

Legislative Council—No 42

As received from the House of Assembly and read a first time, 19 June 2007

South Australia

Statutes Amendment (Budget 2007) Bill 2007

A BILL FOR

An Act to amend the *Land Tax Act 1936* and the *Pay-roll Tax Act 1971*.

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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 *Statutes Amendment (Budget 2007) Act 2007*.

2—Commencement

- 5 (1) Part 1 will come into operation on the day on which this Act is assented to by the Governor.
- (2) Part 2 will be taken to have come into operation on 1 July 2007.
- (3) Part 3 will come into operation at midnight on 30 June 2008.

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 *Pay-roll Tax Act 1971*

4—Amendment of section 9—Imposition of pay-roll tax on taxable wages

Section 9(1)—delete paragraph (e) and substitute:

- 15 (e) in relation to wages paid or payable on or after 1 July 2004 and before 1 July 2007—5.5 per cent of those wages;
- (f) in relation to wages paid or payable on or after 1 July 2007 and before 1 July 2008—5.25 per cent of those wages;
- 20 (g) in relation to wages paid or payable on or after 1 July 2008—5 per cent of those wages.

Part 3—Amendment of *Land Tax Act 1936*

5—Amendment of section 13—Cases of multiple ownership and aggregation of value

Section 13—after subsection (5) insert:

- 5 (6) This section applies subject to the operation of section 13A.

6—Insertion of section 13A

After section 13 insert:

13A—Commissioner may determine that minor interest is to be disregarded

- 10 (1) In this section—
prescribed interest—see subsections (2) and (3);
prescribed land means land where 2 or more persons are the owners of the land;
transaction includes any form of conveyance, transfer, contract, agreement or arrangement (whether or not in writing).
- 15 (2) If a person's interest in prescribed land is 5% or less, subsection (5) will apply in relation to the interest (a *prescribed interest*) unless the Commissioner, on the application of a person who, as an owner of the prescribed land, has an interest exceeding 5% in the land, is satisfied that there is no doubt that the interest was created solely for a purpose, or entirely for purposes, unrelated to reducing the amount of land tax payable in respect of the land, or any other piece of land.
- 20 (3) If a person's interest in prescribed land exceeds 5% but is less than 50%, subsection (5) will apply in relation to the interest (a *prescribed interest*) if the Commissioner forms the opinion that the purpose, or 1 of the purposes, for the creation of the interest was to reduce the amount of land tax payable in respect of the land, or any other piece of land.
- 25 (4) For the purposes of subsections (2) and (3), the Commissioner may have regard to—
- 30 (a) the nature of any relationships between the owners of the land, or between the owners of 2 or more pieces of land; and
- (b) the lack of consideration, or the amount, value or source of the consideration, provided in association with the creation of the interest; and
- 35 (c) the form and substance of any transaction associated with the creation or operation of the interest, including the legal and economic obligations of the parties and the economic and commercial substance of any such transaction; and

- (d) the way in which any transaction associated with the creation or operation of the interest was entered into or carried out; and
- (e) any other matter the Commissioner considers relevant.
- 5 (5) If this subsection applies in relation to a prescribed interest under this section—
- (a) the person holding the prescribed interest is to be taken not to be an owner of the land for the purposes of this Act; and
- 10 (b) the land tax payable in respect of the land is to be assessed, and is payable, as if the land were wholly owned by the owner or owners of the land who do not hold the prescribed interest (or, if relevant, any such prescribed interest).
- (6) However, a preceding subsection will not apply for the purposes of the other provisions of this Act if the effect is to decrease the amount of land tax payable in respect of any land.
- 15 (7) If the Commissioner decides to reject an application of an owner of land under subsection (2), the Commissioner must give notice of the decision to the owner—
- (a) stating the decision; and
- 20 (b) stating the grounds on which the decision is based.
- (8) If the Commissioner forms an opinion under subsection (3) so as to give rise to the application of subsection (5), the Commissioner must give notice of the operation of subsection (5) to each owner of the land—
- 25 (a) stating the fact that the opinion has been formed, and setting out its effect under this section; and
- (b) stating the grounds on which the opinion is based.
- (9) For the purposes of this section—
- 30 (a) a reference to an interest in land is a reference to the estate, interest, right, benefit or fact of occupation that makes a person an owner of land under this Act; and
- (b) an interest may be or become subject to the operation of this section no matter when it was created, including in a case where the interest was created before the commencement of
- 35 this section.