

Legislative Council—No 16A

As reported with suggested amendments, report adopted, Standing Orders suspended and passed remaining stages, 30 June 2010

South Australia

Land Tax (Miscellaneous) Amendment Bill 2010

A BILL FOR

An Act to amend the *Land Tax Act 1936*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Land Tax (Miscellaneous) Amendment Act 2010*.

2—Commencement

- 5 (1) Subject to subsection (2), this Act will come into operation, or be taken to have come into operation, as the case requires, at midnight on 30 June 2010.
- (2) Section 4(2), (4) and (5) will be taken to have come into operation at midnight on 30 June 2009.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Land Tax Act 1936*

4—Amendment of section 5—Exemption or partial exemption of certain land from land tax

- 15 (1) Section 5(10)—after paragraph (a) insert:
 - (ab) land may be wholly exempted from land tax if—
 - (i) the land is owned by a natural person (whether or not he or she is the sole owner of the land); and
 - (ii) any buildings on the land of a predominantly residential character are uninhabitable; and
 - 20 (iii) the Commissioner is satisfied—

- 5 (A) that the person has ceased to occupy any building on the land of a predominantly residential character because it has been destroyed or rendered uninhabitable by an occurrence for which the person is not responsible (whether directly or indirectly) or which resulted from an accident; and
- 10 (B) that any such building constituted the person's principal place of residence immediately before the date on which the building was destroyed or rendered uninhabitable; and
- 15 (C) that the person intends to repair or rebuild the building within a period of 3 years from the date on which the building was destroyed or rendered uninhabitable; and
- (D) that the buildings on the land will, after the completion of building work, have a predominantly residential character; and
- 20 (E) that the person intends to occupy the land as his or her principal place of residence after the completion of the building work; and
- (iv) the person is not receiving an exemption from land tax under another provision of this subsection in relation to other land that constitutes the person's principal place of residence;

(1a) Section 5(10)—after paragraph (b) insert:

- 25 (ba) land may be wholly exempted from land tax if—
- (i) the land is owned by a natural person and constitutes his or her principal place of residence (whether or not he or she is the sole owner of the land); and
- 30 (ii) the buildings on the land are used for the purposes of a hotel, motel, set of serviced holiday apartments or other similar accommodation; and
- (iii) more than 75% of the total floor area of all buildings on the land is used for the person's principal place of residence;
- 35 (bb) land may be partially exempted from land tax by reducing its taxable value in accordance with the scale prescribed in subsection (12) if—
- (i) the land is owned by a natural person and constitutes his or her principal place of residence (whether or not he or she is the sole owner of the land); and
- 40 (ii) the buildings on the land are used for the purposes of a hotel, motel, set of serviced holiday apartments or other similar accommodation; and
- (iii) 25% or more of the total floor area of all buildings on the land is used for the person's principal place of residence;

~~(and for the purposes of the scale prescribed in subsection (12), the area used for the hotel, motel, set of serviced holiday apartments or other similar accommodation will be taken to be the area used for business or commercial purposes);~~

5 (2) Section 5(10)—after paragraph (c) insert:

(ca) land may be wholly exempted from land tax if the whole of the land is used for the provision of residential care by an approved provider;

10 (cb) land may be partially exempted from land tax if part of the land is used for the provision of residential care by an approved provider by reducing its taxable value by an amount equal to the value of that part of the land after applying any principle determined by the Commissioner for the purposes of this paragraph;

(3) Section 5—after subsection (11) insert:

15 (11a) For the avoidance of doubt, land may not be exempted from land tax under subsection (10)(ab) for a period that exceeds 3 years.

~~(3a) Section 5(12)—delete "subsection (10)(b)" and substitute:~~

~~subsection (10)(b) or (bb)~~

(4) Section 5(13)—before the definition of *close personal relationship* insert:

20 *approved provider* has the same meaning as in the *Aged Care Act 1997* of the Commonwealth;

(5) Section 5(13)—after the definition of *relocatable home* insert:

residential care has the same meaning as in the *Aged Care Act 1997* of the Commonwealth;

5—Amendment of section 5A—Waiver or refund of land tax for residential land in certain cases

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Section 5A—after subsection (6) insert:

30 (6a) A person is not eligible for a waiver or refund of land tax under this section if the relevant land becomes the person's principal place of residence for a financial year that immediately follows a period of 3 financial years for which the person has had the benefit of an exemption from land tax under section 5(10)(ab) in respect of the same land.

6—Substitution of section 8

Section 8—delete the section and substitute:

8—Scales of land tax—2009/2010

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Land tax for the 2009/2010 financial year is calculated on the basis of the taxable value of the land in accordance with the following table:

<u>Taxable value of land</u>	<u>Amount of tax</u>
Not exceeding \$110 000	Nil

Taxable value of land	Amount of tax
Exceeding \$110 000 but not exceeding \$350 000	\$0.30 for every \$100 or fractional part of \$100 over \$110 000
Exceeding \$350 000 but not exceeding \$550 000	\$720 plus \$0.70 for every \$100 or fractional part of \$100 over \$350 000
Exceeding \$550 000 but not exceeding \$750 000	\$2 120 plus \$1.65 for every \$100 or fractional part of \$100 over \$550 000
Exceeding \$750 000 but not exceeding \$1 million	\$5 420 plus \$2.40 for every \$100 or fractional part of \$100 above \$750 000
Exceeding \$1 million	\$11 420 plus \$3.70 for every \$100 or fractional part of \$100 above \$1 million.

8A—Scales of land tax—2010/2011 and beyond

- (1) Land tax for the 2010/2011 financial year, and for each subsequent financial year, is calculated on the basis of the taxable value of the land in accordance with the following table:

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Taxable value of land	Amount of tax
Not exceeding Threshold A	Nil
Exceeding Threshold A but not exceeding Threshold B	\$0.50 for every \$100 or fractional part of \$100 over Threshold A
Exceeding Threshold B but not exceeding Threshold C	LT (TB) plus \$1.65 for every \$100 or fractional part of \$100 over Threshold B
Exceeding Threshold C but not exceeding Threshold D	LT (TC) plus \$2.40 for every \$100 or fractional part of \$100 over Threshold C
Exceeding Threshold D	LT (TD) plus \$3.70 for every \$100 or fractional part of \$100 over Threshold D

- (2) For the 2010/2011 financial year, the thresholds will be as follows:

Threshold	Amount
Threshold A	\$300 000
Threshold B	\$550 000
Threshold C	\$800 000
Threshold D	\$1 000 000

- (3) Subject to this section, for the 2011/2012 financial year and for each subsequent financial year (*year x*), each of the thresholds will be adjusted to take into account increases in the site value of land according to the following formula:

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$$\text{Threshold}_{\text{year } x} = \text{Threshold}_1 \times \text{Index value}_{\text{year } x}$$

where—

Threshold_{year x} represents each of the thresholds for the relevant financial year (**year x**)

Threshold₁ represents each of the relevant thresholds set out in subsection (2) for the 2010/2011 financial year

Index value_{year x} = Index value_{year x-1} x (1 + Avg percentage change in site values_{year x})

where **Index value**_{year x} is the Index value for the relevant financial year (**year x**) and the average percentage change in site values for that financial year is determined under subsection (4), and with the Index value for the 2010/2011 financial year being 1.

- 5 (4) For the purposes of subsection (3), the average percentage change in site values for a particular financial year will be determined by the Valuer-General after the application of the following principles:
- 10 (a) in determining the average percentage change in site values for the financial year, the Valuer-General will take into account changes in the site value of land according to valuations applying under the *Valuation of Land Act 1971* with respect to a period of 12 months expiring on a date to be determined by the Valuer-General, being a date that falls on or before 30 June in the financial year immediately preceding the relevant financial year;
- 15 (b) the average percentage change in site values must take into account changes in the site value of residential land and changes in the site value of other land (as identified by the Valuer-General), with the averaging being undertaken in accordance with a method determined to be appropriate by the Valuer-General after taking into account the provisions of this Act and the *Valuation of Land Act 1971*;
- 20 (c) for the purposes of paragraphs (a) and (b)—
- 25 (i) vacant land zoned for residential purposes will be treated as residential land and vacant land zoned for any other purpose (other than primary production) will be treated as other land; and
- (ii) land used for primary production must be excluded.
- 30 (5) If after applying subsection (4) to determine the Index value for a particular financial year (**year x**) under subsection (3) the result would be an Index value for year x that would be less than or equal to any Index value that has applied for any preceding financial year, the thresholds for year x will remain unchanged (so as to be equal to the year x-1 amounts).

- (6) On or before 30 June in each year (commencing in 2011), the Valuer-General must publish by notice in the Gazette—
- (a) the average percentage change in site values for the ensuing financial year (*year x*); and
 - (b) the Index value for the ensuing financial year (*year x*).
- (7) The Commissioner must, on or after the publication of a notice under subsection (6) with respect to a financial year (the ensuing financial year under subsection (6)), by notice in the Gazette, publish the thresholds that will apply with respect to that financial year (being a notice that may be published before, on or after 1 July in that financial year).
- (8) For the purposes of subsection (7), the thresholds will be rounded to the nearest \$1 000 (with an amount of \$500 rounded up).
- (9) A notice under subsection (7) will have effect according to its terms (and be conclusive in all respects for the purposes of this section).
- (10) In this section—

LT (TB) means the land tax payable with respect to land with a taxable value equal to Threshold B;

LT (TC) means the land tax payable with respect to land with a taxable value equal to Threshold C;

LT (TD) means the land tax payable with respect to land with a taxable value equal to Threshold D.

8B—Aggregation of land

- (1) Except as otherwise provided by this Act, land tax is calculated on the basis of the aggregate taxable value of all land owned by the taxpayer.
- (2) If a taxpayer is liable to pay land tax in respect of land included in more than 1 land tax assessment, the land tax is (subject to any additional levy that affects portion only of that land) apportioned to and chargeable on the land included in the various assessments in the proportions that the taxable value of the land included in each separate assessment bears to the aggregate taxable value of all the land.