

LAND TAX (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 70, 1973.

An Act to alleviate the incidence of land tax in certain respects; to reduce the amount payable by way of land tax; to change the date of commencement of the land tax year; for these and other purposes to amend the Land Tax Management Act, 1956, the Land Tax Act, 1956, and the Conveyancing (Strata Titles) Act, 1961; and for purposes connected therewith. [Assented to, 19th October, 1973.]

BE

Land Tax (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 70, 1973 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Land Tax (Amendment) Act, 1973". Short title.

2. This Act commences on 31st October, 1973. Commence-
ment.

3. The Land Tax Management Act, 1956, is amended— Amendment
of Act No.
26, 1956.

(a) (i) by omitting from section 8 the word "October" and by inserting instead the word "December"; Sec. 8.
(Date of
ownership
for purposes
of land tax.)
(ii) by omitting from section 8 the word "November" and by inserting instead the word "January";

(b) (i) by omitting from section 9A (1) the word "November" and by inserting instead the word "January"; Sec. 9A.
(Postpone-
ment of
payment of
part of
land tax.)

(ii) by omitting from section 9A (1) the word "sixty-three" and by inserting instead the word "seventy-four";

(iii) by omitting from section 9A (1) the word "October" and by inserting instead the word "December";

(iv) by omitting from section 9A (1A) the word "November" where firstly occurring and by inserting instead the word "January";

(v)

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- (v) by omitting from section 9A (1A) the words "This subsection shall have effect in respect of land tax leviable and payable for the period of twelve months commencing on the first day of November, one thousand nine hundred and sixty-six, and each succeeding year.";

Sec. 10.
(Land
exempted
from tax.)

- (c) (i) by omitting from section 10 (1) (p) the word "November" and by inserting instead the word "January";
- (ii) by omitting from section 10 (1) (p) the word "seventy" and by inserting instead the word "seventy-four";
- (iii) by omitting from section 10 (1) (q) the word "November" and by inserting instead the word "January";

Sec. 12.
(Taxpayer
to furnish
returns.)

- (d) (i) by omitting from section 12 (1) the word "November" and by inserting instead the word "January";
- (ii) by omitting from section 12 (1) the word "fifty-six" and by inserting instead the word "seventy-four";
- (iii) by omitting from section 12 (1) the word "October" and by inserting instead the word "December";
- (iv) by omitting from section 12 (2) the word "October" and by inserting instead the word "December";
- (v) by omitting from section 12 (2) the word "fifty-six" and by inserting instead the words "seventy-three or at midnight on the thirty-first day of October in any preceding year";

(e)

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- (e) (i) by omitting from section 54 (1A) (b) the word "October" and by inserting instead the word "December";
- (ii) by omitting section 54 (1A) (c) (i);
- (iii) by omitting from section 54 (1A) (c) (ii) the word "is" where firstly occurring and by inserting instead the word "was";
- (iv) by omitting from section 54 (1A) (c) (ii) the word "fifty-six" and by inserting instead the words "seventy-two, or is so recorded after that date";
- (v) by omitting from section 54 (1A) (c) (ii) the word "is" where secondly occurring and by inserting instead the words "was or is";
- (vi) by omitting from section 54 (1A) (c) (ii) the word "October" where secondly occurring and by inserting instead the words "December, one thousand nine hundred and seventy-three, or, if it is recorded or varied after that date, the thirty-first day of December";
- (vii) by omitting from section 54 (1A) (d) the word "October" and by inserting instead the word "December";
- (viii) by omitting from section 54 (1A) (d) the word "fifty-six" and by inserting instead the word "seventy-three".

No. 70, 1973
 Sec. 54.
 (Unimproved value.)

4. The Land Tax Management Act, 1956, is further amended—

- (a) by omitting from section 9 (3) (b) the words "seventeen thousand two hundred and fifty dollars" wherever occurring and by inserting instead the words "twenty-one thousand dollars";

Further amendment of Act No. 26, 1956.

Sec. 9.
 (Taxable value.)

(b)

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- No. 70, 1973
- (b) by omitting from section 9 (3) (b) the words "twenty-three thousand dollars" and by inserting instead the words "twenty-eight thousand dollars";
 - (c) by omitting from section 9 (3) (b) the words "This paragraph does not apply so as to require a deduction to be made in respect of land in respect of which a deduction is required to be made under paragraph (e) of this subsection.";
 - (d) by omitting from section 9 (3) (c) the words "seventeen thousand two hundred and fifty dollars" wherever occurring and by inserting instead the words "twenty-one thousand dollars";
 - (e) by omitting section 9 (3) (e).

Further amendment of Act No. 26, 1956.

Sec. 3.
(Definitions.)

5. The Land Tax Management Act, 1956, is further amended—

- (a) (i) by inserting in section 3 next after the definition of "Company" the following new definition :—

"Flat" means a room or a suite of rooms constructed, designed or adapted for occupation or use as a separate dwelling.

- (ii) by inserting in section 3 next after the definition of "Regulations" the following new definition :—

"Residential unit" means a flat that—

- (a) forms part of a building comprising two or more flats; and

(b)

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(b) is used and occupied for residential purposes, and for no other purpose, by a person entitled so to do by reason of—

(i) his being a joint owner of the parcel of land on which the building is erected who has entered into an arrangement with the other joint owners of that land whereby he has the exclusive right to occupy that flat (whether jointly with one or more of his co-owners or not); or

(ii) his being the holder of shares in a company that owns the parcel of land on which the building is erected.

(iii) by inserting at the end of section 3 the following new subsection :—

(2) For the purposes of the definition of "Residential unit" in subsection (1) a flat used and occupied for residential purposes by a person referred to in the definition does not cease to be used and occupied by that person for residential purposes and for no other purpose by reason of the occupation under lease or license for residential purposes of not more than one room in the flat.

(b)

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Sec. 10.
(Land
exempted
from tax.)

(b) (i) by omitting from section 10 (1) (q) the word "company." and by inserting instead the words "company that is not exempted under paragraph (s).";

(ii) by inserting next after section 10 (1) (q) the following new paragraphs :—

(r) with respect to taxation leviable or payable in respect of the year commencing on 1st January, 1974, or any succeeding year—

(i) a strata lot used and occupied for residential purposes, and for no other purpose, by the owner of the lot or, where there are joint owners, for those purposes, and for no other purpose, by any one or more of them;

(ii) a parcel of residential land not exceeding 2,100 square metres in area that is used and occupied for residential purposes, and for no other purpose, by the owner of the land or, where there are joint owners, for those purposes, and for no other purpose, by any one or more of them, unless there were on the land, within the period of six months that last preceded the commencement of that year, two or more occupied flats;

(s) with respect to taxation leviable or payable in respect of the year commencing on 1st January, 1974, or any succeeding year, land used for primary

production

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production where it is owned by a public company declared by the Governor, by order published in the Gazette on the recommendation of the Commissioner, to be a company to which this paragraph applies, unless the company is a public company jointly assessable with a public company not so declared.

- (iii) by omitting from section 10 (1) the words "In paragraph (p) of this subsection" and by inserting instead the words "(1A) In paragraph (p) of subsection (1)";
- (iv) by omitting from section 10 (1) the words "In paragraph (q) of this subsection 'Australian exempt proprietary company' and 'public company' have the meanings respectively ascribed thereto by subsection (1B) of section three of the Land Tax Act, 1956." and by inserting instead the following subsections :—

(1B) In paragraph (q) of subsection (1) and in subsection (1C) "Australian exempt proprietary company" means a company which is an exempt proprietary company under the law of another State or of a Territory of the Commonwealth and is registered under Division 3 of Part XI of the Companies Act, 1961.

(1C) In paragraphs (q) and (s) of subsection (1) "public company" means a company, a mortgagee in possession of land owned by or on behalf of a company, a person in possession by way of security for money of

land

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land owned by or on behalf of a company or a person holding land as trustee for or on behalf of a company, but does not include—

- (a) a trustee company acting in its representative capacity;
- (b) an exempt proprietary company as defined in the Companies Act, 1961; or
- (c) an Australian exempt proprietary company.

(1D) In paragraph (r) of subsection (1) “residential land” means land that is used and occupied for residential purposes and for no other purpose, that use and occupation being use and occupation of a building that is designed, constructed or adapted for residential purposes—

- (a) not being land that—
 - (i) is owned by a company;
 - (ii) is owned by or on behalf of a company and is land of which a mortgagee or person by way of security for money is in possession;
 - (iii) is held by a trustee for or on behalf of a company; or
 - (iv) in respect of which a company is jointly assessed with any other person; and
- (b) not being a building—
 - (i) that is comprised of strata lots or residential units;
 - (ii) in which more than one room is occupied by lessees or licensees for residential purposes; or
 - (iii)

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(iii) from any part of which income **No. 70, 1973** is derived otherwise than as the consideration for a lease or license of one room for residential purposes.

(1E) In paragraph (r) of subsection (1) and in subsection (1D) "strata lot" means—

- (a) until the Conveyancing (Strata Titles) Act, 1961, is repealed—a lot as defined in section 2 of that Act; and
- (b) on and after the commencement of the Strata Titles Act, 1973—a lot within the meaning of that Act.

(1F) For the purposes of paragraph (r) of subsection (1), land used and occupied by an owner for residential purposes does not cease to be used and occupied by that owner for those purposes and for no other purpose by reason of the occupation under a lease or license for residential purposes of not more than one room on that land.

(1G) For the purposes of subsection (1D), land does not cease to be used and occupied as provided by that subsection by reason of there being on that land any building or improvement that is used or occupied for a purpose ancillary to the purposes for which the building is designed, constructed or adapted.

(1H) The Commissioner may make a recommendation with respect to a company for the purposes of paragraph (s) of subsection (1) only if he is satisfied that the gross income of the company from primary production by the use of the land in respect of which exemption is sought, together with

gross

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gross rents received by the company from leases granted by it of land used for primary production, in the accounting year of the company that last preceded the tax year in respect of which exemption is sought, is not less than nine-tenths of the gross income of the company from all sources.

- (v) by inserting next after section 10 (3) the following new subsection :—

(4) Where a parcel of land would, but for the fact that it exceeds 2,100 square metres in area, be exempted under subparagraph (ii) of paragraph (r) of subsection (1), the unimproved value of that parcel shall, for assessment purposes, be reduced by an amount that bears to that unimproved value the same proportion as 2,100 square metres bears to the area of that parcel.

Further
amendment
of Act No.
26, 1956.

6. The Land Tax Management Act, 1956, is further amended—

Sec. 27.
(Joint
owners.)

- (a) by omitting from section 27 (3) the word "Each" and by inserting instead the words "Subject to subsection (3A), each";
- (b) by inserting next after section 27 (3) the following new subsection :—

(3A) A joint owner of land shall not be separately assessed and liable in respect of his individual interest in the land where, by reason of an agreement between all the owners of the land, his individual interest confers on him an exclusive

right

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right of occupancy (whether jointly with one or more of his co-owners or not) of a residential unit situated on the jointly owned land and—

- (a) a deduction in respect of that residential unit has been allowed under section 3A of the Land Tax Act, 1956; or
- (b) where the unimproved value of the jointly owned land is not sufficient for him to be jointly assessable and liable under subsection (2), such a deduction would have been allowed had he been so assessable and liable.

7. The Land Tax Act, 1956, is amended—

Amendment
of Act No.
27, 1956.

- (a) (i) by omitting from section 3 (1) the word "October" and by inserting instead the word "December";
- (ii) by omitting from section 3 (1) the word "fifty-six" and by inserting instead the word "seventy-three";
- (iii) by omitting from section 3 (1) the words "November in that year" and by inserting instead the words "January in the next succeeding year";
- (iv) by omitting section 3 (1A);
- (v) by omitting section 3 (1B);
- (b) by inserting next after section 3 the following new section :—

3A. (1) In this section "prescribed proportion" means, in relation to a residential unit—

- (a) the proportion specified in respect of that residential unit in the application made under subsection (3); or

(b)

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(b) where the Commissioner is not satisfied that the proportion referred to in paragraph (a) is a fair and reasonable proportion for that residential unit—the proportion that the floor area of the residential unit bears to the total floor area that is separately occupied, or capable of being used for separate occupation, in the building in which the residential unit is situated.

(2) Subject to this section, but notwithstanding any other provisions of this Act or the provisions of any other Act, the amount of land tax payable in respect of the period of twelve months commencing on the first day of January in the year one thousand nine hundred and seventy-four or in any succeeding year is the amount that, but for this section, would be payable under section 3, less—

(a) where the land taxed is jointly owned land and the ownership of an interest in the jointly owned land gives the owner of the interest an exclusive right to occupy a residential unit situated on the jointly owned land—in respect of each such residential unit, an amount that bears the prescribed proportion to the amount that, but for this section, would be the tax payable in respect of the land on which the residential unit is situated; or

(b) where the land taxed is land owned by a company in which all the issued shares are owned by persons each of whom, by virtue of his shares, has an exclusive right to occupy a part of a building situated on land owned by the company—in respect of each residential unit in the building, an amount that bears the prescribed proportion to the amount that, but for this section, would be the tax payable in respect of the land on which the residential unit is situated.

(3)

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(3) A reduction under subsection (2) does **No. 70, 1973**
not apply in respect of a residential unit—

(a) unless, in the building of which the residential unit forms part there is at least one other residential unit;

(b) unless—

(i) where the parcel of land on which the residential unit is situated is land referred to in paragraph (a) of subsection (2)—all the owners of the land; or

(ii) where that land is land referred to in paragraph (b) of that subsection— all the shareholders in the company that owns the land,

apply, in a form approved by the Commissioner, for a reduction under this section, specifying the proportion that, in their opinion, is a fair and reasonable proportion of the unimproved value of the land to be attributed to that residential unit;

(c) unless—

(i) the area of the parcel of land on which is erected the building of which the residential unit forms part is not more than 2,100 square metres; or

(ii) the Commissioner is satisfied that, where the area of that parcel exceeds 2,100 square metres, the whole of the parcel is reasonably used in connection with the occupation of that building;

(d)

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(d) if an owner or shareholder entitled to occupy the residential unit is—

(i) a company; or

(ii) a company jointly with another person or other persons,

not being a trustee company acting in its representative capacity.

(4) Where a reduction of tax in respect of a residential unit is not authorised by subsection (2) by reason only of paragraph (c) of subsection (3), subsection (2) shall operate in respect of the residential unit as if the amount of the reduction that would, if that paragraph had been complied with, be authorised by subsection (2) (in this subsection referred to as “the initial reduction”) were reduced to an amount that bears to the initial reduction the same proportion as is borne to the area of the parcel of land on which the residential unit is situated by—

(a) 2,100 square metres; or

(b) an area (being an area less than the area of that parcel) that the Commissioner is satisfied is reasonably used in connection with the occupation of the building of which the residential unit forms part,

whichever is the greater.

(c)

Land Tax (Amendment).

(c) by omitting the Schedule and by inserting instead No. 70, 1973 the following Schedule :—

Subst.
Schedule.

SCHEDULE.

Where the taxable value as assessed under Principal Act		Rates of Land Tax Payable	
	\$	\$ c	\$
does not exceed \$5,000		15.0	0.3c for each \$1
exceeds	5,000 but does not exceed 10,000	plus 0.45c for each \$1 in excess of 5,000	
"	10,000 " " " " "	37.50 " 0.6c " " " "	10,000
"	20,000 " " " " "	97.50 " 0.75c " " " "	20,000
"	30,000 " " " " "	172.50 " 0.9c " " " "	30,000
"	40,000 " " " " "	262.50 " 1.05c " " " "	40,000
"	50,000 " " " " "	367.50 " 1.2c " " " "	50,000
"	60,000 " " " " "	487.50 " 1.35c " " " "	60,000
"	70,000 " " " " "	622.50 " 1.5c " " " "	70,000
"	80,000 " " " " "	772.50 " 1.65c " " " "	80,000
"	90,000 " " " " "	937.50 " 1.8c " " " "	90,000
"	100,000 " " " " "	1,117.50 " 1.95c " " " "	100,000
"	110,000 " " " " "	1,312.50 " 2.1c " " " "	110,000
"	120,000 " " " " "	1,522.50 " 2.25c " " " "	120,000
"	130,000. " " " " "	1,747.50 " 2.4c " " " "	130,000

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No. 70, 1973 **8.** The Conveyancing (Strata Titles) Act, 1961, is amended—

Amendment
of Act No.
17, 1961.

Sec. 21.
(Rates
and taxes.)

(a) by omitting from section 21 (5) (b) (i) the words
“first day of November in any”;

(b) by omitting from section 21 (5) (c) the words
“first day of November in any”.

Transitional
provision.

9. Where a sale or disposal of land, or a cessation of the use or occupation of land, takes place in the month of November or December in the year 1973 and is a sale or disposal, or a cessation of use or occupation, to which section 9A (2) of the Land Tax Management Act, 1956, would, but for the amendments made by this Act, apply, section 9A (2) (paragraph (a) excepted) of that Act operates in respect of the person and land tax referred to therein as it would if the sale or disposal, or cessation of use or occupation, were to take place on 1st January, 1974, instead.

Saving.

10. The amendments made by this Act do not affect the liability of any person to pay land tax incurred before the commencement of this Act in accordance with the provisions of the Land Tax Management Act, 1956, and the Land Tax Act, 1956, and that person is liable to pay any such tax in all respects as if this Act had not been enacted.

TRAVEL