

(Reprint No. 9)

SOUTH AUSTRALIA

LAND TAX ACT 1936

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 July 1997.

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APPENDIX LEGISLATIVE HISTORY

LAND TAX ACT 1936

being

Land Tax Act 1936 No. 2318 of 1936
[Assented to 26 November 1936]¹

as amended by

Land Tax Act Amendment Act 1942 No. 34 of 1942 [Assented to 26 November 1942]
Land Tax Act Amendment Act 1948 No. 16 of 1948 [Assented to 23 September 1948]
Land Tax Act Amendment Act 1952 No. 47 of 1952 [Assented to 4 December 1952]²
Land Tax Act Amendment Act 1961 No. 8 of 1961 [Assented to 19 October 1961]³
Land Tax Act Amendment Act 1965 No. 32 of 1965 [Assented to 2 December 1965]
Land Tax Act Amendment Act 1966 No. 39 of 1966 [Assented to 25 August 1966]
Land Tax Act Amendment Act 1967 No. 40 of 1967 [Assented to 28 September 1967]⁴
Land Tax Act Amendment Act 1969 No. 56 of 1969 [Assented to 4 December 1969]⁵
Land Tax Act Amendment Act 1970 No. 49 of 1970 [Assented to 10 December 1970]⁶
Land Tax Act Amendment Act 1971 No. 53 of 1971 [Assented to 23 September 1971]
Land Tax Act Amendment Act 1972 No. 78 of 1972 [Assented to 5 October 1972]⁷
Statutes Amendment (Valuation of Land) Act 1972 No. 79 of 1972 [Assented to 5 October 1972]⁸
Rates and Taxes Remission Act 1974 No. 16 of 1974 [Assented to 4 April 1974]⁹
Land Tax Act Amendment Act 1974 No. 109 of 1974 [Assented to 5 December 1974]
Land Tax Act Amendment Act 1975 No. 48 of 1975 [Assented to 10 April 1975]¹⁰
Statutes Amendment (Rates and Taxes Remission) Act 1975 No. 98 of 1975 [Assented to 20 November 1975]¹¹
Land Tax Act Amendment Act 1976 No. 41 of 1976 [Assented to 22 October 1976]¹²
Land Tax Act Amendment Act 1977 No. 32 of 1977 [Assented to 27 October 1977]¹³
Statutes Amendment (Rates and Taxes Remission) Act 1977 No. 55 of 1977 [Assented to 15 December 1977]¹⁴
Land Tax Act Amendment Act 1979 No. 61 of 1979 [Assented to 8 November 1979]¹⁵
Statutes Amendment (Valuation of Land) Act 1981 No. 29 of 1981 [Assented to 19 March 1981]¹⁶
Land Tax Act Amendment Act 1982 No. 79 of 1982 [Assented to 9 September 1982]¹⁷
Land Tax Act Amendment Act 1983 No. 80 of 1983 [Assented to 24 November 1983]¹⁸
Valuation of Land Act Amendment Act 1984 No. 88 of 1984 [Assented to 29 November 1984]¹⁹
Land Tax Act Amendment Act 1985 No. 79 of 1985 [Assented to 22 August 1985]²⁰
Land Tax Act Amendment Act 1986 No. 62 of 1986 [Assented to 6 November 1986]²¹
Rates and Land Tax Remission Act 1986 No. 78 of 1986 [Assented to 4 December 1986]²²
Statutes Amendment (Taxation) Act 1987 No. 2 of 1987 [Assented to 5 March 1987]
Land Tax Act Amendment Act 1987 No. 72 of 1987 [Assented to 5 November 1987]²³
Land Tax Act Amendment Act 1988 No. 63 of 1988 [Assented to 27 October 1988]²⁴
Land Tax Act Amendment Act 1989 No. 48 of 1989 [Assented to 31 August 1989]²⁵
Land Tax Act Amendment Act 1990 No. 44 of 1990 [Assented to 25 October 1990]²⁶
Land Tax (Miscellaneous) Amendment Act 1991 No. 46 of 1991 [Assented to 21 November 1991]²⁷
Land Tax (Rates) Amendment Act 1992 No. 50 of 1992 [Assented to 29 October 1992]²⁸
Statutes Amendment (Expiation of Offences) Act 1992 No. 71 of 1992 [Assented to 19 November 1992]²⁹
Land Tax (Rates) Amendment Act 1993 No. 77 of 1993 [Assented to 27 October 1993]³⁰
Land Tax (Scale Adjustment) Amendment Act 1994 No. 63 of 1994 [Assented to 3 November 1994]³¹
Land Tax (Home Unit Companies) Amendment Act 1995 No. 70 of 1995 [Assented to 2 November 1995]³²
Statutes Amendment (Community Titles) Act 1996 No. 38 of 1996 [Assented to 9 May 1996]³³
Statutes Amendment (Taxation Administration) Act 1996 No. 82 of 1996 [Assented to 5 December 1996]³⁴

NOTE:

- *Entries appearing in bold type indicate the amendments incorporated since the last reprint.*
- *For the legislative history of the Act see Appendix.*

- ¹ Came into operation 7 January 1937: *Gaz.* 7 January 1937, p. 1.
- ² For operation and application *see* Act No. 47 of 1952, s. 18.
- ³ For operation and application *see* Act No. 8 of 1961, s. 13.
- ⁴ Came into operation 22 February 1968, being the day on which the Real Property Act Amendment (Strata Titles) Act 1967 came into operation: *Gaz.* 22 February 1968, p. 515.
- ⁵ Came into operation 21 May 1970: *Gaz.* 21 May 1970, p. 1842.
- ⁶ Came into operation 30 June 1971: *Gaz.* 10 June 1971, p. 2830.
- ⁷ Came into operation at midnight on 30 June 1972: s. 2.
- ⁸ Came into operation 1 June 1972: s. 2.
- ⁹ Came into operation 1 July 1973: s. 2.
- ¹⁰ Came into operation 2 June 1975: *Gaz.* 22 May 1975, p. 1987.
- ¹¹ Came into operation 1 July 1975: s. 2.
- ¹² Came into operation 30 June 1976: s. 2.
- ¹³ Came into operation 30 June 1977: s. 2.
- ¹⁴ Came into operation 1 July 1978: s. 2.
- ¹⁵ Came into operation 30 June 1979: s. 2.
- ¹⁶ Came into operation 30 June 1981: *Gaz.* 4 June 1981, p. 1640.
- ¹⁷ Came into operation (except s. 15) 30 June 1982: s. 2; s. 15 came into operation 8 December 1983: *Gaz.* 8 December 1983, p. 1616.
- ¹⁸ Came into operation 30 June 1983: s. 2.
- ¹⁹ Came into operation 11 July 1985: *Gaz.* 4 July 1985, p. 6.
- ²⁰ Came into operation at midnight on 30 June 1985: s. 2.
- ²¹ Came into operation (except s. 7 and the schedule) at midnight on 30 June 1986: s. 2(1); remainder of Act came into operation 18 May 1987: *Gaz.* 23 April 1987, p. 1072.
- ²² Came into operation 1 April 1987: *Gaz.* 26 March 1987, p. 702.
- ²³ Came into operation at midnight on 30 June 1987: s. 2.
- ²⁴ Came into operation at midnight on 30 June 1988: s. 2.
- ²⁵ Came into operation at midnight on 30 June 1989: s. 2.
- ²⁶ Came into operation at midnight on 30 June 1990: s. 2.
- ²⁷ Came into operation at midnight on 30 June 1991: s. 2.
- ²⁸ Came into operation at midnight on 30 June 1992: s. 2.
- ²⁹ Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 600.
- ³⁰ Came into operation at midnight on 30 June 1993: s. 2.
- ³¹ Came into operation at midnight on 30 June 1994: s. 2.
- ³² Came into operation at midnight on 30 June 1995: s. 2.
- ³³ Came into operation 4 November 1996: *Gaz.* 31 October 1996, p. 1460.
- ³⁴ **Part 4 (ss. 34-62) & Sched. cl. 3 came into operation 1 July 1997: *Gaz.* 19 December 1996, p. 1924.**

An Act to make provision for taxes on land; and for other purposes.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Land Tax Act 1936*.

Interpretation

2. (1) In this Act, unless the contrary intention appears—

"**aggregation principle**" means the principle under which the taxable value of all land owned by the same taxpayer is aggregated for the calculation of land tax;¹

"**assessment**" or "**reassessment**" means an assessment or reassessment by the Commissioner under Part 3 of the *Taxation Administration Act 1996*;

"**business of primary production**" means the business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming, forestry or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms;

"**the Commissioner**" means the person appointed or acting as the Commissioner of State Taxation, and includes a person appointed or acting as a Deputy Commissioner of State Taxation (*see Part 9 of the Taxation Administration Act 1996*);

"**company**" includes any corporate body;

"**defined rural area**" means an area declared by the Governor under section 9;

"**defined shack-site area**" means an area declared by the Governor under section 10;

"**determination of site value**" in relation to land means a determination or assessment of site value in force under the *Valuation of Land Act 1971*;

"**document**" means book, account, paper (including a security or any instrument) or any record of information, whether in writing or accessible only through the use of a computer or other device;

"**land used for primary production**" means any parcel of land of not less than 0.8 hectare in area as to which the Commissioner is satisfied—

- (a) that the land is used wholly or mainly for the business of primary production; and
- (b) where the land is within a defined rural area that the principal business of the owner of the land—
 - (i) is primary production of the type for which the land is used and the land is used to a significant extent for the purposes of that business; or
 - (ii) is the business of processing or marketing primary produce and the land or produce of the land is used to a significant extent for the purposes of that business;

"**land tax**" means any tax imposed by this Act;

"**notice**" means any notice, written or printed, or partly written or partly printed;

"**owner**"—

- (a) in relation to land alienated from the Crown by grant in fee simple means any person (other than a mortgagee of the land)—
 - (i) who holds; or
 - (ii) who is entitled to; or
 - (iii) who is entitled to purchase or acquire,
a legal or equitable estate of fee simple in the land or any other estate or interest (other than an estate or interest of leasehold) in the land conferring a right to possession of the land; and
- (b) in relation to land of the Crown subject to any agreement for sale, or right of purchase, means the person entitled to the benefit of that agreement or right of purchase; and
- (c) in relation to land held under perpetual lease, means the holder of that lease; and
- (d) in relation to land held under a shack site lease, means the holder of that lease; and
- (e) in relation to land in a defined shack-site area, means the occupier of the land;

"**retirement village**" means retirement village as defined in the *Retirement Villages Act 1987*;

"**shack site lease**" means a lease for the occupation of land for holiday, recreational or residential purposes where—

- (a) the land is situated on or adjacent to the banks of the River Murray, a tributary of the River Murray, or a lake or lagoon connected with the River Murray or a tributary of the River Murray; and
- (b) the lease was, as at midnight on 30 June, 1989, registered over the relevant land; and
- (c) the term of the lease is at least 40 years;

"**site value**" in relation to land has the meaning assigned by the *Valuation of Land Act 1971*;

"**tax**" in respect of land means land tax in respect of the land, and includes—

- (a) penalty tax payable under Part 5 of the *Taxation Administration Act 1996* in respect of failure by the taxpayer to pay, in accordance with this Act, the whole or part of the land tax; and
- (b) interest payable under Part 5 of the *Taxation Administration Act 1996* in respect of a failure referred to in paragraph (a), or a failure to pay penalty tax referred to in that paragraph;

"**taxpayer**" includes every person who is liable to pay tax;

"trade" includes profession, trade, business, and avocation.

(2) If—

- (a) the whole of the land owned by a company consists of a group of dwellings and land appurtenant to those dwellings; and
- (b) all the issued shares of the company are owned by shareholders who acquire exclusive rights to occupy land of the company by virtue of their shareholdings in the company; and
- (c) each dwelling owned by the company is occupied (or able to be occupied) by a shareholder in the company or a person deriving rights of occupancy from a shareholder in the company; and
- (d) the scheme of company ownership and shareholder occupation of the dwellings was established before 22 February 1968,

then each dwelling will be taken to be a separate parcel of land and, despite the definition of "owner" in subsection (1), the shareholder who is entitled to occupy the dwelling (and not the company) will be taken to be the legal owner of the land on which the dwelling is situated.

¹ See section 8(2).

Taxation Administration Act

3. This Act should be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Act and other taxation laws.

Imposition of land tax

4. (1) Taxes are imposed on all land in the State, with the following exceptions:

- (a) land of the Crown that is not subject to—
 - (i) a perpetual lease; or
 - (ii) an agreement for sale or right of purchase;
- (b) park land, public roads, public cemeteries, and other public reserves;
- (c) land used solely for religious purposes, or used solely for the purposes of a hospital subsidised by the Government of the State, or used by any library or other institution administered by the Libraries Board of South Australia;
- (d) land that is—
 - (i) owned by an association whose objects are or include the supplying to necessitous or helpless persons of living accommodation, food, clothing, medical treatment, nursing, pre-maternity or maternity care, or other help, either without cost to such persons or in return for payments or services the amount or value of which is in the Commissioner's opinion substantially less than the value of the accommodation, food, clothing, treatment, nursing, care or help supplied; and
 - (ii) solely or mainly used for all or any such purposes;

- (e) land that is—
 - (i) owned by an association which receives an annual grant or subsidy from money voted by Parliament; and
 - (ii) in the Commissioner's opinion, solely or mainly used for the purposes for which the grant or subsidy is made;
- (f) land that is let to or occupied by an association of the kind mentioned in paragraph (d) or (e), and that is used solely or mainly for purposes mentioned in those paragraphs, and for which the association pays either no rent or other sum or a rent or other sum that in the Commissioner's opinion is a nominal one;
- (g) land that—
 - (i) is owned by an association whose object is, or whose objects include, the conservation of native fauna and flora; and
 - (ii) is in the opinion of the Commissioner used, without profit to the association or any other person, solely or mainly as a reserve for the purpose of conserving native fauna or flora;
- (h) land that is owned or occupied without payment by any person or association carrying on an educational institution otherwise than for pecuniary profit, and that is occupied and used solely or mainly for the purposes of such an institution (but this exemption does not extend to land or buildings held as an investment and not being the site or grounds of the institution);
- (i) land that is owned by—
 - (i) a municipal or district council; or
 - (ii) a controlling authority established under Part 19 of the *Local Government Act 1934*; or
 - (iii) the Renmark Irrigation Trust;
- (j) land that is owned by an association that is established for a charitable, educational, benevolent, religious or philanthropic purpose (whether or not the purpose is charitable within the meaning of any rule of law) and is declared by the Commissioner to be exempt from land tax on the ground—
 - (i) that the land is or is intended to be used wholly or mainly for that purpose; or
 - (ii) that the whole of the net income (if any) from the land is or will be used in furtherance of that purpose;
- (k) land that is owned by—
 - (i) an association that holds the land wholly or mainly for the purpose of playing cricket, football, tennis, golf or bowling or other athletic sports or exercises; or
 - (ii) an association that holds the land wholly or mainly for the purpose of horse racing, trotting, dog racing, motor racing or other similar contests; or

- (iii) an association of former members of the armed forces or of dependants of former members of the armed forces that holds the land for the social or recreational purposes of its members; or
- (iv) an association of employers or employees, registered under a law of the Commonwealth or of the State relating to industrial conciliation and arbitration that occupies the land for the purposes of the association; or
- (v) an association that holds the land wholly or mainly for the recreation of the local community; or
- (vi) an association that holds the land for the purpose of agricultural shows, and exhibitions of a similar nature; or
- (vii) an association that holds the land for the purpose of preserving buildings or objects of historical value on the land; or
- (viii) a prescribed association or an association of a prescribed kind,

and is declared by the Commissioner to be exempt from land tax on the ground that the whole of the net income (if any) from the land is used in furtherance of the objects of the association and not for securing a pecuniary profit for the association or any of its members;

- (l) land used for primary production;
- (m) land that is owned by a prescribed body and used for the benefit of the Aboriginal people;
- (n) land that is exempt from land tax under section 5.

(2) The taxes are imposed and payable in respect of every financial year and liability to the taxes arises at the commencement of every financial year.

(3) The taxes so imposed for a particular financial year will, subject to this Act, be calculated as at midnight on 30 June immediately preceding that financial year on the basis of circumstances then existing.

(4) Land of the Crown, subject to any agreement for sale or right of purchase, is liable to taxation, whether that agreement or right is absolute or conditional, and whether it is capable of completion or exercise immediately or at any future time.

(5) Nothing in this Act interferes with any exemption, by special legislation, of land from taxation.

Exemption of certain residential land from land tax

5. (1) Land is exempt from land tax under this section if—

- (a) proper grounds exist for exempting the land from land tax; and
- (b) the land has been exempted from land tax in pursuance of this section and the exemption is, for the time being, in force.

(2) Where proper grounds exist upon which land may be exempted from land tax in pursuance of this section an owner of the land may apply to the Commissioner for an exemption in respect of that land.

(3) A person must not make any false or misleading statement or representation in an application made, or purporting to be made, under this section.

Maximum penalty: \$10 000.

(4) The Commissioner may, if satisfied that proper grounds exist for doing so, exempt land from land tax (whether or not an application for exemption has been made).

(5) The Commissioner must, on exempting land from land tax under this section, give notice in writing to an owner of the land setting out the grounds on which the exemption is made.

(6) Where—

(a) a notice of exemption under subsection (5) contains a statement purporting to be—

(i) a statement of fact; and

(ii) a ground on which the exemption is made; and

(b) the statement is inaccurate in any respect,

the owner to whom notice of the exemption was given must, within 21 days after the date of receipt of the notice, notify the Commissioner of the inaccuracy.

Maximum penalty: \$5 000.

Expiation fee: \$315.

(7) Where—

(a) land has been exempted from land tax in pursuance of this section; and

(b) in the opinion of the Commissioner, proper grounds for the exemption do not, or have ceased to, exist,

the Commissioner may revoke the exemption.

(8) Where land has been exempted from land tax in pursuance of this section, and proper grounds for the exemption cease to exist, the owner of the land must forthwith inform the Commissioner in writing of that fact and (whether or not the Commissioner is so informed and whether or not the exemption is revoked) the land will cease to be exempt from land tax.

(9) If an owner of land fails to comply with subsection (8), the owner is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

(10) An exemption granted in pursuance of this section is effective from a day (which may be antecedent or subsequent to the day on which it was granted) determined by the Commissioner.

(11) For the purposes of this section, proper grounds for exempting land from land tax exist if—

- (a) the land is owned by—
 - (i) a natural person for whom the land constitutes his or her principal place of residence (whether or not he or she is the sole owner of the land); or
 - (ii) a person entitled to the benefit of this section pursuant to subsection (12); and
- (b) the criteria for the time being in force under subsection (13) are satisfied.

(12) The owner of land comprising a retirement village is entitled to the benefit of this section in respect of so much of the land as consists of—

- (a) a residential unit occupied, pursuant to a residence contract, by a natural person (alone or with any other person) as his or her principal place of residence; or
- (b) the land appurtenant to any such unit; or
- (c) a facility provided pursuant to the retirement village scheme for the exclusive use of the residents (and their guests).

(13) The Governor may, by regulation, determine criteria for the purposes of subsection (11)(b).

(14) Where an owner of land contravenes or fails to comply with a provision of this section, and, in consequence, land tax is not assessed in respect of that land during a financial year for which land tax is payable upon the land, the Commissioner may assess the land tax upon the land for that financial year at a rate not exceeding double the rate that would otherwise have been applicable.

Assessment of tax against land divided by a community or strata plan

6. (1) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

- (a) in the case of the division of land by a primary plan—land tax will be assessed against the primary lots that are not divided by a secondary plan and against a development lot or lots (if any);
- (b) in the case of the division of land by a secondary plan—land tax will be assessed against the secondary lots that are not divided by a tertiary plan and against the development lot or lots (if any);
- (c) in the case of the division of land by a tertiary plan—land tax will be assessed against the tertiary lots and a development lot or lots (if any).

(2) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996*—

- (a) in the case of the division of land by a primary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the primary lots, land tax will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, that attaches to each primary lot will be regarded for the purposes of valuation as part of the lot;

- (b) in the case of the division of land by a secondary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the secondary lots, land tax will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary scheme referred to in paragraph (a) (if any)) that attaches to each secondary lot will be regarded for the purposes of valuation as part of the lot;
- (c) in the case of the division of land by a tertiary plan—where the use of the common property or part of it is, in the opinion of the Valuer-General reasonably incidental to the use of one or more of the tertiary lots, land tax will not be levied against the common property, or that part of it, but the interest in the common property, or that part of it, (and in the common property of the primary and secondary schemes referred to in paragraphs (a) and (b) (if any)) that attaches to each tertiary lot will be regarded for the purposes of valuation as part of the lot.

(3) Where land is divided by a primary, secondary or tertiary plan of community division under the *Community Titles Act 1996* and the use of the common property or any part of it is not, in the opinion of the Valuer-General reasonably incidental to the use of any of the community lots, land tax will be levied against the common property or that part of it and the relevant community corporation is liable for the tax as though it were the owner of the common property.

(4) Where land is divided by a strata plan under the *Strata Titles Act 1988*, land tax will be assessed against the strata units but not against the common property.

Taxable value of land

7. (1) Subject to this Act, the site value of land is its taxable value.

(2) Land tax in respect of a particular financial year is calculated on the basis of determinations of site value in force under the *Valuation of Land Act 1971* as at midnight on 30 June immediately preceding the commencement of that financial year (whether the determination is actually made before, on or after that date).

(3) Where a determination of site value as in force at the date referred to in subsection (2) is corrected or amended under the *Valuation of Land Act 1971* (whether in pursuance of an objection, review or appeal or otherwise), the determination of site value, as corrected or amended, must be used for the calculation of land tax.

Scale of land tax

8. (1) Land tax is calculated on the basis of the taxable value of the land in accordance with the following table:

Taxable value of land	Amount of tax
Not exceeding \$50 000	Nil
Exceeding \$50 000 but not exceeding \$300 000	\$0.35 for every \$100 or fractional part of \$100 over \$50 000.
Exceeding \$300 000 but not exceeding \$1 million	\$875 plus \$1.65 for every \$100 or fractional part of \$100 over \$300 000.
Exceeding \$1 million	\$12 425 plus \$3.70 for every \$100 or fractional part of \$100 over \$1 million

(2) 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.

(3) Where a taxpayer is liable to pay land tax in respect of land included in more than one 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.

Defined rural areas

9. The Governor may, by proclamation—

- (a) declare any part of the State to be a defined rural area for the purposes of this Act; or
- (b) vary or revoke any such declaration.

Defined shack-site areas

10. (1) The Governor may, by proclamation—

- (a) declare any part of the State to be a defined shack-site area for the purposes of this Act; or
- (b) vary or revoke any such declaration.

(2) A proclamation under subsection (1) is effective from a day (which may be antecedent or subsequent to the day on which it is made) determined by the Governor.

Minimum tax

11. Where the total amount of land tax payable by any taxpayer in respect of any year would, apart from this section, be less than \$10, no land tax is payable.

Tax in cases where there are two or more owners

12. (1) Subject to subsection (2), where two or more persons are the owners of land, the same amount of land tax is payable in respect of that land as if only one person were the owner.

(2) Subsection (1) does not affect the operation of any provisions of this Act under which the value of land is aggregated, for the purpose of the assessment of tax, with the value of other land.

Cases of multiple ownership and aggregation of value

13. (1) If two or more persons are owners of the same land but not all in the same capacity¹, the Commissioner may treat all who are owners of the land in one particular capacity (to be decided by the Commissioner) as—

- (a) the sole owner or owners of the land; and
- (b) the sole taxpayer or taxpayers for the land.

(2) If the Commissioner treats a person or persons as the sole owner or owners of land under subsection (1), the aggregation principle applies as if that person or those persons were the sole owner or owners of the land.

(3) The aggregation principle is subject to the following qualifications:

- (a) if two or more persons are the taxpayers for the same land, the taxable value of the land will not be aggregated with the taxable value of—

- (i) other land for which one or more, but not all, of those persons is or are the taxpayer or taxpayers; or
 - (ii) other land for which one or more of those persons and some other person are the taxpayers;
- (b) if land is held on trust (other than a trust arising because of a contract to purchase or acquire an estate or interest in the land), notice of the trust is given as required by regulation, and the trustee is the taxpayer for the land, the taxable value of the land will not be aggregated with the taxable value of other land owned by the same taxpayer unless the other land is held in trust for the same beneficiary.

(4) If two or more trustees own land separately, but subject to the same trust, the Commissioner may treat any one of the trustees as the owner or owners of all the land subject to the trust.

(5) For the purposes of this section, the various capacities in which a person may be the owner of land are as follows:

- (a) as legal owner;
- (b) as equitable owner;
- (c) as prospective owner (*ie.* a person who has entered into a contract to purchase or acquire an estate or interest in the land);
- (d) as lessee under a perpetual lease or a shack-site lease;
- (e) if the land is in a defined shack-site area—as occupier.

¹ See subsection (5).

Person liable to tax

14. (1) Subject to this Act, an owner of land is liable for tax in respect of that land.

(2) In any proceedings relating to tax in respect of land, the person named in a valuation roll under the *Valuation of Land Act 1971* as the owner of the land, being the valuation roll containing the site value required to be used in calculating the land tax in respect of the land, will be presumed, in the absence of proof to the contrary, to be the owner of the land liable to the tax.

Change of ownership

15. (1) Subject to this Act, no land and no person assessed for tax is relieved of a charge or liability for tax in respect of a particular financial year by reason of a change in the ownership of the land, or any other event, occurring after the commencement of the financial year.

(2) The Commissioner may refuse to recognise any change in the ownership of any land until the amount of the tax in respect of the land has been paid.

(3) The Commissioner may refuse to recognise any change in the ownership of any land where notice of that change of ownership has not been given as required by the regulations.

(4) Where the Commissioner refuses to recognise a change in the ownership of any land, the person who is recognised by the Commissioner as the owner of the land remains the taxpayer in respect of the land.

Liability for tax to be joint and several

16. Where there are two or more taxpayers in respect of the same land, they are jointly and severally liable to pay tax in respect of that land.

Distribution of burden

17. (1) The burden of the tax will be distributed between the taxpayers in the relative proportions of the value of their interests in the land taxed.

(2) A taxpayer who has paid tax in respect of land is entitled to recover from every other taxpayer in respect of the same land a proper proportion of the amount paid.

Contracts, etc., to evade land tax

18. (1) Where a contract, agreement or arrangement entered into in writing or verbally (whether before or after the commencement of the *Land Tax Act Amendment Act 1977*) has or purports to have the purpose (whether as the main or a subsidiary purpose) of in any way directly or indirectly—

- (a) altering the incidence of land tax; or
- (b) relieving any person from liability to pay land tax, or reducing any such liability; or
- (c) defeating, evading or avoiding any obligation or liability imposed by this Act,

the Commissioner may, by notice in writing given to the parties treat that contract, agreement or arrangement as void for the purposes of this Act.

(2) Where the Commissioner has, in pursuance of this section, treated a contract, agreement or arrangement as void for the purposes of this Act, it will be presumed, in any legal proceedings, in the absence of proof to the contrary, that the purpose of the contract, agreement or arrangement is such as would attract the operation of this section.

Time for payment of tax

19. The amount specified in an assessment by the Commissioner as land tax payable in respect of land for a financial year must be paid to the Commissioner within 30 days after service of the assessment on the taxpayer, or, if there is more than one taxpayer liable to pay the tax in respect of the land, on any one of the taxpayers.

Power to let or sell land liable to tax

20. (1) If tax is in arrears for 6 months or more, the Commissioner may have a notice published in the *Gazette*—

- (a) specifying the land in respect of which the tax is payable; and
- (b) specifying the amount of the tax in arrears; and
- (c) stating that if the tax is not paid within 3 months of the date of the notice the Commissioner will let the land, or apply to the Supreme Court for an order for sale of the land.

(2) If at the expiration of 3 months from the date of a notice published under subsection (1) any part of the tax remains in arrears the Commissioner may—

- (a) let the land; or
- (b) apply to the Supreme Court for an order for the sale of the land.

(3) The Supreme Court may, on an application under subsection (2)(b)—

- (a) make an order for the sale of the land; and
- (b) give directions as to how the proceeds of sale are to be dealt with.

(4) Subject to any directions of the Supreme Court under subsection (3), where land is leased or sold in pursuance of this section the proceeds will be applied by the Commissioner towards the payment of the arrears of tax and the costs of proceeding under this section and any surplus must be paid to the person beneficially entitled to the land or, if the land has been sold, to the person who was beneficially entitled to the land prior to the sale.

Transfer of land in satisfaction of tax liability

21. Where land is unencumbered except by a liability to pay tax, the Commissioner may, on behalf of the Crown, accept a transfer of an estate in fee simple in the land in satisfaction of the liability for tax.

Tax first charge on land

22. (1) Subject to this Act, tax is, until payment, a first charge on the land in respect of which the tax is payable.

(2) Where land tax is levied against the common property, or part of the common property, of a community scheme under the *Community Titles Act 1996*, the tax is not a charge on the common property but is, instead, a first charge on each of the community lots of the community scheme.

Certificates in respect of liability to tax

23. (1) Upon application by the purchaser of any land, or the purchaser's agent, and payment of the prescribed fee, the Commissioner may issue a certificate showing the amount (if any) of tax that is, or will be, payable under this Act in respect of the land on a specified date ("the relevant date").

(2) Where the Commissioner is unable to calculate exactly the amount referred to in subsection (1), the Commissioner may make an estimate of that amount.

(3) Where the land in respect of which an application is made under this section is only part of the land included in a land tax assessment, the certificate referred to in subsection (1) must relate to the whole of the land comprised in the assessment.

(4) Where—

- (a) the amount (if any) stated in a certificate given under this section is paid within a period specified in the certificate; or
- (b) the certificate indicates that no amount is or will be payable,

the purchaser and the purchaser's successors in title are released from any liability to tax that accrued in respect of the land before the relevant date, and no such liability is or remains a charge upon the land after it becomes vested in the purchaser.

Alterations to valuations

24. The right of the Commissioner to recover tax under this Act is not suspended or delayed by an objection, review or appeal in relation to a valuation under the *Valuation of Land Act 1971* and the Commissioner may recover tax on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of land tax payable in respect of any land is made under that Act (whether in consequence of an objection, review or appeal, or otherwise) the Commissioner must make a reassessment of the liability to land tax in respect of the land.

Service

25. (1) An assessment or other document to be served on a person for the purposes of this Act may be served on the person by affixing it conspicuously on any land to which the assessment or other document relates.

(2) This section is in addition to and does not derogate from a provision of the *Taxation Administration Act 1996* as to the service of documents.

Regulations

26. (1) The Governor may make regulations for the purposes of this Act.

(2) Any such regulation may impose a fine not exceeding \$125 for breach of a regulation.

APPENDIX

LEGISLATIVE HISTORY

Repeals

The *Land Tax Act 1936* repealed the following Acts:

Taxation Act 1927
Taxation Amendment Act 1927
Taxation Act Amendment Act 1929
Taxation Act 1930
Land Tax Act 1931
Taxation Act 1933
Taxation Act 1934
Taxation Act 1935

Renumbering

(*Renumbering provision from Statutes Amendment (Taxation Administration) Act 1996, s. 62*)

62. (1) When all provisions of this Part have been brought into operation, the sections of the principal Act are to be renumbered in consecutive order (and any cross-reference in a provision of the principal Act to a section that is renumbered is to be corrected accordingly).

(2) A reference in any Act or other instrument (whether of a legislative character or not) to a provision of the principal Act as numbered before the commencement of this Part will be taken to be a reference to the corresponding provision of the principal Act as renumbered by this Part.

Legislative History

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 5 of *The Public General Acts of South Australia 1837-1975* at page 575.
- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 18 May 1987. A schedule of these alterations was laid before Parliament on 6 August 1987.
- Legislative history since 3 February (**entries in bold type indicate amendments incorporated since the last reprint**) (*entries in italic type indicate provisions that have been repealed and therefore not renumbered*) is as follows:

Long title:

Part 1 heading:

Section 1:

Sections 2 and 3:

Section 2(1):

(previously section 4(1))

substituted by 82, 1996, s. 34

repealed by 82, 1996, s. 35

amended by 62, 1986, s. 7 (Sched.)

repealed by 62, 1986, s. 7 (Sched.)

amended by 62, 1986, s. 7 (Sched.)

definition of "aggregation principle" inserted by 63, 1994, s. 3

definition of "assessment" or "reassessment" inserted by 82, 1996, s. 36(a)

definition of "business of primary production" amended by 79, 1982, s. 3;

definition of "the Commissioner" substituted by 62, 1986, s. 7 (Sched.); 82, 1996, s. 36(b)

definition of "contribution" repealed by 62, 1986, s. 7 (Sched.)

definition of "contributor" repealed by 62, 1986, s. 7 (Sched.)

definition of "declared rural land" substituted by 41, 1976, s. 3; repealed by 29, 1981, s. 9(a)

definition of "defined shack-site areas" inserted by 50, 1992, s. 3(a)

definition of "determination of unimproved value" repealed and definition of "determination of site value" inserted in its place by 29, 1981, s. 9(b)

definition of "document" inserted by 70, 1995, s. 3(a)

definition of "improvements" repealed by 29, 1981, s. 9(c)

definition of "liquidator" amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 36(c)

Section 7(2): (previously section 11(2))	amended by 82, 1996, Sched. cl. 3
<i>Section 11A:</i>	<i>amended by 61, 1979, s. 6; 29, 1981, s. 11; repealed by 62, 1986, s. 4</i>
<i>Section 11B:</i>	<i>repealed by 41, 1976, s. 5</i>
Section 8: (previously section 12)	amended by 41, 1976, s. 6; 32, 1977, s. 4; 79, 1985, s. 3; substituted by 62, 1986, s. 5
Section 8(1): (previously section 12(1))	substituted by 63, 1988, s. 3(a); 48, 1989, s. 4(a); 44, 1990, s. 4(a); amended by 46, 1991, s. 3; substituted by 50, 1992, s. 4; amended by 77, 1993, s. 3; substituted by 63, 1994, s. 4
<i>Section 12(2):</i>	<i>repealed by 44, 1990, s. 4(a)</i>
<i>Section 12(5):</i>	<i>substituted by 72, 1987, s. 5; 63, 1988, s. 3(b); 48, 1989, s. 4(b);</i> <i>repealed by 44, 1990, s. 4(b)</i>
<i>Section 12A:</i>	<i>amended by 32, 1977, s. 5; 61, 1979, s. 7; 29, 1981, s. 12; 79, 1982, s.</i> <i>6; 79, 1985, s. 4; repealed by 62, 1986, s. 6</i>
Section 9C: (previously section 12C)	amended by 41, 1976, s. 7; 32, 1977, s. 6; 29, 1981, s. 13; substituted by 62, 1986, s. 7 (Sched.)
Section 10: (previously section 12D)	inserted by 50, 1992, s. 5
Section 11: (previously section 13(1))	amended by 79, 1985, s. 5(a); redesignated as s. 13(1) in pursuance of the <i>Acts Republication Act 1967</i> ; amended by 63, 1994, s. 5
<i>Section 13(2):</i>	<i>amended by 79, 1985, s. 5(b); repealed by 78, 1986 (Sched. 5)</i>
Section 12(1): (previously section 15(1))	amended by 79, 1982, s. 7(a); substituted by 62, 1986, s. 7 (Sched.)
Section 12(2): (previously section 15(1a))	inserted by 79, 1982, s. 7(b)
<i>Section 15(2):</i>	<i>substituted by 79, 1982, s. 7(c); amended by 62, 1986, s. 7 (Sched.);</i> <i>repealed by 63, 1994, s. 6</i>
<i>Section 15(3):</i>	<i>inserted by 79, 1982, s. 7(c); amended by 50, 1992, s. 6; repealed by</i> <i>63, 1994, s. 6</i>
<i>Section 15(4) - (6):</i>	<i>inserted by 79, 1982, s. 7(c); repealed by 63, 1994, s. 6</i>
Section 13: (previously section 15A)	inserted by 63, 1994, s. 7
<i>Section 16:</i>	<i>repealed by 79, 1982, s. 8</i>
<i>Section 19:</i>	<i>repealed by 62, 1986, s. 7 (Sched.)</i>
Part 4 heading: Heading preceding section 31:	repealed by 82, 1996, s. 41 repealed by 82, 1996, s. 42
Section 14: (previously section 31)	amended and redesignated as s. 31(1) by 82, 1996, s. 43
Section 14(2): (previously section 31(2))	inserted by 82, 1996, s. 43(b)
Section 15(1): (previously section 32(1))	amended by 79, 1982, s. 9; substituted by 62, 1986, s. 7 (Sched.); amended by 82, 1996, s. 44(a)
Section 15(2): (previously section 32(2))	amended by 62, 1986, s. 7 (Sched.); 82, 1996, s. 44(b)
Section 33:	<i>amended by 79, 1982, s. 10; substituted by 62, 1986, s. 7 (Sched.);</i> <i>repealed by 82, 1996, s. 45</i>
Heading preceding section 34:	repealed by 82, 1996, s. 46
Section 16: (previously section 34)	substituted by 79, 1982, s. 11; amended by 82, 1996, s. 47
Section 17(1): (previously section 35(1))	amended by 82, 1996, s. 48
Section 17(2): (previously section 35(2))	substituted by 62, 1986, s. 7 (Sched.); amended by 82, 1996, s. 48
<i>Section 36:</i>	<i>amended by 79, 1982, s. 12; repealed by 62, 1986, s. 7 (Sched.)</i>
<i>Sections 37 - 39:</i>	<i>repealed by 62, 1986, s. 7 (Sched.)</i>
Section 40:	<i>substituted by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 49</i>
<i>Section 41:</i>	<i>amended by 79, 1982, s. 13; repealed by 62, 1986, s. 7 (Sched.)</i>
Section 18: (previously section 42)	substituted by 32, 1977, s. 7
Section 18(1): (previously section 42(1))	amended by 62, 1986, s. 7 (Sched.); 82, 1996, Sched. cl. 3
<i>Sections 43 and 44:</i>	<i>repealed by 32, 1977, s. 7</i>
Part 6 heading: Heading preceding section 56:	repealed by 82, 1996, s. 50 repealed by 82, 1996, s. 51

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Section 19: (previously section 56)	amended by 29, 1981, s. 14; substituted by 82, 1996, s. 52
Sections 56A and 57:	<i>amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 53</i>
Section 58:	<i>substituted by 62, 1986, s. 7 (Sched.); 46, 1991, s. 4; repealed by 82, 1996, s. 53</i>
Section 58A:	<i>amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 53</i>
Section 58B:	<i>amended by 55, 1977, s. 9; repealed by 78, 1986 (Sched. 5)</i>
Heading preceding section 59:	repealed by 82, 1996, s. 53
Section 59:	<i>substituted by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 53</i>
Section 61:	<i>amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 53</i>
Section 20: (previously section 62)	<i>substituted by 62, 1986, s. 7 (Sched.)</i>
Section 20(1): (previously section 62(1))	amended by 82, 1996, s. 54
Sections 63 and 64:	<i>repealed by 62, 1986, s. 7 (Sched.)</i>
Section 21: (previously section 65)	<i>substituted by 62, 1986, s. 7 (Sched.); amended by 82, 1996, s. 55</i>
Section 22: (previously section 66(1))	<i>amended by 79, 1982, s. 14; substituted by 62, 1986, s. 7 (Sched.); redesignated as s. 66(1) by 38, 1996, s. 10; amended by 82, 1996, s. 56</i>
Section 22(2): (previously section 66(2))	<i>inserted by 38, 1996, s. 10</i>
Section 23:	came into operation 8 December 1983: <i>Gaz.</i> 8 December 1983, p. 1616
Section 23: (previously section 66A)	<i>inserted by 79, 1982, s. 15</i>
Section 23(4): (previously section 66A(4))	amended by 62, 1986, s. 7 (Sched.); 82, 1996, s. 57
Section 67:	repealed by 82, 1996, s. 58
Section 24: (previously section 68(1))	amended by 88, 1984, s. 8(1) (Sched. Pt. 1); 82, 1996, s. 59(a)
Section 68(2):	<i>substituted by 79, 1982, s. 16; 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 59(b)</i>
Section 68(3) and (4):	<i>substituted by 79, 1982, s. 16; repealed by 82, 1996, s. 59(b)</i>
Section 68(5):	<i>inserted by 79, 1982, s. 16; amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 59(b)</i>
Section 68(6):	<i>inserted by 79, 1982, s. 16; repealed by 82, 1996, s. 59(b)</i>
Part 7 heading:	repealed by 82, 1996, s. 60
Section 68A:	<i>inserted by 32, 1977, s. 8; amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 61</i>
Sections 68B and 68C:	<i>inserted by 32, 1977, s. 8; repealed by 82, 1996, s. 61</i>
Section 25: (previously section 69)	<i>repealed by 62, 1986, s. 7 (Sched.); inserted by 82, 1996, s. 61</i>
Sections 70 - 72:	<i>repealed by 62, 1986, s. 7 (Sched.)</i>
Section 73:	<i>substituted by 62, 1986, s. 7 (Sched.); amended by 70, 1995, s. 5; repealed by 82, 1996, s. 61</i>
Section 74:	<i>amended by 62, 1986, s. 7 (Sched.); 70, 1995, s. 6; repealed by 82, 1996, s. 61</i>
Section 74A:	<i>inserted by 70, 1995, s. 7; repealed by 82, 1996, s. 61</i>
Section 75:	<i>amended by 41, 1976, s. 8; 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 61</i>
Section 76:	<i>substituted by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 61</i>
Section 77:	<i>amended by 62, 1986, s. 7 (Sched.); repealed by 82, 1996, s. 61</i>
Sections 78 and 79:	<i>repealed by 62, 1986, s. 7 (Sched.)</i>
Section 26: (previously section 80)	<i>substituted by 62, 1986, s. 7 (Sched.)</i>
Section 26(2): (previously section 80(2))	amended by 82, 1996, Sched. cl. 3
Section 81:	<i>repealed by 62, 1986, s. 7 (Sched.)</i>
Schedule 1:	<i>repealed by 62, 1986, s. 7 (Sched.)</i>