

LAND TAX MANAGEMENT (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Pay-roll Tax (Amendment) Bill 1989.

The object of this Bill is to amend the Land Tax Management Act 1956:

- (a) to provide an exemption from land tax for land owned by the Crown, public authorities, county councils and local councils and which is leased, where the leases concerned were executed or renewed prior to extension of liability for land tax to that land; and
- (b) to provide an exemption from land tax for boarding-houses for low-income persons meeting guidelines approved by the Treasurer, with effect from the 1990 tax year; and
- (c) to restore the exemption from land tax for land used for primary production that is owned by a public company, where the public company met the primary production income test for tax years preceding the 1989 tax year; and
- (d) to update the objection and appeal provisions of the Act to provide for appeals by summons along the lines of the Business Franchise Licences (Petroleum Products) Act 1987; and
- (e) to clarify, by way of statute law revision, the manner in which fees for certificates as to land tax charged on land may be paid.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Land Tax Management (Amendment) 1989

SCHEDULE 1 - AMENDMENTS RELATING TO EXEMPTIONS

Lessees of land owned by the Crown, local councils, county councils and public authorities

Amendments to the Principal Act made by the Land Tax Management (Further Amendment) Act 1985 and the Land Tax Management (Amendment) Act 1988 have had, or will have, the effect of extending liability for land tax to lessees of land owned by the Crown, local councils, county councils and public authorities.

The Bill inserts a provision into the Principal Act to make an exception in the case of lessees who occupied land under a lease entered into or renewed when the relevant land was exempt from land tax and whose rental has not been reviewed to take account of the imposition of land tax. The amendment provides that for the purposes of the Principal Act such lessees are not to be regarded as the owner of the land concerned during the period of the lease or renewal. (Schedule 1 (1) - proposed section 3 (5)).

Boarding-houses for low-income persons

The Bill inserts provisions into the Principal Act that exempt from land tax land used and occupied primarily for a boarding-house for low-income persons. The main features of the exemption are as follows:

- * it applies to premises (including rooming houses, serviced rooms and flatettes and furnished or unfurnished rooms with or without resident managers) but not to premises in respect of which a hotelier's licence under the Liquor Act 1982 is in force
- * it applies only if the land is within the Sydney, Wollongong and Newcastle Metropolitan areas and the boarding-house complies with guidelines approved by the Treasurer
- * the exemption applies only for the tax year commencing 1 January 1990 and succeeding tax years
- * the exemption does not apply automatically but must be applied for and supporting evidence furnished.

(Schedule 1 (2) - proposed section 10Q)

Exemption for primary production land - public companies

The Bill inserts a provision to restore, in a limited form, the exemption from land tax for land owned by a public company and used for primary production that applied prior to amendments made by the Land Tax Management (Amendment) Act 1988. The amendment will ensure that those companies formerly entitled to be declared by the Governor to be subject to the exemption will not be liable for tax for any tax year for which the company could have been declared to be such a company. (Schedule 1 (3) - proposed clause 8 of Schedule 2).

SCHEDULE 2 - AMENDMENTS RELATING TO APPEALS

Objections and appeals

The Bill updates provisions dealing with objections and appeals against assessments of land tax and amendments of assessments under the Principal Act. Currently, a dissatisfied objector has a right to require the Chief Commissioner to state a case for decision by the Supreme Court. Under the new provisions, a dissatisfied objector can appeal directly to the Supreme Court by filing a summons as provided in Part 51A of the Supreme Court Rules. The appeal cannot proceed unless the objector has given the Chief Commissioner the information requested in connection with the matter. If the objector is successful, the Chief Commissioner is required to pay interest on any land tax that was overpaid.

The onus of establishing that land tax has been incorrectly assessed or that an assessment has been incorrectly amended is placed on the objector.

Provision is also made to enable the Chief Commissioner to state a case on a question of law for decision by the Supreme Court. (Schedule 2 (2) - proposed sections 38A-38BF).

Consequential amendments are made to section 35. (Schedule 2 (1)).

The new provisions will apply to an objection made before the commencement of those provisions, except where the objection has been treated as an appeal or where a case has already been stated to the Supreme Court or the time for stating the case has expired. (Schedule 2 (3) - proposed clause 9 of Schedule 2).

SCHEDULE 3 - AMENDMENT BY WAY OF STATUTE LAW REVISION

The Bill amends section 47 to make it clear that fees for certificates as to land tax charged on land may be paid either by affixing a duty stamp to the relevant application or in such other manner as may be approved by the Chief Commissioner.
