—

(a) the scheme land for the community titles scheme; or

(b) the land comprised in the BUGTA plan.

relevant lot entitlement means—

(a) for a lot included in a community titles scheme—the interest schedule lot entitlement of the lot; or

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(b) for a lot shown on a BUGTA plan—the lot entitlement of the lot.

30 Discounting of Land Valuation Act value—subdivided land not yet developed

(1) This section applies to a parcel (the ***relevant parcel***) if—

(a) the relevant parcel is 1 of the parts into which a larger parcel has been subdivided; and

(b) the person who subdivided the larger parcel (the ***subdivider***) was the owner of the larger parcel when it was subdivided; and

(c) when the larger parcel was subdivided, the relevant parcel was not developed land; and

(d) since the larger parcel was subdivided, the relevant parcel has been held for sale; and

(e) when a liability for land tax on the relevant parcel arises—

(i) the subdivider is still the owner of the relevant parcel; and

(ii) the relevant parcel is still not developed land and is not being held by the subdivider for further subdivision; and

(f) the Land Valuation Act value of the relevant parcel for the relevant financial year is not calculated under that Act, chapter 2, part 3, division 3; and

Note—

The Land Valuation Act, chapter 2, part 3, division 3 provides for separate parcels to be included in 1 valuation in particular circumstances.

(g) the subdivider owns at least 5 other parcels that satisfy paragraphs (a) to (e).

(2) For assessing the subdivider's liability for land tax, the Land Valuation Act value of the relevant parcel must be discounted by 40%.

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(3) For this section, land is taken to be subdivided when a plan of subdivision providing for the division of the land into lots is registered under the *Land Title Act 1994*.

(4) In this section—

developed land means land improved, or being improved, by the construction of a building or other improvement reasonably capable of being used.

Part 5 Rate of land tax

31 Meaning of *absentee*

(1) An ***absentee*** is a person who does not ordinarily reside in Australia.

(2) An ***absentee*** includes a person who—

(a) can not satisfy the commissioner that he or she ordinarily resides in Australia; and

(b) when ownership of the person's land is decided for this Act—

(i) is absent from Australia; or

(ii) has been absent from Australia for more than half of the 12 month period ending when the ownership is decided.

(3) An ***absentee*** does not include—

(a) a public officer of the Commonwealth or of a State who is absent in the performance of the officer's duty; or

(b) an individual (the ***employee***) employed by an employer in Australia for a continuous period of 1 year immediately before the employee's absence, if the commissioner is satisfied that—

(i) the employee is absent in the performance of the employee's duty for his or her employer; and

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(ii) the employee's absence will not be longer than 5 years; or

(c) an Australian citizen; or

(d) the holder of a permanent visa under the *Migration Act 1958* (Cwlth), section 30(1).

(4) Subsection (3)(b) stops applying, for that absence, as soon as it is longer than 5 years.

(5) In this section—

Australia includes an external Territory.

32 Rate of land tax generally

(1) Land tax is imposed on the total taxable value of the taxable land owned by a taxpayer at the following rate—

(a) for an individual other than an absentee or trustee—the rate provided for under schedule 1;

(b) for a company or trustee—

(i) the general rate provided for under schedule 2, part 1; and

(ii) if the company or trustee is a foreign company or a trustee of a foreign trust—the surcharge rate provided for under schedule 2, part 2;

(c) for an absentee—

(i) the general rate provided for under schedule 3, part 1; and

(ii) the surcharge rate provided for under schedule 3, part 2.

(2) This section applies subject to sections 20 and 21.

Note—

See, however, section 58B, about concessions for eligible BTR developments.

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33 Reduced rate for particular trustees

(1) This section applies to—

(a) a trustee for a person under the *Bankruptcy Act 1966* (Cwlth); or

(b) a trustee for an incapacitated person within the meaning of the *Public Trustee Act 1978*; or

(c) a trustee of a special disability trust under—

(i) the *Social Security Act 1991* (Cwlth), section 1209L; or

(ii) the *Veterans' Entitlements Act 1986* (Cwlth), section 52ZZZW.

(2) Despite section 32, the commissioner must assess the trustee's liability for land tax at the rate provided for under schedule 1.

34 Reassessment—employee absent from Australia longer than 5 years

(1) This section applies if—

(a) a taxpayer's liability for land tax for a financial year is assessed on the basis that the taxpayer is not an absentee under section 31(3)(b); and

(b) the taxpayer's absence from Australia is longer than 5 years.

(2) The taxpayer must, within 28 days after the day on which the taxpayer has been absent from Australia for 5 years, give notice to the commissioner that this section applies.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(3) The commissioner must reassess the taxpayer's liability for land tax for the financial year on the basis that the taxpayer was an absentee.

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Part 6 Exempt land

Division 1 Homes

Subdivision 1 Preliminary

35 Explanation of operation of home provisions

(1) The purpose of this section is to explain generally how this division provides for land that is used as a home to be exempt land.

(2) Land is exempt under subdivision 3 if it is used as the home of—

(a) the owner; or

(b) if the owner is a trustee and is not an absentee—all beneficiaries of the trust.

(3) Under subdivision 2, land is used as a person's home if—

(a) the 6 month residency test in section 36(1)(a) is satisfied; or

(b) the person satisfies the requirements of section 37 or 38 (the person received care during the 6 month residency period or the person is temporarily living elsewhere because of renovations); or

(c) the commissioner is satisfied the person is using the land as his or her principal place of residence when the relevant liability for land tax arises (see section 36(1)(c)).

(4) Land is partially exempt under subdivision 3 if it is used as a home as mentioned in subsection (2) but it is also used for a non-exempt purpose.

(5) Under subdivision 2, land is used for a non-exempt purpose if it is used for any other substantial purpose, except if the only other purpose it is used for is 1 or more of the following—

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(a) for—

(i) 1 allowable letting; or

(ii) 2 allowable lettings, if at least 1 is a family letting and certain other requirements are met (see section 40);

(b) for a working from home arrangement.

Subdivision 2 Basic concepts about homes

36 Land *used as the home* of a person

(1) Land is ***used as the home***, of a person for a financial year, only if—

(a) that land, and no other land, has been continuously used by the person for residential purposes, whether alone or with another person, for the 6 month period (the ***6 month residency period***) ending when a liability for land tax arises for the financial year; or

(b) the land is taken to be used as the person's home under section 37 or 38; or

(c) otherwise—the commissioner is satisfied the land is used as the person's principal place of residence, whether alone or with another person, when a liability for land tax arises for the financial year.

(2) For deciding whether land is used as the person's principal place of residence under subsection (1)(c), the commissioner may have regard to the following—

(a) the length of time the person has occupied a residence on the land;

(b) the place of residence of the person's family;

(c) whether the person has moved his or her personal belongings into a residence on the land;

(d) the person's address on the electoral roll;

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(e) whether services such as telephone, electricity and gas are connected to the land;

(f) whether the person acquired the land with an intention to occupy a residence on the land as his or her principal place of residence;

(g) any other relevant matter.

37 Land taken to be used as a home—person who receives care

(1) This section applies to land, for a financial year, if—

(a) the person who owns the land received care for all or part of the 6 month residency period; and

(b) the person used the land for a qualifying residential use before the person started to receive care; and

(c) the person has used the land for a qualifying residential use continuously for a period of at least 6 consecutive months; and

(d) subsection (6) does not prevent the person from being taken to use the land as the person's home under this section.

(2) For this section, the person ***receives care*** if the person—

(a) resides at a hospital as an inpatient; or

(b) receives residential care at a residential care service; or

(c) resides on other land that is not owned by the person and is under the care of someone else.

(3) The land is taken to be used as the person's home for the financial year.

(4) However, subsection (3) does not apply if income was derived from use of the land during the 1 year period ending when the liability for land tax arises.

(5) Despite subsection (4), income may be derived from a lease, licence or other arrangement under which a person has a right to occupy the land, if—

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(a) the right of occupation is for not more than 6 months in the 1 year period; or

(b) the income is not more than is reasonably required to cover the following—

(i) rates and other charges levied on the land by the local government for the land; and

(ii) maintenance expenses for the land.

(6) The maximum period for which the person may be taken to use the land as the person's home under this section is 6 years from the end of the last period of at least 6 consecutive months during which the land was used by the person for a qualifying residential use.

(7) In this section—

qualifying residential use, of land by the owner of the land, means use of the land, and no other land, by the owner for residential purposes, whether alone or with another person.

residential care service see the *Aged Care Act 1997* (Cwlth), schedule 1.

38 Land taken to be used as a home—demolition or renovations

Land is taken to be used as a person's home for a financial year if—

(a) the commissioner is satisfied that the person is temporarily residing elsewhere, when a liability for land tax arises for the financial year, because—

(i) a residence on the land has been or is being demolished and a new residence is being or will be constructed; or

(ii) a residence on the land is being renovated to an extent requiring it to be vacated; and

(b) the land was used as the principal place of residence of the person at some time during the 6 month residency period; and

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(c) the person intends to resume using the land as the person's principal place of residence before a liability for land tax arises for the next financial year.

39 Land used for *non-exempt purpose*

(1) This section applies if land is used as the home of a person (the ***principal resident***) for a financial year (the ***relevant financial year***).

(2) The commissioner may decide the land is used for a ***non-exempt purpose*** if—

(a) the commissioner is satisfied that, when a liability for land tax arises for the relevant financial year, the land is being used for any purpose other than as the home of the principal resident; and

(b) the commissioner is satisfied that use of the land for purposes mentioned in paragraph (a) is substantial; and

(c) section 40 does not apply.

(3) For deciding whether use of the land for purposes mentioned in subsection (2)(a) is substantial, the commissioner must have regard to each of the following factors—

(a) whether a person other than the principal resident has been given a right to occupy part of the land under a tenancy agreement;

(b) whether a person, other than the principal resident or a member of the principal resident's family who uses the land as his or her home, carries out work on the land as an employee or contractor, other than work related to the land itself or a building located on the land;

(c) the extent to which a person uses the land, or has set the land aside for use, for purposes mentioned in subsection (2)(a);

Examples—

1 Two rooms of a house on the land are set aside for a hairdressing business.

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2 A shed on the land is used for a repair business.

3 A retail shop is operated at the front of a house on the land.

(d) whether the gross income generated during the financial year immediately before the relevant financial year from business or an income producing activity on the land is more than—

(i) an amount prescribed under a regulation; or

(ii) if no amount is prescribed under a regulation—$30,000;

(e) any other relevant matter.

40 Land not used for non-exempt purpose—allowable lettings and work from home arrangements

(1) The commissioner may not decide land is used for a non-exempt purpose if—

(a) the land is used as the home of a person (the ***principal resident***) for a financial year; and

(b) when a liability for land tax arises for the financial year, either or both of the following apply—

(i) there is a permitted number of allowable lettings for the land;

(ii) a person who resides on the land carries out work on the land, other than excluded work, as an employee under an arrangement with the person's employer; and

(c) the commissioner is satisfied the land is used only for the purposes mentioned in paragraphs (a) and (b) when a liability for land tax arises for the financial year.

(2) There is an ***allowable letting*** for the land if—

(a) a person (the ***occupant***) other than the principal resident has been given the right to occupy a residential area on the land (the ***leased area***) under a tenancy agreement; and

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(b) the leased area is not more than 50% of the total floor area of all residential areas on the land; and

(c) the leased area is not a residential area that—

(i) is 1 of 3 or more flats in a building; and

(ii) is not used for residential purposes by the principal resident; and

(d) the leased area is used by the occupant for residential purposes; and

(e) the occupant has not given the right to occupy any part of the area to another person under a tenancy agreement; and

(f) the rent payable for the leased area is not more than the market rent for the area.

(3) The ***permitted number***, of allowable lettings for the land, means—

(a) 1 allowable letting; or

(b) 2 allowable lettings, if—

(i) at least 1 of the lettings is a family letting; and

(ii) the total floor area of the leased areas for the lettings is not more than 50% of the total floor area of all residential areas on the land.

(4) An allowable letting is a ***family letting*** if the occupant is a member of the principal resident's family.

Note—

If there is a family letting for the land and the land is used for a non-exempt purpose, the family letting may be included in the use of the land as a home for the purpose of a partial exemption. See section 42.

(5) In this section—

excluded work means work involving use of the land for a purpose for which, or in a way in which, residential land is not ordinarily used.

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Example of work that would be excluded work—

manufacturing work carried out in a shed

Example of work that would not be excluded work—

office work carried out under a telecommuting arrangement in a home study

Subdivision 3 Exemptions

41 Exemption for land used as home

(1) This section applies to land that is—

(a) comprised in 1 parcel; and

(b) either—

(i) owned by a person, other than a trustee or the manager of a time-sharing scheme, and used as the person's home; or

(ii) owned by a trustee of a trust, other than an absentee, and used as the home of all beneficiaries of the trust; and

(c) not used for a non-exempt purpose.

(2) The land is exempt land.

(3) This section is subject to section 43.

Note—

A co-owner, other than a trustee, who does not use the land as his or her home can not obtain a benefit under this section (see section 22(3)).

42 Partial exemption if land used for non-exempt purpose

(1) This section applies to land that is—

(a) comprised in 1 parcel; and

(b) either—

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(i) owned by a person, other than a trustee or the manager of a time-sharing scheme, and used as the person's home; or

(ii) owned by a trustee of a trust, other than an absentee, and used as the home of all beneficiaries of the trust; and

(c) used for a non-exempt purpose.

(2) The part of the land used as a home is exempt land.

(3) For subsection (2), the commissioner must apportion the taxable value of the land between use as a home and use for non-exempt purposes, having regard to—

(a) the proportion of the land used for each purpose; and

(b) the extent to which each proportion is used for the purpose.

(4) For apportioning the taxable value of the land under subsection (3), if there is not more than 1 family letting for the land, the family letting is taken to be included in the use of the land as a home.

(5) This section is subject to section 43.

(6) In this section—

family letting see section 40.

Note—

A co-owner, other than a trustee, who does not use the land as his or her home can not obtain a benefit under this section (see section 22(3)).

42A Exemption for old home after transitioning to current home

(1) This section applies in relation to the imposition of land tax on taxable land for a financial year (the ***current financial year***) if—

(a) a person is the owner of land (the ***current home***)—

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(i) that, on the liability date for the current financial year, is exempt or partially exempt land under section 41 or 42; and

(ii) of which, on the liability date for the financial year (the ***previous financial year***) occurring immediately before the current financial year, the person was not the owner; and

(b) the person is also the owner of land (the ***old home***)—

(i) of which the person has continuously been the owner since the liability date for the previous financial year; and

(ii) that, on the liability date for the previous financial year, was exempt or partially exempt land for the person as owner of the land under section 41 or 42; and

(iii) of which, on the liability date for the financial year immediately following the current financial year, the person is no longer the owner.

(2) Subject to subsection (3), the person's old home is exempt land for the current financial year, to the extent that the old home was exempt or partially exempt land under section 41 or 42 on the liability date for the previous financial year.

(3) The old home is not exempt under subsection (2) if the person receives rents or profits from—

(a) the current home before it is used as the home of the person, other than to the extent provided for under subsection (4); or

(b) the old home after it is used as the home of the person.

(4) For subsection (3)(a), the person may receive rents or profits from the current home if—

(a) the current home was acquired by the person subject to a lease under which a person (the ***lessee***) had a right to occupy the land; and

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(b) the lessee gave vacant possession of the current home to the person on the earlier of—

(i) the end of the term of the lease; or

(ii) within 6 months after the day the person acquired the current home.

(5) In this section—

liability date, for a financial year, means the time when liability for land tax for the financial year arises under section 7.

42B Exemption for new home before transitioning from current home

(1) This section applies in relation to the imposition of land tax on taxable land for a financial year (the ***current financial year***) if—

(a) a person is the owner of land (the ***current home***)—

(i) that, on the liability date for the current financial year, is exempt or partially exempt land under section 41 or 42, other than because the land is taken to be used as a home under section 38; and

(ii) of which, on the liability date for the financial year (the ***next financial year***) occurring immediately after the current financial year, the person is no longer the owner; and

(b) the person is also the owner of land (the ***new home***)—

(i) of which, on the liability date for the financial year occurring immediately before the current financial year, the person was not the owner; and

(ii) that, on the liability date for the current financial year, is capable of being used by a person for residential purposes, whether alone or with another person; and

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(iii) that, on the liability date for the next financial year, is exempt or partially exempt land under section 41 or 42 for the person; and

(iv) of which, on the liability date for the next financial year, the person is still the owner.

(2) Subject to subsection (3), the person's new home is exempt land for the current financial year, to the extent that the person's current home is exempt or partially exempt land under section 41 or 42 on the liability date for the current financial year.

(3) The new home is not exempt under subsection (2) if the person receives rents or profits from—

(a) the current home after it is used as the home of the person; or

(b) the new home before it is used as the home of the person, other than to the extent provided for under subsection (4).

(4) For subsection (3)(b), the person may receive rents or profits from the new home if—

(a) the new home was acquired by the person subject to a lease under which a person (the ***lessee***) has a right to occupy the land; and

(b) the lessee gives vacant possession of the new home to the person on the earlier of—

(i) the end of the term of the lease; or

(ii) within 6 months after the day the person acquired the new home.

(5) In this section—

liability date, for a financial year, means the time when liability for land tax for the financial year arises under section 7.

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43 Provision for particular family trusts

(1) Land that is trust property of a trust (***trust 1***) is not exempt land under this division if—

(a) either—

(i) land that is trust property of another trust (***trust 2***) is exempt land under this division; or

(ii) a home unit that is trust property of another trust (also ***trust 2***) is taken into account under section 27; and

(b) a beneficiary of trust 1 is a prescribed relative of a beneficiary of trust 2.

(2) However, subsection (1) does not apply, and the land is exempt land, if the commissioner is satisfied trust 1 and trust 2 were not established by or on the instructions of the same person.

(3) In this section—

home unit see section 26.

owner, of a home unit, see section 25.

Subdivision 4 Reassessment provisions

44 Reassessment—demolition or renovations

(1) This section applies if—

(a) a person's liability for land tax for a financial year (the ***relevant year***) is assessed on the basis that land is taken to be used as a person's home under section 38; and

(b) the person does not resume using the land as the person's principal place of residence before a liability for land tax arises for the next financial year.

(2) The person must give notice to the commissioner stating the person is not using the land as his or her principal place of residence.

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Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(3) The notice mentioned in subsection (2) must be given within 28 days after the day the liability mentioned in subsection (1)(b) arises.

(4) The commissioner must make a reassessment of the person's liability for land tax for the relevant year on the basis that the land was not exempt land.

44A Reassessment—transitioning to or from current home

(1) This section applies if a person's liability for land tax is assessed on the basis that the person is, under section 42A, the owner of an old home that is exempt land for a financial year (the ***relevant year***), but—

(a) on the liability date mentioned in section 42A(1)(b)(iii), the person is still the owner of the old home; or

(b) the old home is not exempt under section 42A(2) because the person has received rents or profits in the way mentioned in section 42A(3).

(2) This section also applies if a person's liability for land tax is assessed on the basis that the person is, under section 42B, the owner of a new home that is exempt land for a financial year (also the ***relevant year***), but—

(a) on the liability date mentioned in section 42B(1)(a)(ii), the person is still the owner of the current home mentioned in that section; or

(b) on the liability date mentioned in section 42B(1)(b)(iii), the new home is not exempt or partially exempt land under section 41 or 42 for the person; or

(c) on the liability date mentioned in section 42B(1)(b)(iv), the person is not the owner of the new home; or

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(d) the new home is not exempt under section 42B(2) because the person has received rents or profits in the way mentioned in section 42B(3).

(3) Each matter mentioned in subsection (1)(a) and (b) and (2)(a) to (d) is a ***relevant matter***.

(4) The person must give notice to the commissioner stating the details of the relevant matter.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(5) The notice mentioned in subsection (4) must be given within 28 days after the day the relevant matter happens, or the circumstances comprising the relevant matter arise.

(6) The commissioner must make a reassessment of the person's liability for land tax for the relevant year on the basis that the land was not exempt land.

45 Reassessment—newly subdivided land

(1) This section applies if—

(a) a person's liability for land tax for a relevant financial year is assessed on the basis that land is exempt land under this division; and

(b) the land is later subdivided by the person other than as a result of a compulsory acquisition required by a local government, a State, or a State or Commonwealth statutory body.

(2) The commissioner must make a reassessment of the person's liability for land tax for the relevant financial year on the basis that the taxable portion of the land was not exempt land.

(3) If—

(a) the person used the land as the person's principal place of residence for all of the relevant financial years; and

(b) the land is subdivided into not more than 5 lots;

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then subsection (2) does not apply unless, within 5 years from the day of the original subdivision, any of the subdivided lots are further subdivided so that the land is ultimately subdivided into more than 5 lots.

(4) For this section—

(a) land is taken to be subdivided when a plan of subdivision providing for the division of the land into lots is registered; and

(b) the land subdivided is taken to include any land mentioned in subsection (1)(a) shown on the plan of subdivision as any of the following—

(i) a new road dedicated for public use;

(ii) for use as a drainage reserve;

(iii) for use as a public garden or recreation space;

(iv) for use as a pathway or canal;

(v) for another use prescribed under a regulation.

(5) For subsection (2), the taxable value of the taxable portion is taken to be the amount equivalent to the relevant proportion of the taxable value of the land that is subdivided when the liability for land tax arises.

(6) In this section—

plan of subdivision means—

(a) a plan under the *Building Units and Group Titles Act 1980*; or

(b) a plan of subdivision under the *Land Title Act 1994*; or

(c) a plan or scheme, however described, showing the division of, amalgamation into, dedication of or redefinition of, at least 1 lot, that is able to be registered in a land registry under the *Land Title Act 1994*.

relevant financial years means the 5 financial years preceding the financial year during which the land is subdivided.

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relevant proportion means the proportion the area of the taxable portion bears to the area of the land that is subdivided.

taxable portion means the portion of land that remains after subtracting, from the area of the land that is subdivided, the greater of—

(a) 0.1ha; or

(b) the parcel on which the principal place of residence was located at the time of the subdivision, if any.

Division 2 Charitable institutions

46 Meaning of *exempt purpose*

In this division—

exempt purpose means each of the following—

(a) activities of a religious nature;

(b) a public benevolent purpose;

(c) an educational purpose;

(d) conducting a kindergarten;

(e) the care of sick, aged, infirm, afflicted or incorrigible people;

(f) the relief of poverty;

(g) the care of children by—

(i) being responsible for them on a full-time basis; and

(ii) providing them with all necessary food, clothing and shelter; and

(iii) providing for their general wellbeing and protection;

(h) another charitable purpose or promotion of the public good;

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(i) providing a residence to a minister, or members of a religious order, who is or are engaged in an object or pursuit of a kind mentioned in any of paragraphs (a) to (h).

47 Exemption for land owned by or for charitable institution

(1) This section applies to all land owned by, or held in trust for, a charitable institution, other than land to which section 48 applies.

(2) The land is exempt land if—

(a) it is used predominantly by the charitable institution for 1 or more exempt purposes; or

(b) for vacant land—the charitable institution intends to use it predominantly for 1 or more exempt purposes within the following period (the ***use requirement period***)—

(i) 3 years after the acquisition of the land, or a longer period ending on a date fixed by the commissioner by notice given to the charitable institution;

(ii) if the commissioner extends the period under section 49—the period ending on the date fixed by the commissioner.

48 Exemption for land owned by or for exempt charitable institution under repealed Act

(1) This section applies to vacant land that was, on 29 June 1989, owned by or held in trust for an exempt charitable institution under the repealed *Land Tax Act 1915*.

(2) The land is exempt land if it is not used by the institution for any purpose other than an exempt purpose.

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49 Extension of use requirement period

(1) This section applies if a taxpayer's liability for land tax for a financial year is assessed on the basis that vacant land is exempt land under section 47(2)(b).

(2) The charitable institution may apply to the commissioner in the approved form for an extension of the use requirement period.

(3) The application must be made within 28 days before the use requirement period ends.

(4) The commissioner may extend the use requirement period to end on a later date fixed by the commissioner if the commissioner is satisfied—

(a) the land has not been used predominantly for 1 or more exempt purposes, or used for any other purpose; but

(b) the land will be used predominantly for 1 or more exempt purposes by that later date.

(5) The commissioner must give notice to the charitable institution of the commissioner's decision on the application.

(6) The use requirement period may be extended under this section more than once.

50 Reassessment—land not used for exempt purpose within use requirement period etc.

(1) This section applies if—

(a) a taxpayer's liability for land tax for a financial year is assessed on the basis that land is exempt land under section 47(2)(b); and

(b) any of the following applies—

(i) the land is not used by the institution predominantly for 1 or more exempt purposes before the use requirement period ends;

(ii) during the use requirement period, the institution starts to use the land for a purpose that is not an

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exempt purpose, except if the institution is using the land predominantly for 1 or more exempt purposes;

(iii) the land is sold during the use requirement period before the institution has used it predominantly for 1 or more exempt purposes.

(2) The charitable institution must, within 28 days after the relevant day, give notice to the commissioner stating that this section applies for the land.

(3) The commissioner must make a reassessment of the charitable institution's liability for land tax for the financial year on the basis that the land was not exempt land.

(4) In this section—

relevant day means—

(a) if subsection (1)(b)(i) applies—the last day of the use requirement period; or

(b) if subsection (1)(b)(ii) or (iii) applies—the day the event mentioned in the subsection happens.

Division 3 Other exemptions

51 Aged care facilities

(1) Land on which an aged care facility is located is exempt land.

(2) In this section—

aged care facility means a facility at which residential care is provided by an approved provider within the meaning of the *Aged Care Act 1997* (Cwlth), schedule 1.

51A Supported accommodation

(1) Land on which a supported accommodation service is conducted is exempt land.

(2) In this section—

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residential service see the *Residential Services (Accreditation) Act 2002*, section 4.

supported accommodation service means a residential service accredited at level 3 under the *Residential Services (Accreditation) Act 2002*.

52 Government land

(1) Land owned by the Commonwealth or the State is exempt land.

(2) Land owned by a local government or public authority is exempt land unless the entity is subject to State taxation under an Act of the Commonwealth or a State.

53 Land used for primary production

(1) This section applies to land, or a part of land, that is used solely for the business of primary production, but only if the land or the part of land is used for an activity prescribed by regulation that is carried on for the business.

(2) The land, or the part of the land, is exempt land if it is owned by any of the following—

(a) an individual, other than a trustee or absentee;

(b) a trustee of a trust, if all beneficiaries of the trust are persons mentioned in paragraph (a), (c) or (d);

(c) a relevant proprietary company;

(d) a charitable institution.

(3) For this section, if part of the land is exempt land, the commissioner must apportion the taxable value of the land between use for a purpose mentioned in subsection (1) and use for any other purpose.

(4) This section does not apply to land owned by the manager of a time-sharing scheme.

(5) In this section—

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beneficiary includes a beneficiary in the first instance and a beneficiary through a series of trusts.

exempt foreign company see the Corporations Act, section 9.

proprietary company see the Corporations Act, section 9.

relevant proprietary company means a proprietary company—

(a) that is not an exempt foreign company; and

(b) in which no share or interest is held, whether directly or through interposed companies or trusts, by a body corporate other than a proprietary company that is not an exempt foreign company.

54 Moveable dwelling parks

(1) This section applies to land that is used predominantly as a moveable dwelling park, if more than 50% of the sites in the moveable dwelling park are occupied, or solely available for occupation, for residential purposes for periods longer than 6 weeks at a time.

(2) The land is exempt land.

(3) In this section—

caravan see the *Residential Tenancies and Rooming Accommodation Act 2008*, section 7.

manufactured home see the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

moveable dwelling park means a place where caravans or manufactured homes are situated for occupation on payment of consideration.

site, for a moveable dwelling park, means a site in the moveable dwelling park where a caravan or manufactured home is, or is intended to be, situated.

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55 Port authority land

(1) This section applies to land—

(a) that is owned by a port authority, or a wholly owned subsidiary of a port authority, and used by it as a commercial airport, including airport land within the meaning of the *Airport Assets (Restructuring and Disposal) Act 2008*; and

(b) to the extent the land is—

(i) used for a runway, taxiway, apron, road, vacant land, buffer zone or grass verge; or

(ii) identified in a land use plan approved under the *Transport Infrastructure Act 1994*, section 286, or the *Airport Assets (Restructuring and Disposal) Act 2008*, chapter 3, part 1, as land designated for a purpose mentioned in subparagraph (i); or

(iii) occupied by the Commonwealth, the State, an exempt Commonwealth authority or an exempt State authority, other than a port authority.

(2) The land is exempt land.

(3) This section stops applying to land mentioned in subsection (1)(b)(i) or (ii) when either of the following events first happens—

(a) a development permit under the *Planning Act 2016* comes into force for the land for a use that is not mentioned in subsection (1)(b)(i);

(b) development within the meaning of the *Planning Act 2016*, other than reconfiguring a lot, starts for a use that is not mentioned in subsection (1)(b)(i).

(4) In this section—

exempt Commonwealth authority means an authority established under a Commonwealth law and exempted, under that or another Commonwealth law or a law of the State, from paying land tax.

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exempt State authority means an authority established under a law of the State and exempted, under that or another law of the State or a law of the Commonwealth, from paying land tax.

port authority see the *Transport Infrastructure Act 1994*, schedule 6.

56 Recreational and public land

(1) This section applies to land that is—

(a) owned by or held in trust for a person or society; and

(b) used or occupied by the person or society solely as the site of 1 or more of the following—

(i) a public library, institute or museum;

(ii) a showground;

(iii) a public cemetery or public burial ground;

(iv) a public garden, public recreation ground or public reserve;

(v) a public road;

(vi) a fire brigade station.

(2) Also, this section applies to land that is solely the site of a building owned, or held in trust for, and occupied by a society, club or association not carried on for monetary profit.

(3) The land is exempt land.

57 Retirement villages

(1) Land used for premises or facilities for residents of a retirement village is exempt land.

(2) In this section—

retirement village see the *Retirement Villages Act 1999*, section 5.

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58 Other exempt land

The following land is exempt land—

(a) land owned by, or held in trust for, a company registered under the Corporations Act that is a friendly society for the purposes of another law of the State or the Commonwealth;

(b) land owned by, or held in trust for, a trade union, if the land is not used to carry on a business for profit;

(c) land held by the trustees of the estates of the late James O'Neil Mayne and Mary Emilia Mayne.

Part 6A Eligible BTR developments

Division 1 Preliminary

58A Definitions for part

In this part—

BTR start date, for an eligible BTR development, means 1 July in the financial year immediately preceding the first financial year for which a taxpayer's liability for land tax is assessed on the basis that land is land used for the eligible BTR development.

Example—

A taxpayer's liability for land tax for the financial year starting on 1 July 2026 is assessed on the basis that land is land used for an eligible BTR development. An assessment of liability for land tax has not previously been made on the basis that the land is used for that purpose. The BTR start date for the eligible BTR development is 1 July 2025.

build to rent development see section 58D.

discounted rent dwelling, in a build to rent development, see section 58P(2).

discounted rent housing agreement see section 58R.

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eligible BTR development see section 58E.

eligible tenant see section 58Q.

land used for an eligible BTR development, for a financial year, see section 58C.

residential tenancy agreement means a residential tenancy agreement to which the *Residential Tenancies and Rooming Accommodation Act 2008* applies.

staged development see section 58D(4).

suitable for occupation, in relation to a building, means a certificate of occupancy has been given for the building under the *Building Act 1975*.

Division 2 Concessions

58B Concessions for land used for eligible BTR development

(1) This section applies to land that is land used for an eligible BTR development for a financial year.

(2) The taxable value of the land must be discounted by 50%.

(3) Also, if the owner of the land is a company or trustee that is a foreign company or a trustee of a foreign trust, the surcharge rate mentioned in section 32(1)(b)(ii) does not apply.

Division 3 What is land used for an eligible BTR development

Subdivision 1 Main concepts

58C Land used for an eligible BTR development

(1) Land is ***land used for an eligible BTR development***, for a financial year, if the commissioner is satisfied that—

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(a) during the previous financial year—

(i) the land was used, solely or primarily, for an eligible BTR development; and

(ii) if the land was owned by more than 1 owner—no owner of the land, either individually or with another owner, was entitled to a specific part of the land that 1 or more of the other owners were not entitled to; and

(b) the requirements under subdivision 2 are satisfied in relation to—

(i) the maximum period for which the land may be land used for an eligible BTR development; and

Note—

See section 58G in relation to the maximum period for which land may be land used for an eligible BTR development.

(ii) if land tax for a previous financial year has been assessed on the basis that the land was land used for an eligible BTR development—the continuous use of the land for an eligible BTR development from the BTR start date for the development.

Note—

See sections 58H to 58J in relation to continuity of use of land for an eligible BTR development.

Note—

See also section 58ZC for how these requirements apply if the first or only building comprising a build to rent development becomes suitable for occupation before 1 January in a financial year.

(2) For subsection (1)(a), if the eligible BTR development is a staged development, to the extent the land is intended to be used for a future stage of the development the land is taken to be used for the eligible BTR development.

(3) To remove any doubt, it is declared for this part that to the extent land is used for an associated common area for the eligible BTR development the land is used for eligible BTR development.

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(4) In this section—

associated common area, in relation to an eligible BTR development located on a parcel, means parts of the parcel, other than dwellings, that are available for the exclusive use of occupants of the dwellings.

Examples—

common areas, amenities such as swimming pools and gymnasiums, on-site management facilities

58D Build to rent developments and staged developments

(1) A ***build to rent development*** is 1 or more buildings that—

(a) are located on the same parcel; and

(b) are constructed or substantially renovated for the purpose of providing multiple dwellings to be occupied under residential tenancy agreements; and

(c) first become suitable for occupation during the period starting on 1 July 2023 and ending on 30 June 2030.

(2) If more than 1 building is located on the parcel, subsection (1)(c) applies only in relation to the building that first becomes suitable for occupation.

(3) Also, if 1 or more buildings, or parts of buildings, located on the parcel become or are intended to become suitable for occupation at different times because development is carried out in stages, subsection (1)(c) applies only in relation to the building, or part of a building, that first becomes suitable for occupation.

(4) A build to rent development mentioned in subsection (3) is a ***staged development***.

(5) For this section, a building is ***substantially renovated*** for the purpose mentioned in subsection (1)(b) if—

(a) the building has been used wholly for purposes other than residential purposes; and

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(b) the building is converted or redeveloped so that it becomes suitable for use for the purpose mentioned in subsection (1)(b).

(6) For subsection (5)(a), ***residential purposes*** includes the provision of short-term accommodation, such as a hotel.

58E Eligible BTR developments

(1) A build to rent development is an ***eligible BTR development***, for a financial year, if during the previous financial year the build to rent development—

(a) was comprised of at least 50 dwellings that met the requirements under subdivision 3; and

(b) met the discounted rent housing requirements under subdivision 4; and

(c) was used solely or primarily for residential purposes.

Note—

See also section 58ZC for how these requirements apply if the first or only building comprising a build to rent development becomes suitable for occupation before 1 January in a financial year.

(2) Despite subsection (1), a build to rent development may be an eligible BTR development only if the requirements mentioned in subsection (1) are satisfied by 30 June in the financial year that ends 2 years after the end of the financial year during which the first or only building comprising the development becomes suitable for occupation.

Example—

The first building comprising a build to rent development becomes suitable for occupation on 1 August 2025. The requirements mentioned in subsection (1) must be satisfied by 30 June 2028 for the build to rent development to be an eligible BTR development.

(3) If a build to rent development is a staged development—

(a) for this section and subdivisions 3 and 4, a dwelling is taken to be part of the development only if—

(i) the dwelling is in a completed stage of the development; and

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(ii) at least 12 months have passed since the last day of the month in which the stage of the development became a completed stage; and

(b) subsection (2) applies only in relation to the first completed stage of the development.

(4) In this section—

completed stage, of a staged development, means a building or part of a building comprising a stage of the development that is suitable for occupation.

Subdivision 2 Requirements about maximum period and continuity of use

58F Purpose of subdivision

This subdivision states, for section 58C(1)(b), requirements that must be met for land to be land used for an eligible BTR development for a financial year.

58G Maximum period of use

(1) The maximum number of financial years for which the land may be land used for an eligible BTR development is 20 financial years.

(2) However, the last financial year for which the land may be land used for an eligible BTR development is the financial year ending on 30 June 2050.

58H Continuity of use—general

(1) The land may be land used for an eligible BTR development for more than 1 financial year only if the use of the land for an eligible BTR development has been continuous since the BTR start date for the development.

(2) This section applies regardless of any change in the ownership of the land.

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(3) This section applies subject to sections 58I and 58J.

58I Continuity of use—sale of land

(1) This section applies if—

(a) a liability for land tax of a person (the ***previous owner***) for a financial year is assessed on the basis that land is land used for an eligible BTR development; and

(b) during the financial year mentioned in paragraph (a) (the ***relevant financial year***), the land is acquired by another person (the ***new owner***); and

(c) but for this section, the land would be prevented from being land used for an eligible BTR development for a financial year after the relevant financial year only because of a relevant change in circumstance; and

(d) the new owner did not know, and could not reasonably have known—

(i) for a relevant change in circumstance mentioned in paragraph (a) of the definition of that term—that the change in circumstance happened; or

(ii) for a relevant change in circumstance that is the making of a reassessment under section 58V—that the land is not land used for an eligible BTR development for the relevant financial year or previous financial year; or

(iii) for a relevant change in circumstance that is the making of a reassessment under section 58W or 58X—about the circumstances mentioned in section 58W(1)(c) or 58X(1) in relation to the relevant financial year or previous financial year; and

(e) since acquiring the land, the new owner has continuously used the land, solely or primarily, for a purpose that would have been the use of land for an eligible BTR development if the land had been

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continuously used for that purpose for the pre-acquisition period.

(2) For the new owner's, and any subsequent owner's, liability for land tax for a financial year after the relevant financial year, the land is taken to have been used continuously, solely or primarily, for an eligible BTR development for the pre-acquisition period despite the relevant change in circumstance.

(3) In this section—

pre-acquisition period means the period—

(a) starting on what would have been the BTR start date for the development had it been an eligible BTR development; and

(b) ending immediately before the acquisition of the land by the new owner.

relevant change in circumstance means—

(a) a change in circumstance that happens during the period starting at midnight on 30 June immediately preceding the relevant financial year and ending at the time the land is acquired by the new owner; or

Examples—

1 During the period mentioned in paragraph (a), the percentage of dwellings in the eligible BTR development that are discounted rent dwellings falls below 10% for more than 30 days.

2 During the period mentioned in paragraph (a), the dwellings in the eligible BTR development cease to be managed in compliance with section 58M.

(b) after the land is acquired by the new owner, the making of a reassessment of the previous owner's liability for land tax for the relevant financial year, or a previous financial year, under division 5.

58J Continuity of use—subdivision

(1) This section applies if—

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(a) a person's liability for land tax for a financial year is assessed on the basis that land (the ***original parcel***) is used for an eligible BTR development; and

(b) in a later financial year, the original parcel is subdivided; and

(c) the original parcel is continuously used, solely or primarily, for an eligible BTR development from the BTR start date for the development until immediately before the subdivision takes effect; and

(d) a parcel into which the original parcel is subdivided (a ***new parcel***) is, from the date the subdivision takes effect, continuously used, solely or primarily, for a build to rent development comprising 1 or more buildings that were or formed part of the eligible BTR development for which the original parcel was used.

(2) For the purposes of the owner's liability to land tax on the new parcel for a financial year—

(a) the build to rent development for which the new parcel is used is taken to be the same build to rent development for which the original parcel was used; and

(b) if the build to rent development for which the new parcel is used is an eligible BTR development for the financial year—the BTR start date for the development is taken to be the BTR start date for the eligible BTR development for which the original parcel was used.

Note—

See also section 58ZC for how this provision applies if the first or only building comprising a build to rent development becomes suitable for occupation before 1 January in a financial year.

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Subdivision 3 Requirements for dwellings generally

58K Purpose of subdivision

This subdivision states, for section 58E(1)(a), requirements relating to dwellings in a build to rent development that must be satisfied for the development to be an eligible BTR development for a financial year.

Notes—

1 The requirements must be satisfied during the previous financial year—see section 58E(1).

2 See also section 58ZC for how these requirements apply if the first or only building comprising a build to rent development becomes suitable for occupation before 1 January in a financial year.

58L Dwellings to be self-contained

The dwellings must be self-contained.

58M Management requirement

(1) The same entity must be responsible for providing management services for all of the dwellings in the build to rent development.

(2) However, the discounted rent dwellings in the build to rent development may be managed by another entity if—

(a) the other entity is a registered community housing provider; and

(b) all of the discounted rent dwellings in the build to rent development are managed by the same registered community housing provider.

(3) In this section—

registered community housing provider means a national provider or a State provider within the meaning of the *Housing Act 2003*.

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58N Occupation under residential tenancy agreement

(1) The dwellings must be occupied, or available for occupation, under residential tenancy agreements.

(2) The terms of the residential tenancy agreements must not restrict who may occupy the dwellings, except to the extent a restriction is—

(a) necessary to protect public health or safety; or

(b) related to the provision of housing to an eligible tenant under a discounted rent housing agreement.

Subdivision 4 Discounted rent housing requirements

58O Purpose of subdivision

This subdivision states, for section 58E(1)(b), requirements about discounted rent housing that must be met for a build to rent development to be an eligible BTR development for a financial year.

58P Percentage of discounted rent dwellings

(1) During the previous financial year, at least 10% of the dwellings in the build to rent development must have been discounted rent dwellings.

Note—

See also section 58ZC for how this requirement applies if the first or only building comprising a build to rent development becomes suitable for occupation before 1 January in a financial year.

(2) A dwelling in the build to rent development is a ***discounted rent dwelling*** if it is occupied by an eligible tenant under a discounted rent housing agreement.

(3) Subsection (4) applies if, on 1 or more days during the previous financial year (whether consecutive or otherwise),

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the percentage of dwellings in the build to rent development that were discounted rent dwellings was less than 10%.

(4) Subsection (1) is taken to be satisfied in relation to the build to rent development if the total number of days on which the percentage was less than 10% was not more than 30 days.

58Q Eligible tenant

(1) A person is an ***eligible tenant*** if, when the person enters into a residential tenancy agreement for a dwelling in a build to rent development, the owner of the land on which the development is located believes—

(a) each member of the person's household is an Australian citizen or permanent resident; and

(b) the dwelling will be occupied by each member of the person's household as their principal place of residence throughout the term of the residential tenancy agreement; and

(c) the limits prescribed by regulation, for all members of the person's household and any non-resident spouse of the person, in relation to the following are not exceeded—

(i) the combined total value, worked out in a stated way and at a stated time, of stated assets of the persons;

(ii) the total income of the persons, worked out in a stated way for a stated period.

(2) In this section—

household, in relation to the person who enters into a residential tenancy agreement for the dwelling, means—

(a) the person; or

(b) anyone who will ordinarily reside in the dwelling, other than a dependant child of the person.

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non-resident spouse, of the person who enters into a residential tenancy agreement for the dwelling, means a spouse of the person who will not ordinarily reside in the dwelling, except if the person and the spouse live apart and do not intend to live together as a couple.

58R Discounted rent housing agreement

(1) A residential tenancy agreement for a dwelling in a build to rent development is a ***discounted rent housing agreement*** if—

(a) at each relevant time for the agreement, the rent payable under the agreement is at least 25% less than the reference rent for the dwelling under subsection (2); and

(b) the agreement is a fixed term agreement; and

(c) when the agreement is entered into, the tenant is offered the option of an agreement with a term of 3 years.

(2) For subsection (1)(a), the ***reference rent*** for the dwelling, at a relevant time, is the average rent paid or payable for each other dwelling in the build to rent development that is—

(a) comparable to the dwelling having regard to the size, quality and amenities of the dwellings; and

(b) subject to a residential tenancy agreement that—

(i) is entered into at arms-length; and

(ii) was entered into before the relevant time; and

(iii) at the most recent relevant time for that dwelling, was not a discounted rent housing agreement.

(3) For working out the reference rent for the dwelling under subsection (2)—

(a) there must be at least 1 other dwelling in the build to rent development that meets the requirements under subsection (2)(a) and (b); and

(b) if there are no other dwellings in the build to rent development that meet the requirements under

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subsection (2)(a) and (b), the requirement under subsection (1)(a) is not met.

(4) In this section—

relevant time, for a residential tenancy agreement for a dwelling in a build to rent development, means each of the following times—

(a) when the agreement is entered into;

(b) when a renewal of the agreement takes effect;

(c) when the rent is reviewed under the agreement.

Division 4 Applications for concessions and rulings

58S Application for concession

(1) A taxpayer may apply to the commissioner for the taxpayer's liability for land tax for a financial year to be assessed on the basis that land is land used for an eligible BTR development for the financial year.

(2) The application must—

(a) be in the approved form; and

(b) if the taxpayer's liability for land tax has not previously been assessed on the basis that the land is land used for an eligible BTR development—be made by the 30 June that is 2 years after the last day of the first financial year for which the land is land used for an eligible BTR development.

(3) However, an application need not be made for a financial year if—

(a) the taxpayer's liability for land tax for the previous financial year was assessed on the basis that the land is land used for an eligible BTR development; and

(b) the ownership of the land has not changed; and

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(c) the land continues to be land used for an eligible BTR development for the financial year.

(4) Also, an application need not be made for a financial year if—

(a) the ownership of the land changed during the previous financial year; and

(b) the previous owner's liability for land tax for the previous financial year was assessed on the basis that the land was land used for an eligible BTR development; and

(c) the previous owner has given notice under section 58ZB about the use of the land for the previous financial year before the change of ownership; and

(d) since the change of ownership, the land has continued to be used, solely or primarily, for an eligible BTR development.

Note—

If an application need not be made for a financial year under subsection (3) or (4), see also the requirement under section 58Z.

58T Application for ruling about concession

(1) This section applies if a person who owns land, or proposes to acquire land, proposes to use the land for an eligible BTR development, whether by constructing or substantially renovating 1 or more buildings on the land.

(2) The person may apply to the commissioner for a ruling on whether, if the proposed development is carried out, the person's liability for land tax for a financial year will be assessed on the basis that a concession under section 58B applies in relation to the land.

(3) The application must—

(a) be in the approved form; and

(b) be supported by enough information to enable the commissioner to make a ruling.

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(4) The commissioner must give the applicant notice of the commissioner's ruling on the application.

(5) In this section—

substantially renovating has the meaning given under section 58D.

58U Effect of ruling about concession

(1) This section applies if the commissioner has, on an application for a ruling under section 58T, decided that a taxpayer's liability for land tax for a financial year will be assessed on the basis that a concession under section 58B applies in relation to the land.

(2) The commissioner must, on an application by the taxpayer under section 58S, assess the taxpayer's liability for land tax for the financial year on the basis that the concession under section 58B applies in relation to the land.

(3) However, subsection (2) does not apply if—

(a) the information given with the application for the concession differs in a material particular from the information given with the application for the ruling; or

Example—

The information given with the application for the ruling included information about meeting the discounted rent housing requirements mentioned in division 3, subdivision 4. The information given with the application for the concession differs in a material respect and the discounted rent housing requirements are not met for the financial year.

(b) the circumstances existing at the time the application for the concession is made are materially different from the circumstances existing at the time the application for the ruling was made; or

(c) the information given with the application for the ruling was false or misleading in a material particular; or

(d) both of the following apply—

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(i) after the ruling is made but before the application for the concession is decided, a legislative change takes effect, a judgment of a court is given or a decision by QCAT is made;

(ii) the legislative change, judgment or decision would, if it had taken effect or been given or made before the ruling was made, have materially affected the ruling made by the commissioner.

(4) In this section—

information includes a document.

Division 5 Reassessment provisions

58V Reassessment—land not used for eligible BTR development

(1) This section applies if—

(a) a taxpayer's liability for land tax for a financial year is assessed on the basis that land is land used for an eligible BTR development for the financial year; and

(b) the commissioner is satisfied that the land is not land used for an eligible BTR development for the financial year, including, for example, because of a reassessment made under this division for a previous financial year.

Note—

See section 58C for when land is land used for an eligible BTR development for a financial year.

(2) The commissioner must make a reassessment of the taxpayer's liability for land tax for the financial year on the basis that the land is not land used for an eligible BTR development for the financial year.

(3) This section does not limit the commissioner's power to make a reassessment of the taxpayer's liability for land tax for the financial year on the basis of a deliberate tax default under the Administration Act, section 22(2)(a).

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58W Reassessment—requirements for eligible tenant not met

(1) This section applies if—

(a) a taxpayer's liability for land tax for a financial year is assessed on the basis that land is land used for an eligible BTR development; and

(b) a person occupied a dwelling in the eligible BTR development, at any time during the previous financial year, under a discounted rent housing agreement; and

(c) the requirements under section 58Q(1)(a), (b) or (c) were not met in relation to the person when the discounted rent housing agreement was entered into; and

(d) the discounted rent housing requirements under division 3, subdivision 4 would not have been met for the eligible BTR development for the financial year if the dwelling were not a discounted rent dwelling.

(2) The commissioner must make a reassessment of the taxpayer's liability for land tax for the financial year as if the land were not land used for an eligible BTR development for the financial year.

(3) However, the commissioner must not make a reassessment of the taxpayer's liability for land tax for the financial year under this section if the commissioner is satisfied the taxpayer took all reasonable steps to ensure the requirements under section 58Q(1)(a), (b) and (c) were met in relation to the person when the discounted rent housing agreement was entered into.

58X Reassessment—avoidance arrangement

(1) This section applies if the commissioner is satisfied the owner of land has entered into an arrangement, whether in writing or otherwise, to circumvent limitations on, or requirements affecting, eligibility for a concession under section 58B.

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(2) The commissioner may make a reassessment of the owner's liability for land tax for a financial year on the basis that the owner is not entitled to the concession under section 58B.

58Y Limitation on recovery of unpaid land tax on reassessment of previous owner

(1) This section applies if—

(a) a taxpayer's liability for land tax for a financial year is assessed on the basis that land is land used for an eligible BTR development; and

(b) before the taxpayer acquired the land, another person's liability for land tax for a previous financial year was assessed on the basis that the land was used for an eligible BTR development; and

(c) after the taxpayer acquired the land, a reassessment is made under this division for the previous financial year on the basis that the land is not, or as if the land were not, land used for an eligible BTR development.

(2) Despite part 7, unpaid land tax imposed under the reassessment—

(a) may only be recovered as a debt from the person mentioned in subsection (1)(b); and

(b) is not a charge on the land.

Division 6 Notice requirements

58Z Notice about continued use of land for eligible BTR development

(1) This section applies to the owner of land that is land used for an eligible BTR development for a financial year if, under section 58S(3) or (4), the owner need not make an application mentioned in section 58S(1) in relation to the owner's liability for land tax for the financial year.

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(2) The owner must, within 1 month after the start of the financial year, give the commissioner notice in the approved form stating—

(a) if section 58S(3) applies—that the land continues to be used for an eligible BTR development for the financial year; or

(b) if section 58S(4) applies—that the land continued to be used for an eligible BTR development from the day the owner started to own the land until the last day of the previous financial year.

Notes—

1 See division 3 for when land is land used for an eligible BTR development for a financial year.

2 Under the Administration Act, the requirement under this section is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

58ZA Notice of particular decisions about future use of land used for eligible BTR development

(1) This section applies if—

(a) land is land used for an eligible BTR development for a financial year; and

(b) the eligible BTR development is a staged development; and

(c) at least 1 stage of the development is not a completed stage within the meaning of section 58E; and

(d) the owner of the land decides—

(i) not to proceed with a stage mentioned in paragraph (c); or

(ii) to change the nature of the stage.

(2) Within 1 month after making the decision, the owner must give the commissioner notice in the approved form of the decision.

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Notes—

1 Under the Administration Act, the requirement under this section is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

2 See also the *Duties Act 2001*, section 245P in relation to particular circumstances in which this section is taken to be complied with by a person who has received a concession for AFAD under that Act in relation to a transfer of the land.

58ZB Notice about use of land used for eligible BTR development during final period of ownership

(1) This section applies if a person—

(a) is required to give the commissioner notice under section 78(2) because the person has ceased to be the owner of land used for an eligible BTR development for a financial year; or

(b) would, but for section 78(3), be required to give the commissioner notice as mentioned in paragraph (a).

(2) The person must, within 1 month after ceasing to be the owner of the land, give the commissioner notice in the approved form stating how the land has been used during the period—

(a) starting on 1 July in the financial year during which the person ceases to be the owner of the land; and

(b) ending on the day the person ceases to be the owner of the land.

Note—

Under the Administration Act, the requirement under this section is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

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Division 7 Other provisions

58ZC Building comprising build to rent development becomes suitable for occupation before 1 January in a financial year

(1) This section applies if, under this part, the first or only building comprising a build to rent development first becomes suitable for occupation before 1 January in a financial year (the ***relevant financial year***).

(2) For the financial year immediately following the relevant financial year, this part applies in relation to the land on which the build to rent development is located as if—

(a) the references in sections 58C(1)(a), 58E(1) and 58P(1) to the previous financial year were references to the start-up period; and

(b) this part did not include section 58P(3) and (4).

(3) Also, a reference in this part to the BTR start date for an eligible BTR development is taken to be a reference to 1 January in the relevant financial year.

(4) This section applies only if the owner of the land makes an application under section 58S in relation to the owner's liability for land tax for the financial year immediately following the relevant financial year.

(5) In this section—

start-up period means the period—

(a) starting on 1 January in the relevant financial year; and

(b) ending on 30 June in the relevant financial year.

58ZD Record-keeping requirement

(1) This section applies if a taxpayer's liability for land tax for a financial year is assessed on the basis that a concession under section 58B applies in relation to land.

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(2) The taxpayer must keep records that show the basis on which the land is land used for an eligible BTR development for the financial year.

Note—

See the Administration Act, section 118 (Period for keeping records).

Part 7 Security and recovery

Note—

The Administration Act, part 4, division 5 contains general provisions for the recovery of land tax.

59 Unpaid land tax is a debt

(1) Despite a disposition of taxable land on which land tax is imposed, the commissioner may recover unpaid land tax from the owner of the land for the time being as a debt.

(2) However, subsection (1) does not apply if—

(a) the unpaid land tax was imposed before the owner purchased the land; and

(b) the owner obtained a clearance certificate stating that, at the time of the purchase, there was no unpaid land tax on the land.

60 Unpaid land tax is a first charge on land

(1) Unpaid land tax is a first charge on the land on which the tax is imposed, subject to any charge for an outstanding liability for windfall tax.

(2) The charge has priority over all other encumbrances over the land, other than any charge of an outstanding liability for windfall tax.

(3) Subsection (2) applies—

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(a) whether the other encumbrances are registered or unregistered, or were created before or after the charge arises under subsection (1); and

(b) despite the *Land Title Act 1994*, part 3, divisions 2 and 2A.

(4) The charge is not affected by a disposition of the land.

(5) Despite subsections (1) to (4), the charge has no effect against—

(a) a purchaser for value and in good faith who obtains a clearance certificate stating that, at the time of purchase, there was no unpaid land tax on the land; or

(b) a person who obtains a clearance certificate stating that security is held under section 61 for payment of the unpaid land tax.

(6) The commissioner may lodge a request to register the charge under the Administration Act, part 4, division 5.

Note—

See the *Property Law Act 2023*, section 113 for powers exercisable in relation to land subject to the charge, including the power of sale.

61 Other security for payment of unpaid land tax

(1) The commissioner may take security for the payment of unpaid land tax.

(2) The security must be in the form of a bank guarantee or cash deposit, or both.

(3) In this section—

bank guarantee means a guarantee by a body corporate authorised under a law of the Commonwealth relating to banking to carry on banking business in Australia.

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62 Recovery of land tax from mortgagee

(1) The commissioner may require a mortgagee of land to pay, for the owner of the land, an amount of unpaid land tax on the land.

(2) If a mortgagee pays an amount of unpaid land tax under this section—

(a) the mortgagee is entitled to recover the amount from the owner as a debt; and

(b) the amount is taken to be secured by the mortgage in addition to any other amount it secures.

63 Issue of clearance certificates

(1) The owner, purchaser or mortgagee of land may apply to the commissioner for the issue of a clearance certificate for the land.

(2) The application must—

(a) be accompanied by the prescribed fee; and

(b) be made in the way prescribed under a regulation.

(3) If the application is properly made, the commissioner must issue a clearance certificate to the applicant stating—

(a) the amount of unpaid land tax on the land; and

(b) if security is held under section 61 for payment of the unpaid land tax—that the security is held.

Part 7A Windfall tax

Division 1 Preliminary

63A Application of part

(1) This part applies if—

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(a) land tax was purportedly imposed on taxable land for a financial year at a foreign surcharge rate; and

(b) the purported liability for the land tax imposed at a foreign surcharge rate arose before 8 April 2024; and

(c) the purported liability for the land tax imposed at a foreign surcharge rate is or was assessed, and an assessment notice for the assessment is or was given by the commissioner, before the decision day; and

(d) the purported imposition of the land tax at the foreign surcharge rate was invalid only because the provisions of this Act purporting to impose the foreign surcharge rate, including section 104 or 105, were to any extent invalid or inoperative under the Commonwealth Constitution, section 109.

(2) Subsection (1)(d) is taken to be satisfied if a corresponding provision is to any extent invalid or inoperative under the Commonwealth Constitution, section 109.

(3) Land tax described in subsection (1) is ***invalid land tax***.

(4) Subsection (5) applies if—

(a) sections 32(1)(b)(ii) and 104 were to any extent invalid or inoperative as mentioned in subsection (1)(d); or

(b) sections 32(1)(c) and 105 were to any extent invalid or inoperative as mentioned in subsection (1)(d).

(5) ***Invalid land tax*** includes land tax purportedly imposed on taxable land for a financial year at the foreign surcharge rate under any of the provisions mentioned in subsection (4).

(6) To remove any doubt, it is declared that ***invalid land tax*** does not include land tax validly imposed under section 32(1)(b)(i).

(7) For subsection (1)(c), the ***decision day*** is the earlier of the following days—

(a) the day a court first decides provisions of this Act were to any extent invalid or inoperative as mentioned in subsection (1)(d);

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(b) the day a court first decides a corresponding provision is to any extent invalid or inoperative as mentioned in subsection (2).

(8) In this section—

corresponding provision means any of the following provisions, to the extent the provisions impose duty on a transaction involving residential land and a foreign entity, or impose or provide for a rate of tax for a foreign entity who owns land that is taxable—

(a) the *Duties Act 2001*, chapter 4 and section 688;

(b) the *Duties Act 1997* (NSW), chapter 2A or chapter 4, part 2B;

(c) the *Duties Act 2000* (Vic), both—

(i) section 282A; and

(ii) either section 18A or 28A;

(d) the *Duties Act 2001* (Tas), chapter 2, part 3A or section 71A or 72A;

(e) the *Duties Act 2008* (WA), chapter 3A;

(f) the *Stamp Duties Act 1923* (SA), section 72 or 102AB;

(g) the *Land Tax Act 1956* (NSW), section 5A;

(h) the *Land Tax Act 2000* (Tas), part 2, division 1A;

(i) the *Land Tax Act 2004* (ACT), part 2A;

(j) the *Land Tax Act 2005* (Vic), both—

(i) section 106A; and

(ii) either schedule 1, part 4 or 5.

63B Commissioner must publish decision day

The commissioner must, within 5 business days after the commissioner becomes aware the decision day has happened, give notice of the decision day by publishing it on the commissioner's website.

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63C Imposition of windfall tax

(1) This part imposes tax (***windfall tax***) on a claim for a land tax windfall.

(2) Windfall tax is imposed on the amount of a land tax windfall.

Division 2 Some basic concepts for windfall tax

63D What is a *land tax windfall*

A ***land tax windfall***, in relation to taxable land on which invalid land tax is purportedly imposed for a financial year, is an amount equal to the total of the following—

(a) the invalid land tax;

(b) any assessed interest and penalty tax for the invalid land tax;

(c) any amount paid for late payment interest in relation to the invalid land tax.

63E What is a *claim* for a land tax windfall

(1) A person makes a ***claim*** for a land tax windfall for taxable land for a financial year if the person, on or after the decision day, gives notice to the commissioner that the person disputes the person's liability for invalid land tax purportedly imposed for the financial year, including, for example, by—

(a) asking the commissioner for a reassessment to decrease the person's purported liability for the invalid land tax to nil; or

(b) objecting to the assessment of the person's purported liability for the invalid land tax under the Administration Act, part 6; or

(c) starting a proceeding in relation to the person's purported liability for the invalid land tax; or

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(d) advising the commissioner that the person does not intend to pay an amount relating to the person's purported liability for the invalid land tax; or

(e) asking the commissioner to refund an amount paid for the person's purported liability for the invalid land tax.

(2) Also, a person is taken to have made a ***claim*** for a land tax windfall if—

(a) the commissioner is required, under a court order, to repay to the person an amount paid to the commissioner in relation to the person's purported liability for invalid land tax, other than an order in a proceeding mentioned in subsection (1)(c); or

(b) all of the following apply—

(i) the person had, before the decision day (whether before or after the commencement of this section), objected to an assessment of land tax for a financial year;

(ii) the question of whether the land tax is invalid land tax is relevant to the decision on the objection;

(iii) the commissioner had not, before the decision day, given a written notice to the person of the commissioner's decision on the objection under the Administration Act, section 68;

(iv) the person does not, before the written notice of the commissioner's decision is given, withdraw the objection; or

(c) both of the following apply—

(i) the commissioner and the person are aware of the person's purported liability for invalid land tax;

(ii) the person does not, by the following day (the ***payment day***), pay an amount that would, if the invalid land tax had been validly imposed, have been payable—

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(A) if the person withdrew an objection mentioned in paragraph (b)—the day that is 30 days after the person notified the commissioner of the withdrawal;

(B) otherwise—the day that is 30 days after the decision day.

(3) Subsection (2)(a) applies in relation to a proceeding started before or after the commencement of this section.

Division 3 Liability for windfall tax

63F When liability for windfall tax arises

(1) A person's liability for windfall tax arises when the person makes a claim for a land tax windfall.

(2) For subsection (1), a claim is made by a person on the following day—

(a) if the person gives notice to the commissioner disputing the person's liability for invalid land tax imposed on taxable land for a financial year—the day the commissioner is notified;

(b) if the person is taken to have made a claim under section 63E(2)(a)—the day the order is made;

(c) if the person is taken to have made a claim under section 63E(2)(b)—on the day written notice of the commissioner's decision on the objection is given;

(d) if the person is taken to have made a claim under section 63E(2)(c)—the day after the payment day.

63G Who is liable to pay windfall tax

(1) Windfall tax must be paid by—

(a) if a person gives notice to the commissioner disputing the person's liability for invalid land tax imposed on taxable land for a financial year—the person; or

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(b) if a person is taken to have made a claim under section 63E(2)(a)—the person required to be repaid under the order; or

(c) if a person is taken to have made a claim under section 63E(2)(b)—the person who made the objection; or

(d) if a person is taken to have made a claim under section 63E(2)(c)—the person who does not pay the amount by the payment day.

(2) A reference in subsection (1) to the person by whom windfall tax must be paid includes a reference to—

(a) if the purported liability for invalid land tax for which windfall tax is imposed was assessed under section 22(4) as if the land were owned by 1 co-owner—each co-owner of the land when the purported liability arose; or

(b) if the person's liability for invalid land tax for which windfall tax is imposed was assessed under section 22A(1) as if the land were owned by 1 person—each trustee of the trust when the purported liability arose.

63H Rate of windfall tax

The rate of windfall tax imposed on a claim for a land tax windfall is 100% of the amount of the land tax windfall.

63I Commissioner must apply amounts paid for invalid land tax to liability for windfall tax

(1) This section applies if—

(a) a person liable for windfall tax has paid an amount to the commissioner in relation to a purported liability for invalid land tax; and

(b) the person's purported liability for invalid land tax is, on a reassessment, decreased to nil.

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(2) Despite the Administration Act, section 37(1)(a), the person is not entitled to a refund of the amount.

(3) The commissioner must apply the amount to the person's liability for windfall tax in the following order—

(a) firstly, any amount of the land tax windfall attributable to assessed interest or penalty tax that would have been payable in relation to the invalid land tax if it had been validly imposed;

(b) secondly, any amount of the land tax windfall attributable to an amount paid by the person for late payment interest in relation to the invalid land tax;

(c) thirdly, the amount of the land tax windfall attributable to the invalid land tax that would have been payable if it had been validly imposed.

(4) If the commissioner is required, because of an order of a court or tribunal, to repay an amount to a person for an amount paid in relation to invalid land tax, the commissioner is taken to have complied with the order if the commissioner applies the amount under subsection (3).

(5) To remove any doubt, it is declared that this section does not affect the operation of the Administration Act, section 42 in relation to payments received by the commissioner for windfall tax.

Division 4 Reassessment of windfall tax

63J Reassessment of windfall tax

(1) This section applies if—

(a) windfall tax is assessed on a claim for a land tax windfall in relation to taxable land for a financial year; and

(b) the commissioner would, if the invalid land tax to which the land tax windfall relates had been validly imposed on the land, have been required or permitted to make a

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reassessment of liability for land tax at a foreign surcharge rate under this Act or the Administration Act.

(2) If a reassessment would have been required for the land tax, the commissioner must make a reassessment of the windfall tax.

(3) If a reassessment would have been permitted for the land tax, the commissioner may make a reassessment of the windfall tax.

(4) For reassessing the windfall tax—

(a) section 32(1)(b)(ii) or (c) applies for working out the amount of the invalid land tax as if it were validly imposed land tax at a foreign surcharge rate; and

(b) the Administration Act, part 5 applies for working out unpaid tax interest and penalty tax in relation to the amount of the invalid land tax as if it were validly imposed land tax at a foreign surcharge rate.

Division 5 Effect of purported liability for invalid land tax on other liabilities for land tax

63K Land tax validly imposed on taxable land not affected by invalid land tax

(1) This section applies in relation to assessments of land tax for taxable land for a financial year if invalid land tax was purportedly imposed on the land at the foreign surcharge rate mentioned in section 32(1)(b)(ii).

(2) An assessment of land tax at the general rate under section 32(1)(b)(i) is taken to be, and to have always been, made separately from an assessment of land tax at a foreign surcharge rate, whether or not the assessments are the subject of the same assessment notice.

(3) The purported imposition of the invalid land tax does not affect—

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(a) the validity of the assessment of land tax at the general rate under section 32(1)(b)(i) for the taxable land for the financial year; or

(b) any other right or liability acquired or incurred, or an act or omission done or made, in relation to the assessment of land tax mentioned in paragraph (a).

Division 6 Recovery of windfall tax

Subdivision 1 Charge for unpaid windfall tax

63L Charge over interest in land for outstanding liability for windfall tax

(1) This section applies if—

(a) invalid land tax was purportedly imposed on taxable land for a financial year; and

(b) a person is liable for windfall tax in relation to the land for the financial year; and

(c) all or part of the windfall tax is not paid by the date the amount (the ***outstanding liability***) is payable; and

(d) the person with the outstanding liability has an interest in the land when the liability becomes payable.

(2) The outstanding liability is a first charge on the person's interest in the land.

(3) The charge has priority over all other encumbrances over the person's interest in the land.

(4) Subsection (3) applies—

(a) whether the other encumbrances over the person's interest in the land—

(i) are registered or unregistered; or

(ii) were created before or after the charge arises under subsection (2); and

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(b) despite the *Land Title Act 1994*, part 3, divisions 2 and 2A.

(5) The commissioner may lodge, under the Administration Act, par 4, division 5, a request to register the charge on the land.

(6) Despite the Administration Act, section 47B, the registrar of titles must not register the charge if the person is no longer the registered owner of the land.

(7) On its registration, the charge is not affected by a disposition of the person's interest in the land.

63M Commissioner may apply to Supreme Court for order to sell

(1) This section applies if—

(a) a charge has been registered over the land under section 63L; and

(b) the outstanding liability has not been paid within 18 months after registration.

(2) The commissioner may apply to the Supreme Court for an order to sell the land stated in the application.

(3) At least 6 months before making the application, the commissioner must give the persons mentioned in subsection (4) notice of the commissioner's intention to apply to the Supreme Court for an order to sell the land unless the outstanding liability is paid within 6 months after the date of the notice.

(4) The persons to whom notice must be given are—

(a) the persons liable to pay the outstanding liability; and

(b) the owner of the land.

63N When court must order sale of land

(1) The court must order the sale of the land if it is satisfied—

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(a) proper notice of the application for the order was given under section 63M; and

(b) there is an outstanding liability payable to the State.

(2) However, the court may make an order only for the land the court considers is sufficient to realise proceeds to pay the amounts mentioned in section 63O(a) to (d).

63O Application of proceeds of sale

The proceeds of the sale of land sold under the order must be applied as follows—

(a) first, in payment of the commissioner's expenses on the application to the court for the order;

(b) second, in payment of expenses properly incurred by the commissioner on the sale or any attempted sale;

(c) third, in payment of the outstanding liability under the Administration Act, section 42;

(d) fourth, in payment of amounts secured by a security interest or charge on the land recorded before the charge mentioned in section 63M(1)(a), unless the land is sold subject to the security interest or charge;

(e) fifth, any balance must be applied as the court orders.

63P Registration of transfer

(1) If land is sold under the order to sell, the person stated in the order for this section must—

(a) sign a transfer in the appropriate form in favour of the purchaser; and

(b) lodge the transfer with the registrar of titles.

(2) The registrar of titles must register the transfer as if it had been signed by the registered owner of the land.

(3) Subsection (2) applies despite non-production of the relevant instrument of title.

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63Q Former owner may recover proceeds of sale as a debt

(1) The amount equal to the proceeds of the sale of land under the order to sell less an amount paid under section 63O(d) is a debt payable to the former owner of the land by the persons liable to pay the outstanding liability for which the order was made.

(2) The former owner may recover the debt in a court of competent jurisdiction.

(3) In this section—

former owner, of land sold under the order to sell, means the person who owned the land immediately before its sale.

Subdivision 2 Other recovery provisions

63R Recovery of windfall tax from mortgagee

(1) This section applies if—

(a) invalid land tax was purportedly imposed on taxable land for a financial year; and

(b) a person is liable for windfall tax in relation to the land for the financial year; and

(c) an outstanding liability for windfall tax is payable; and

(d) the person with the outstanding liability has an interest in the land when the liability becomes payable.

(2) The commissioner may require a mortgagee for the person's interest in the land to pay, for the person, the outstanding liability.

(3) If a mortgagee pays an outstanding liability under this section—

(a) the mortgagee is entitled to recover the amount from the person as a debt; and

(b) the amount is taken to be secured by the mortgage in addition to any other amount it secures.

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63S Other security for payment of outstanding liability

(1) The commissioner may take security for the payment of an outstanding liability.

(2) The security must be in the form of a bank guarantee or cash deposit, or both.

(3) In this section—

bank guarantee see section 61(3).

Division 7 Miscellaneous

63T Limitation period does not apply for particular reassessments

(1) This section applies if—

(a) invalid land tax is purportedly imposed on taxable land for a financial year; and

(b) a person makes a claim for a land tax windfall in relation to the land for the financial year.

(2) Despite the Administration Act, section 21, a reassessment to decrease the person's liability for the invalid land tax to nil may be made at any time.

63U Unpaid tax interest

For applying the Administration Act, section 54 to an amount of unpaid windfall tax for a land tax windfall—

(a) a reference in that section to the amount of primary tax is taken to be a reference to the amount of the land tax windfall that is attributable to invalid land tax; and

(b) the Administration Act, section 54(5) does not apply; and

(c) the start date for the Administration Act, section 54(2) and (3) is—

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(i) if the person has paid an amount to the commissioner in relation to the purported liability for the invalid land tax and, when the last payment was made, late payment interest for the purported liability was paid in full—the day after the last payment was made to the commissioner; or

(ii) otherwise—the day after an assessment notice was given for the assessment of the purported liability for the invalid land tax.

63V No payment of interest by commissioner for payment in relation to purported liability for invalid land tax

A reference in the Administration Act, section 61(1) to a refund of tax or late payment interest does not include a reference to a refund of an amount paid to the commissioner because of the purported imposition of invalid land tax on taxable land for a financial year.

Part 8 Avoidance schemes

64 Purpose and operation of pt 8

(1) The purpose of this part is to deter artificial, blatant or contrived schemes to reduce liability for land tax or windfall tax.

(2) Subject to subsection (1), nothing in this Act limits the operation of this part.

65 Meaning of *scheme*

(1) For this part, a ***scheme*** includes all or part of—

(a) a contract, agreement, arrangement, understanding, promise or undertaking (including all steps and transactions bringing it into effect)—

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(i) whether entered into or made orally or in writing; and

(ii) whether express or implied; and

(iii) whether or not enforceable; and

(b) a plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise; and

(c) a trust.

(2) A reference in this part to a scheme includes a reference to any part of the scheme.

66 Application of pt 8

(1) This part applies if—

(a) a person (the ***avoider***) has obtained, or would apart from this part obtain, a tax benefit from a scheme started to be carried out after the commencement of this part; and

(b) taking into account the matters mentioned in section 68, it is reasonable to conclude that a person, whether alone or with others, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person or another person to obtain a tax benefit from the scheme.

(2) It does not matter—

(a) whether the scheme is entered into or carried out inside or outside Queensland; or

(b) whether or not the tax benefit the person obtained is the same as the tax benefit mentioned in subsection (1)(b).

(3) However, despite subsection (1), this part does not apply in relation to a tax benefit attributable to an exemption under this Act, unless a person entered into or carried out a scheme for the sole or dominant purpose of creating a circumstance or state of affairs to which the exemption would apply.

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(4) Also, despite subsection (1), this part does not apply in relation to a tax benefit attributable to a concession under section 58B.

(5) For this section, for deciding what was a person's sole or dominant purpose for entering into or carrying out a scheme, a purpose relating to eliminating, reducing or postponing a liability for a foreign tax must be disregarded.

(6) In this section—

foreign tax means a tax, duty or other impost imposed under a law of another State, the Commonwealth or a foreign country.

67 When is a *tax benefit* obtained

(1) A person obtains a ***tax benefit*** if an amount of land tax or windfall tax payable by the person under this Act apart from this part is, or could reasonably be expected to be, less than it would have been had the scheme not been entered into or carried out.

(2) The amount of the tax benefit is the difference between the amount of land tax or windfall tax payable and the amount of land tax or windfall tax that would have been payable had the scheme not been entered into or carried out.

68 Matters to be considered in deciding purpose for scheme

For section 66, the following matters must be taken into account in deciding a person's purpose in entering into or carrying out the scheme from which the avoider obtained, or would obtain, a tax benefit—

(a) the way in which the scheme was entered into or carried out;

(b) the form and substance of the scheme, including—

(i) the legal rights and obligations involved in the scheme; and

(ii) the economic and commercial substance of the scheme;

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(c) when the scheme was entered into and the length of the period during which the scheme was carried out;

(d) the purpose of this Act or a provision of this Act, whether or not the purpose is expressly stated;

(e) the effect this Act would have in relation to the scheme apart from this part;

(f) any change in the avoider's financial position that has resulted, will result, or may reasonably be expected to result from the scheme;

(g) any change in the financial position of any person who has, or has had, a connection (of a business, family or other nature) with the avoider, being a change that has resulted, will result, or may reasonably be expected to result from the scheme;

(h) any other consequence for the avoider or a person mentioned in paragraph (g) of the scheme having been entered into or carried out;

(i) the nature of the connection (of a business, family or other nature) between the avoider and any person mentioned in paragraph (g);

(j) the circumstances surrounding the scheme.

69 Assessments because of tax benefit from scheme

(1) If the commissioner is satisfied that the avoider has obtained, or would apart from this part obtain, a tax benefit from a scheme, the commissioner may—

(a) disregard the scheme; and

(b) decide the amount of land tax or windfall tax that would have been payable by the avoider had the scheme not been entered into or carried out; and

(c) make an assessment of the avoider's liability for land tax or windfall tax to give effect to that decision.

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Note—

For objections and appeals against assessments, see the Administration Act, part 6.

(2) If the commissioner makes an assessment under subsection (1), the assessment notice given to the avoider must be accompanied by notice of the reasons for making the assessment.

(3) Subsection (4) applies if the commissioner—

(a) makes an assessment under subsection (1); and

(b) is satisfied—

(i) a person, other than the avoider, is liable for land tax or windfall tax who would not have been assessed if the scheme had not been entered into or carried out; and

(ii) it would be fair and reasonable that all or part of the amount of land tax or windfall tax should not have been assessed.

(4) Despite the limitation period under the Administration Act for reassessments, the commissioner must, for the other person, make a reassessment on the basis that all or part of the amount of land tax or windfall tax is not payable.

Part 9 Miscellaneous provisions

Division 1 Special provisions for payment of land tax

70 Application of div 1

(1) This division applies to land tax payable under an assessment other than a default assessment, self assessment or reassessment.

(2) This section is subject to section 75.

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71 Land tax may be paid by instalments

(1) Despite the Administration Act, section 30, land tax to which this division applies may be paid by the taxpayer in 3 instalments.

Note—

If land tax is not paid by instalments under this division, it must be paid by the date provided for under the Administration Act, section 30.

(2) A taxpayer may pay land tax by instalments only if the taxpayer elects to do so under section 72.

(3) Each instalment must be paid—

(a) by the date for payment of the instalment stated in the assessment notice for the land tax; and

(b) despite the Administration Act, sections 29 and 29A, by direct debit.

(4) For subsection (3)(a), the stated date for payment of the 3 instalments must be 45, 90 and 150 days, respectively, after the assessment notice is given to the taxpayer.

(5) The amount payable for each instalment is the amount stated in the assessment notice.

(6) Subsection (5) is subject to section 75.

(7) A taxpayer who elects to pay land tax by instalments is not prevented from paying the full amount of the tax before the date (the ***last instalment date***) by which the last instalment must be paid.

(8) This section does not limit the Administration Act, sections 33 and 34.

72 How taxpayer *elects* to pay land tax by instalments

For this division, a taxpayer ***elects*** to pay land tax by instalments by giving the commissioner, within the period prescribed under a regulation, the documents prescribed under a regulation.

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73 Requirements for assessment notices

(1) An assessment notice for land tax to which this division applies must state the following—

(a) that the tax may be paid by instalments;

(b) the date by which each instalment must be paid;

(c) the amount of each instalment;

(d) that the instalments must be paid by direct debit;

(e) how the taxpayer elects to pay the tax by instalments.

(2) For subsection (1)(c), the amount of each instalment is the amount of the tax divided by 3 and rounded to 2 decimal places.

(3) The Administration Act, section 26(2)(b) applies as if it required the assessment notice to state the date by which the tax must be paid in full if it is not paid by instalments.

(4) Subject to subsection (3), this section does not limit the Administration Act, section 26.

74 Effect of failure to pay an instalment

(1) This section applies if a taxpayer—

(a) elects to pay land tax by instalments; and

(b) fails to pay an instalment by the date stated in the assessment notice for the tax as the date by which the instalment must be paid.

(2) Despite section 71, the outstanding land tax is no longer payable by instalments and must be paid in full by the later of the following dates—

(a) the date by which the land tax would have been payable if the taxpayer had not elected to pay the tax by instalments;

(b) the date on which the failure to pay the instalment happens.

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(3) For the Administration Act, section 54(2) and (3)(b)(i), the start date is the day after the date mentioned in subsection (2)(a).

(4) In this section—

outstanding land tax means the unpaid land tax payable by the taxpayer at the time the taxpayer fails to pay the instalment, including any later instalment that would have become payable if this section did not apply.

75 Reassessment made after taxpayer elects to pay by instalments

(1) This section applies if—

(a) a taxpayer elects to pay land tax by instalments; and

(b) before the last instalment date, the taxpayer is given an assessment notice for a reassessment made by the commissioner; and

(c) the reassessment varies the taxpayer's liability for land tax.

Note—

If the reassessment decreases the taxpayer's liability for land tax, see also the Administration Act, part 4, division 2 for refunds.

(1A) If the reassessment decreases the taxpayer's liability for land tax so that the remaining land tax payable is less than the amount of the next instalment, the amount of the next instalment is adjusted in accordance with the taxpayer's varied liability for land tax.

(2) If the reassessment day is at least 30 days before the last instalment date, and subsection (1A) does not apply—

(a) the amount of an instalment payable 30 days or more after the reassessment day is adjusted in accordance with the taxpayer's varied liability for land tax; and

(b) the amount of an instalment payable less than 30 days after the reassessment day is not adjusted.

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(3) If subsection (2)(a) applies for at least 1 instalment and the reassessment increases the taxpayer's liability for land tax, the Administration Act, section 30 does not apply for payment of the additional liability.

(4) If the reassessment day is less than 30 days before the last instalment date and the reassessment increases the taxpayer's liability for land tax—

(a) the taxpayer's increased liability is payable by the date provided for under the Administration Act, section 30; and

(b) despite the Administration Act, section 29, the increased liability must be paid by direct debit; and

(c) for the Administration Act, section 54(2) and (3)(b)(i), the start date is the day after the last instalment date.

(5) However, subsection (4)(c) does not apply if the taxpayer fails to pay the last instalment by the last instalment date.

(6) An assessment notice for the reassessment must state, for each instalment payable after the reassessment day, the amount payable for the instalment.

(7) Subsection (6) does not limit the Administration Act, section 26.

(8) In this section—

reassessment day means the day on which an assessment notice for the reassessment is given to the taxpayer.

Division 2 Notices etc. to be given to commissioner

76 Application for land to be exempt land

(1) An application for land to be exempt land for a financial year must be made in the approved form.

(2) However, an application need not be made if—

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(a) the land was exempt land for the previous financial year; and

(b) the ownership of the land has not changed; and

(c) the land continues to be exempt land under the same provision of this Act.

(3) Also, an application need not be made if—

(a) subsection (2) does not apply in relation to the land for a financial year; and

(b) on the basis of available information, the commissioner believes that—

(i) the land is exempt land under section 41 for the financial year; or

(ii) part of the land is exempt land under section 42 for the financial year; and

(c) the commissioner has given the owner of the land a notice stating that the commissioner believes the land or part of the land to be exempt land for the financial year.

77 Notice that land no longer exempt

(1) This section applies if—

(a) land is exempt land for a financial year; and

(b) when a liability for land tax arises for the next financial year, the land is no longer exempt land; and

(c) the ownership of the land has not changed.

(2) The owner of the land must give the commissioner notice that the land is no longer exempt land.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(3) The notice must be given within 1 month after the start of the next financial year.

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77A Notice of change of partial exemption

(1) This section applies if—

(a) a part of land is exempt land for a financial year under section 42, 53 or 55 (the ***relevant provision***); and

(b) when a liability for land tax arises for the next financial year, there is a change to the part of the land that is exempt under the relevant provision; and

(c) the owner of the land is not required to give notice of the change under section 77; and

(d) the ownership of the land has not changed.

(2) The owner of the land must give the commissioner notice of the circumstance mentioned in subsection (1)(b).

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(3) The notice must be given within 1 month after the start of the next financial year.

78 Notice of change of ownership of land

(1) A person must give the commissioner notice of becoming the owner of land within 1 month after becoming the owner.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(2) A person must give the commissioner notice of ceasing to be the owner of land within 1 month after ceasing to be the owner.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

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(3) A person is not required to comply with subsection (1) or (2) if—

(a) a properly completed combined form, together with an instrument of transfer for the land, is given to the registrar of titles; and

(b) the instrument of transfer is registered by the registrar of titles within 1 month after ownership of the land changed; and

(c) a properly completed revenue form is given to the commissioner within 1 month after ownership of the land changed.

(4) In this section—

combined form means a form that—

(a) gives information required by this section and other Acts about a change of ownership of land; and

(b) may be given to the registrar of titles.

revenue form means a form that—

(a) gives information required by this section and another revenue law under the *Taxation Administration Act 2001* about the change of ownership; and

(b) may be given to the commissioner.

79 Notice of change of address for service

(1) A taxpayer must give the commissioner notice of each change of the taxpayer's address for service within 1 month after the change.

Note—

Under the Administration Act, the requirement under this subsection is a lodgement requirement for which a failure to comply is an offence under section 121 of that Act.

(2) In this section—

address for service, for a taxpayer, means—

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(a) the taxpayer's address shown in the most recent assessment notice or basis of liability notice given to the taxpayer; or

(b) if the taxpayer has given the commissioner 1 or more notices under this section—the address stated in the last notice given.

taxpayer means a person who has or had, or may have, a liability under this Act for land tax.

80 Information to be given by home unit companies

(1) This section applies to a home unit company, for a financial year, if the home unit company has a liability under this Act for land tax.

(2) The home unit company must give information to the commissioner in the approved form by 1 October in the financial year.

Note—

Under the Administration Act, the requirement under this section is an information requirement for which a failure to comply is an offence under section 121 of that Act.

Division 2A Basis of liability

80A Commissioner may give taxpayer a basis of liability notice

(1) This section applies in relation to a taxpayer, for a financial year, if the commissioner—

(a) is satisfied the taxpayer's liability for land tax for the financial year is nil; and

(b) has not made an assessment of the liability.

(2) The commissioner may give the taxpayer a notice (a ***basis of liability notice***) stating—

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(a) that the commissioner is satisfied the taxpayer's liability for land tax for the financial year is nil; and

(b) the basis on which the commissioner has formed the belief mentioned in paragraph (a), including—

(i) a description of the land the commissioner believes is owned by the taxpayer when the liability arises; and

(ii) if the commissioner believes all or part of the land is exempt land—that the commissioner believes the land or part of the land to be exempt land for the financial year and which exemption under part 6 applies.

80B Notice to be given by taxpayer—incorrect basis of liability

(1) This section applies in relation to a taxpayer's liability for land tax for a financial year if—

(a) either—

(i) the commissioner has given the taxpayer a basis of liability notice for the liability; or

(ii) the commissioner has made an assessment of the taxpayer's liability; and

(b) the taxpayer becomes aware that the basis of the taxpayer's liability as stated in the basis of liability notice or as originally assessed was not, or is no longer, correct; and

(c) the taxpayer is not required under section 28 of the Administration Act to advise the commissioner about the incorrect basis of the taxpayer's liability.

(2) The taxpayer must give the commissioner notice that the basis of the taxpayer's liability was not, or is no longer, correct.

Note—

Failure to give the notice is an offence under the Administration Act, section 120.

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(3) The taxpayer must comply with subsection (2) within 30 days after becoming aware that the basis of the taxpayer's liability was not, or is no longer, correct.

(4) In this section—

basis, of a taxpayer's liability for land tax for a financial year, means—

(a) a description of the land owned by the taxpayer when the liability arises; or

(b) if the land or part of the land is exempt land—the exemption under part 6 that applies to the land or part of the land for the financial year; or

(c) another matter that affects the amount of the taxpayer's liability.

80C Assessment on non-compliance with requirement to give notice under s 80B

(1) This section applies if—

(a) a basis of liability notice has been given to a taxpayer in relation to the taxpayer's liability for land tax for a financial year; and

(b) the taxpayer is required to, but does not, comply with section 80B(2) in relation to the taxpayer's liability; and

(c) immediately after the 30-day period mentioned in section 80B(3) ends, the commissioner has not made an assessment of the taxpayer's liability for land tax for the financial year.

(2) Section 13 of the Administration Act applies for the making of a default assessment for the taxpayer's liability as if the taxpayer had not lodged a document required to be lodged under a lodgement requirement.

(3) If the commissioner makes an assessment for the taxpayer's liability—

(a) section 54(5)(c)(ii) of the Administration Act applies as if the taxpayer's non-compliance with section 80B(2)

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were non-compliance with a lodgement requirement for the assessment; and

(b) for a default assessment—section 58(3)(a) of the Administration Act applies as if the reference to section 28 of that Act included a reference to section 80B(2) of this Act.

(4) In this section—

basis, of a taxpayer's liability for land tax for a financial year, see section 80B(4).

Division 3 Other provisions

81 Restriction on grounds of objection, appeal and review

(1) An objection may not be made against an assessment on prohibited grounds.

(2) No right of appeal exists on prohibited grounds.

(3) An application for review of the commissioner's decision on an objection to an assessment may not be made on prohibited grounds.

(4) This section applies despite the Administration Act, sections 64(1), 70(5) and 71(2).

(5) For this section—

prohibited grounds means the grounds that the Land Valuation Act value of an area of land is excessive.

Note—

Objections and appeals against valuations of land may be made under the Land Valuation Act.

82 Access to registers etc.

The registrar of titles must, without charge, allow the commissioner to have access to, and obtain copies of, information contained in registers of the land registry.

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83 Debt owed to manager of time-sharing scheme

(1) This section applies if the manager of a time-sharing scheme pays land tax on land that is the subject of the scheme.

(2) Each participant in the scheme incurs a debt to the manager in an amount equivalent to the relevant proportion of the land tax paid by the manager.

(3) In this section—

relevant proportion means—

(a) if the land is all or some of the lots included in a community titles scheme—the proportion the interest schedule lot entitlement of the participant's lot bears to the total interest schedule lot entitlements of all lots included in the time-sharing scheme; or

(b) if the land is all or some of the lots comprised in a BUGTA plan—the proportion the lot entitlement of the participant's lot bears to the total lot entitlements of all lots shown on the plan that are included in the time-sharing scheme; or

(c) if the participants in the time-sharing scheme are the registered proprietors of the land—the proportion of the participant's interest in the land.

83A Provision to pay land tax etc. on particular leases unenforceable

(1) This section applies to the following leases—

(a) a pre-existing lease;

(b) a lease that arises from a renewal under an option to renew contained in a pre-existing lease;

(c) a lease that arises from an assignment or transfer of a pre-existing lease.

(2) A provision in the lease requiring a lessee to pay land tax, or reimburse the lessor for land tax, is unenforceable.

(3) In this section—

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pre-existing lease—

(a) means a lease entered into after 1 January 1992 and before 30 June 2009; and

(b) does not include a lease that arises from—

(i) a renewal under an option to renew contained in a lease entered into on or before 1 January 1992; or

(ii) an assignment or transfer of a lease entered into on or before 1 January 1992.

84 Approved forms

(1) The commissioner may approve forms for use under this Act.

(2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

85 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may—

(a) be made about fees payable under this Act; and

(b) provide for a maximum penalty of not more than 20 penalty units for contravention of the regulation.

Part 10 Repeal, savings and transitional provisions

Division 1 Preliminary

86 Definitions for pt 10

In this part—

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post-commencement liability means a liability for land tax arising on or after 30 June 2010.

pre-commencement liability means a liability for land tax, within the meaning of the repealed Act, arising before 30 June 2010.

repealed Act means the repealed *Land Tax Act 1915*.

Division 2 Repeal

87 Repeal of Land Tax Act 1915

The Land Tax Act 1915, 6 Geo 5 No. 34 is repealed.

Division 3 Savings and transitional provisions for Act No. 15 of 2010

88 Application of this Act

(1) This Act applies to—

(a) a post-commencement liability; and

(b) an act or omission done or omitted to be done for this Act on or after 30 June 2010.

(2) This section applies subject to section 93.

89 Continued application of repealed Act

Despite its repeal, the repealed Act continues to apply to—

(a) a pre-commencement liability; and

(b) an act or omission done or omitted to be done for the repealed Act before 30 June 2010.

Note—

See also the Administration Act, section 167.

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90 Capping of taxable value of land for 2010–11 financial year

(1) This section applies to land for the financial year starting 1 July 2010 (the ***2010–11 financial year***) if—

(a) section 30 does not apply to the land for the 2010–11 financial year; and

(b) the land had an unimproved value, within the meaning of the repealed Act, that applied for the financial year starting on 1 July 2009 (the ***previous financial year***); and

(c) the uncapped value of the land for the 2010–11 financial year is more than 150% of the relevant unimproved value of the land for the previous financial year.

(2) Despite section 16, the taxable value of the land for the 2010–11 financial year is the capped value of the land for the financial year.

(3) For section 81, the prohibited grounds include the ground that the relevant unimproved value of the land for the previous financial year is excessive if the underlying value, or each underlying value, is the value of the area or interest made or caused to be made by the chief executive under VOLA.

(4) In this section—

capped value, of land for the 2010–11 financial year, means 150% of the relevant unimproved value of the land for the previous financial year.

relevant unimproved value has the meaning given under the repealed Act, section 2.

uncapped value, of land for the 2010–11 financial year, means the lesser of—

(a) the VOLA value of the land for the financial year; or

(b) the averaged value of the land for the financial year.

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91 Use of land as home—person who receives care

To remove any doubt, it is declared that the 6 month period referred to in section 37(6) may be a 6 month period all or part of which falls before 30 June 2010.

92 Use requirement period for charitable institutions

(1) This section applies if—

(a) before 30 June 2010, the commissioner allowed an extended period under section 13(1)(f) of the repealed Act for vacant land owned by, or held in trust for, an institution; and

(b) the extended period ends on or after 30 June 2010.

(2) For section 47(2)(b), the use requirement period for the land—

(a) is taken to have been extended by the commissioner under section 49; and

(b) unless it is further extended by the commissioner under section 49, ends on the day on which the extended period ends.

93 Application of pt 7 to pre-commencement liabilities

(1) A reference in part 7 to unpaid land tax includes a reference to unpaid land tax relating to a pre-commencement liability.

(2) For section 65(3)(b), security held by the commissioner under section 37(3) of the repealed Act is taken to be held under section 61.

94 Land that was exempt, or for which deduction allowed, under repealed Act

(1) This section applies to land if, for the financial year beginning on 1 July 2009 (the ***2009–2010 financial year***)—

(a) the land was exempt under the repealed Act; or

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(b) a deduction was allowed for the land under the repealed Act.

(2) For sections 76 and 77, the land is taken to have been exempt land for the 2009–2010 financial year.

(3) Section 76(2)(c) is taken to be satisfied for the financial year beginning on 1 July 2010 if—

(a) the land is exempt land for the financial year; and

(b) the provision of this Act under which the land is exempt land corresponds with the provision of the repealed Act under which the land was exempt, or the deduction was allowed, for the 2009–2010 financial year.

95 Application of s 79

For section 79—

(a) a notice given to the commissioner before 30 June 2010 under section 39B of the repealed Act is taken to be a notice given under section 79; and

(b) a reference to a taxpayer includes a reference to a person who had a liability for land tax under the repealed Act.

96 Application of Administration Act, s 38 to particular pre-commencement liabilities

An amount relating to a post-commencement liability may be applied under the Administration Act, section 38 as payment for a liability for land tax, within the meaning of the repealed Act, arising before 30 June 2009.

97 References in Acts or documents

A reference in any Act or document to the repealed Act is, if the context permits, taken to be a reference to this Act.

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Division 4 Transitional provision for Land Valuation Act 2010

98 References to Land Valuation Act value

For the financial year starting 1 July 2010, a reference in this Act to the Land Valuation Act value of land is taken to be a reference to the value applicable for the land under the repealed *Valuation of Land Act 1944*.

Division 5 Transitional provision for Revenue and Other Legislation Amendment Act 2011

98A Application of ss 47 and 75

Sections 47 and 75 as in force on the commencement of this section are taken to have had effect on and from 2 September 2010.

Division 6 Transitional provision for Revenue and Other Legislation Amendment Act 2016

99 Application of s 30

Section 30, as amended by the *Revenue and Other Legislation Amendment Act 2016*, is taken to have had effect on and from 4 October 2014.

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Division 7 Transitional provision for Revenue Legislation Amendment Act 2017

100 Application of s 83A

(1) Section 83A is taken to have had effect on and from 30 June 2010.

(2) However, if a lessee of a lease to which section 83A applies has paid an amount of land tax, or paid an amount to the lessor for land tax, before the commencement, the lessee is not entitled, only because of the operation of section 83A, to recover the amount.

(3) Subsection (2) does not limit the grounds on which the lessee may otherwise recover an amount from the lessor for land tax paid in relation to the lease.

(4) Also, if a court has made an order requiring a lessee of a lease to which section 83A applies to pay land tax in relation to the lease—

(a) despite subsection (1), the lessor may enforce the order; and

(b) section 83A does not affect the enforceability of the order.

(5) In this section—

land tax includes land tax levied under the repealed *Land Tax Act 1915*.

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Division 8 Transitional provision for Revenue and Other Legislation Amendment Act 2018

101 Retrospective operation of amended s 23

Section 23, as amended by the *Revenue and Other Legislation Amendment Act 2018*, is taken to have had effect since the commencement of this Act.

Division 9 Transitional provisions for Revenue Legislation Amendment Act 2023

102 Applications for exemption not required

Section 76(3) applies in relation to a financial year ending before or after the commencement.

103 Application of basis of liability provisions

(1) A basis of liability notice may be given in relation to a taxpayer's liability for land tax for a financial year ending before or after the commencement.

(2) Subsections (3) and (4) apply in relation to a taxpayer's pre-commencement liability.

(3) If an assessment of the pre-commencement liability was made before the commencement, the taxpayer is not required to comply with section 80B(2) in relation to the pre-commencement liability.

(4) If the taxpayer is given a basis of liability notice for the pre-commencement liability, section 80C does not apply to the taxpayer in relation to the pre-commencement liability.

(5) In this section—

pre-commencement liability means a liability for land tax for a financial year ending before 1 July 2023.

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Division 10 Imposition of land tax in particular circumstances

104 Imposition of land tax payable 30 June 2019 to 8 April 2024—foreign company or trustee of foreign trust

(1) This section applies if—

(a) land tax was purportedly imposed for a financial year on taxable land at the rate (the ***surcharge rate***) mentioned in section 32(1)(b)(ii) as in force when the liability for the land tax arose; and

(b) the land tax was purportedly payable on or after 30 June 2019 and before 8 April 2024; and

(c) the purported imposition of land tax on the taxable land at the surcharge rate was invalid only because the provisions of this Act that purportedly imposed the land tax were to any extent invalid or inoperative under the Commonwealth Constitution, section 109 because of an inconsistency with a provision of an agreement given the force of law by the *International Tax Agreements Act 1953* (Cwlth), section 5(1).

(2) Land tax at the surcharge rate is imposed on the taxable land.

(3) The liability for land tax imposed under subsection (2) is taken to have arisen, and to have always arisen, at the same time as liability for the purported land tax would have arisen if the purported land tax had been validly imposed.

(4) Land tax imposed under subsection (2) is payable by, and is taken to have always been payable by, the person who would have been liable for the purported land tax if the purported land tax had been validly imposed.

(5) The amount of land tax payable under subsection (2) is the same amount, and is taken to have always been the same amount, as the amount of land tax that would have been payable if the purported land tax had been validly imposed.

(6) The rights and liabilities of a person in relation to land tax imposed under subsection (2) are taken to be, and to have

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always been, the same as the rights and liabilities that the person would have had in relation to the purported land tax if the purported land tax had been validly imposed.

(7) Anything done or omitted to be done by a person in relation to the purported land tax has, and is taken to have always had, the same force and effect as if it were done or omitted to be done in relation to land tax imposed under subsection (2).

(8) In this section—

purported land tax, in relation to taxable land, means land tax referred to in subsection (1) that was purportedly imposed on the taxable land.

105 Imposition of land tax payable 1 January 2018 to 8 April 2024—absentee

(1) This section applies if—

(a) land tax was purportedly imposed for a financial year on taxable land at the rate (the ***absentee rate***) mentioned in section 32(1)(c) as in force when the liability for the land tax arose; and

(b) the land tax was purportedly payable on or after 1 January 2018 and before 8 April 2024; and

(c) the purported imposition of land tax on the taxable land at the absentee rate was invalid only because the provisions of this Act that purportedly imposed the land tax were to any extent invalid or inoperative under the Commonwealth Constitution, section 109 because of an inconsistency with a provision of an agreement given the force of law by the *International Tax Agreements Act 1953* (Cwlth), section 5(1).

(2) Land tax at the absentee rate is imposed on the taxable land.

(3) The liability for land tax imposed under subsection (2) is taken to have arisen, and to have always arisen, at the same time as liability for the purported land tax would have arisen if the purported land tax had been validly imposed.

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(4) Land tax imposed under subsection (2) is payable by, and is taken to have always been payable by, the person who would have been liable for the purported land tax if the purported land tax had been validly imposed.

(5) The amount of land tax payable under subsection (2) is the same amount, and is taken to have always been the same amount, as the amount of land tax that would have been payable if the purported land tax had been validly imposed.

(6) The rights and liabilities of a person in relation to land tax imposed under subsection (2) are taken to be, and to have always been, the same as the rights and liabilities that the person would have had in relation to the purported land tax if the purported land tax had been validly imposed.

(7) Anything done or omitted to be done by a person in relation to the purported land tax has, and is taken to have always had, the same force and effect as if it were done or omitted to be done in relation to land tax imposed under subsection (2).

(8) In this section—

purported land tax, in relation to taxable land, means land tax referred to in subsection (1) that was purportedly imposed on the taxable land.

Division 11 Transitional provision for Home Ownership and Other Legislation Amendment Act 2026

106 Retrospective effect of s 13A

(1) Section 13A(1), and each term used in that provision that is defined in section 13A(3), is taken to have had effect from 15 December 2025.

(2) Section 13A(2), and each term used in that provision that is defined in section 13A(3), is taken to have had effect from 5 December 2025.

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Schedule 1 Rate of land tax—individuals other than absentees and trustees

section 32(1)(a)

Column 1 Total taxable value	Column 2 Tax payable
less than $600,000	nil
$600,000 or more but less than $1,000,000	$500 plus 1.0c for each $1 more than $600,000
$1,000,000 or more but less than $3,000,000	$4,500 plus 1.65c for each $1 more than $1,000,000
$3,000,000 or more but less than $5,000,000	$37,500 plus 1.25c for each $1 more than $3,000,000
$5,000,000 or more but less than $10,000,000	$62,500 plus 1.75c for each $1 more than $5,000,000
$10,000,000 or more	$150,000 plus 2.25c for each $1 more than $10,000,000

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Schedule 2 Rate of land tax—companies and trustees

section 32(1)(b)

Part 1 Rate generally

Column 1 Total taxable value	Column 2 Tax payable
less than $350,000	nil
$350,000 or more but less than $2,250,000	$1,450 plus 1.7c for each $1 more than $350,000
$2,250,000 or more but less than $5,000,000	$33,750 plus 1.5c for each $1 more than $2,250,000
$5,000,000 or more but less than $10,000,000	$75,000 plus 2.25c for each $1 more than $5,000,000
$10,000,000 or more	$187,500 plus 2.75c for each $1 more than $10,000,000

Part 2 Surcharge rate

Column 1 Total taxable value	Column 2 Tax payable
less than $350,000	nil
$350,000 or more	3.0c for each $1 more than $349,999

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Schedule 3 Rate of land tax—absentees

section 32(1)(c)

Part 1 Rate generally

Column 1 Total taxable value	Column 2 Tax payable
less than $350,000	nil
$350,000 or more but less than $2,250,000	$1,450 plus 1.7c for each $1 more than $350,000
$2,250,000 or more but less than $5,000,000	$33,750 plus 1.5c for each $1 more than $2,250,000
$5,000,000 or more but less than $10,000,000	$75,000 plus 2.0c for each $1 more than $5,000,000
$10,000,000 or more	$175,000 plus 2.5c for each $1 more than $10,000,000

Part 2 Surcharge rate

Column 1 Total taxable value	Column 2 Tax payable
less than $350,000	nil
$350,000 or more	3.0c for each $1 more than $349,999

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Schedule 4 Dictionary

section 3

6 month residency period see section 36(1)(a).

absentee see section 31.

Administration Act means the *Taxation Administration Act 2001*.

approved form means a form approved under section 84.

assessment see the Administration Act, schedule 2.

assessment notice see the Administration Act, section 26(1).

Australian citizen see the *Australian Citizenship Act 2007* (Cwlth), section 4.

averaged value see section 18.

avoider, for part 8, see section 66(1)(a).

basis of liability notice see section 80A(2).

BCCM Act means the *Body Corporate and Community Management Act 1997*.

beneficiary, of a trust, means a person entitled to a beneficial interest in land or income derived from land that is the subject of the trust.

Note—

See also section 24 for deciding who is a beneficiary of a discretionary trust when a liability for land tax arises.

BTR start date, for an eligible BTR development, for part 6A, see section 58A.

BUGTA plan means a building units plan or group titles plan under the *Building Units and Group Titles Act 1980*.

build to rent development, for part 6A, see section 58D.

capped value, of taxable land for section 16(2), see section 18A(2).

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charitable institution means an institution registered under the Administration Act, part 11A.

claim, for a land tax windfall for part 7A, see section 63E.

clearance certificate means a certificate issued under section 63.

commissioner see the Administration Act, schedule 2.

community titles scheme see the BCCM Act, section 10.

company includes all bodies or associations corporate or unincorporate.

co-owners means persons who own land jointly or in common, whether as partners or otherwise.

decision day, for part 7A, see section 63A(7).

de facto partner means 1 of 2 persons who is a de facto partner within the meaning of the *Acts Interpretation Act 1954*, section 32DA, if the persons are living, and for at least 2 years have lived, together as a couple on a genuine domestic basis within the meaning of that section.

discounted rent dwelling, in a build to rent development, for part 6A, see section 58P(2).

discounted rent housing agreement, for part 6A, see section 58R.

elects, for part 9, division 1, see section 72.

eligible BTR development, for part 6A, see section 58E.

eligible tenant, for part 6A, see section 58Q.

exempt land means land declared under part 6 to be exempt land.

exempt purpose, for part 6, division 2, see section 46.

foreign company see section 18B.

foreign person see section 18D.

foreign surcharge rate, for the imposition of land tax, for part 7A, means either of the following rates—

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(a) the surcharge rate for a foreign company or trustee of a foreign trust under section 32(1)(b)(ii);

(b) the rate for an absentee under section 32(1)(c).

foreign trust see section 18C.

home unit, for part 4, division 4, see section 26.

home unit company means a company in which all the issued shares are owned by persons who have, because of those shares, an exclusive right to occupy a unit forming part of a building consisting of at least 2 units and located on land owned by the company.

interest schedule lot entitlement, of a lot included in a community titles scheme, see the BCCM Act, section 46.

invalid land tax, for part 7A, see section 63A(3), (5) and (6).

land tax means land tax levied under section 6.

land tax benefit, for part 8, see section 67(1).

land tax windfall, for part 7A, see section 63D.

land used for an eligible BTR development, for a financial year, for part 6A, see section 58C.

Land Valuation Act means the *Land Valuation Act 2010.*

Land Valuation Act value see section 17.

last instalment date, for part 9, division 1, see section 71(7).

lot entitlement, of a lot shown on a BUGTA plan, see the *Building Units and Group Titles Act 1980*, section 7.

member, of a person's family, means each of the following—

(a) the person's spouse;

(b) the parents of the person or the person's spouse;

(c) the grandparents of the person or the person's spouse;

(d) a brother, sister, nephew or niece of the person or the person's spouse;

(e) a child, stepchild or grandchild of the person;

(f) the spouse of anyone mentioned in paragraph (d) or (e).

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mortgage includes—

(a) a charge on land; or

(b) an interest in land, regardless of how it was created, for securing money.

mortgagee includes every person entitled at law or in equity to a mortgage or part of a mortgage.

non-exempt purpose see section 39(2).

notice means written notice.

objection, for an assessment, see the Administration Act, schedule 2.

outstanding liability, for windfall tax, see section 63L(1)(c).

owner—

(a) of land, see section 10; or

(b) of a unit, for part 4, division 4, see section 25.

parcel means an area of land that is the subject of a separate valuation under the Land Valuation Act.

payment day, for part 7A, see section 63E(2)(c)(ii).

penalty tax see the Administration Act, section 58(1).

permanent resident means—

(a) the holder of a permanent visa under the *Migration Act 1958* (Cwlth), section 30(1); or

(b) a New Zealand citizen who is the holder of a special category visa under the *Migration Act 1958* (Cwlth), section 32.

post-commencement liability, for part 10, see section 86.

pre-commencement liability, for part 10, see section 86.

prescribed relative, of a person, means the following—

(a) the person's spouse;

(b) a parent or step-parent of the person;

(c) a brother or sister, or stepbrother or stepsister, of the person.

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related person see section 18E.

repealed Act, for part 10, see section 86.

residential area means a building, part of a building, or another place of accommodation, that is used or available for use for residential purposes.

Examples—

a house, unit, flat or granny flat, manufactured home within the meaning of section 54, or an outbuilding associated with a house

residential care see the *Aged Care Act 1997* (Cwlth), section 41-3.

residential tenancy agreement, for part 6A, see section 58A.

scheme, for part 8, see section 65.

scheme land see the BCCM Act, section 10.

spouse includes a de facto partner and a civil partner.

staged development, for part 6A, see section 58D(4).

suitable for occupation, in relation to a building, for part 6A, see section 58A.

tax see the Administration Act, schedule 2.

taxable land see section 9.

taxable value see section 16.

taxpayer see the Administration Act, schedule 2.

tenancy agreement includes any of the following—

(a) a lease or licence;

(b) an agreement or arrangement about boarding or lodging for a person.

time-sharing scheme means a scheme, undertaking or enterprise (a ***scheme***)—

(a) in which participants are or may become entitled to use, occupy or possess, for 2 or more periods during the scheme's operation, property to which the scheme relates; and

(b) implemented in relation to any of the following—

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(i) all or some of the lots comprised in a BUGTA plan;

(ii) all or some of the lots included in a community titles scheme;

(iii) another parcel, if each participant is a registered proprietor of the parcel.

trust interest see section 18F.

trustee includes—

(a) a person appointed or constituted trustee by any of the following—

(i) act of parties;

(ii) order or declaration of a court;

(iii) operation of law; and

(b) an executor or administrator, guardian, committee, receiver or liquidator; and

(c) a person—

(i) administering or controlling land affected by an express or implied trust; or

(ii) acting in a fiduciary capacity; or

(iii) possessing, controlling or managing the land of a person under a legal or other disability.

unit means a room or suite of rooms—

(a) constructed, designed or adapted for use as a dwelling; and

(b) forming part of a building owned by a home unit company.

unpaid land tax includes unpaid tax interest and penalty tax for the unpaid land tax.

unpaid tax interest see the Administration Act, section 54(1).

used as the home see section 36.

use requirement period see section 47(2)(b).

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windfall tax see section 63C.