



ANNO TRICESIMO PRIMO

# ELIZABETHAE II REGINAE

A.D. 1982

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## No. 79 of 1982

An Act to amend the Land Tax Act, 1936-1981.

[Assented to 9 September 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Land Tax Act Amendment Act, 1982". Short titles.
- (2) The Land Tax Act, 1936-1981, is in this Act referred to as "the principal Act".
- (3) The principal Act, as amended by this Act, may be cited as the "Land Tax Act, 1936-1982".
  
2. Except as otherwise provided, this Act shall be deemed to have come into operation on the thirtieth day of June, 1982. Commencement.
  
3. Section 4 of the principal Act is amended by inserting at the end of the definition of "business of primary production" in subsection (1) the passage "or consisting of the propagation and harvesting of fish or other aquatic organisms:.". Amendment of s. 4— Interpretation.
  
4. Section 10 of the principal Act is amended by striking out paragraph (h) of subsection (1) and substituting the following paragraph: Amendment of s. 10— Exemption from land tax.
  - (h) Land that is owned by—
    - (i) a municipal or district council;
    - (ii) a controlling authority established under Part XIX of the Local Government Act, 1934-1982;

or

  - (iii) the Renmark Irrigation Trust:.
  
5. Section 10a of the principal Act is amended— Amendment of s. 10a— Exemption of certain residential land from land tax.
  - (a) by striking out the word "or" between subparagraphs (i) and (ii) of paragraph (a) of subsection (1);

(b) by inserting after subparagraph (ii) of paragraph (a) of subsection (11) the following subparagraph:

or

(iii) an association entitled to the benefit of this section in respect of the land.;

and

(c) by inserting after subsection (12) the following subsection:

(12a) Where—

(a) an association is a prescribed association, or an association of a prescribed kind;

(b) land of the association consists of a group of dwellings and land appurtenant to those dwellings;

and

(c) the whole of the net income (if any) of the association is applied in furtherance of the objects of the association and not for securing a pecuniary profit for the association or any of its members,

the association is entitled to the benefit of this section in respect of the land referred to in paragraph (b).

Amendment of  
s. 12a—  
Partially  
exempt land.

6. Section 12a of the principal Act is amended—

(a) by striking out the word “or” immediately preceding subparagraph (vii) of paragraph (a) of subsection (1);

and

(b) by inserting after subparagraph (vii) the following subparagraph:

or

(viii) a prescribed association or an association of a prescribed kind.

Amendment of  
s. 15—  
Tax in case  
where there  
are two or  
more owners.

7. Section 15 of the principal Act is amended—

(a) by striking out from subsection (1) the word “Where” and substituting the passage “Subject to subsection (1a), where”;

(b) by inserting after subsection (1) the following subsection:

(1a) 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.;

and

(c) by striking out subsection (2) and substituting the following subsections:

(2) Subject to subsections (3) and (4), where two or more persons are the owners of land, the value of that land shall not be aggregated, for the purpose of the assessment of tax, with the value of—

(a) any land owned by any one of those persons solely in his own right;

or

(b) any land—

(i) owned by those persons together with some other person;

or

(ii) owned by one or more of those persons together with some other person.

(3) Where there are in relation to land different persons who fall into two or more of the following categories:

(a) legal owner of the land;

(b) equitable owner of the land;

(c) prospective owner of the land,

the Commissioner may treat the person or persons who fall within any one of those categories as the sole owner or owners of the land.

(4) Where—

(a) land is held in trust;

(b) notice of the trust is given in accordance with the regulations;

and

(c) the legal owner or the prospective owner is the taxpayer in respect of the land,

the value of the land shall not be aggregated for the purpose of calculation of tax with the value of other land owned by that taxpayer unless that other land is held in trust for the same beneficiary.

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

(6) In this section—

“equitable owner” in relation to land means a person who is an owner of the land by virtue of a trust (not being a trust arising by operation of law in consequence of a contract to purchase or acquire an estate or interest in the land):

“legal owner” in relation to land means a person who is an owner of the land by virtue of a vested legal estate or interest in the land:

“prospective owner” in relation to land means a person who is an owner of the land by virtue of being entitled to purchase or acquire an estate or interest in the land.

Repeal of  
s. 16.

8. Section 16 of the principal Act is repealed.

Amendment of  
s. 32—  
Change of  
ownership.

9. Section 32 of the principal Act is amended by striking out from subsection (1) the passage “No land” and substituting the passage “Subject to this Act, no land”.

Amendment of  
s. 33—  
Taxpayers in  
representative  
capacity.

10. Section 33 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “The following” and substituting the passage “Subject to this Act, the following”;

and

(b) by striking out subsections (3) and (4).

Repeal of  
s. 34 and  
substitution  
of new section.

11. Section 34 of the principal Act is repealed and the following section is substituted:

Liability  
for tax to  
be joint and  
several.

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

Amendment of  
s. 36—  
Right of  
contribution.

12. Section 36 of the principal Act is amended by striking out the passage “(other than absentee land tax or additional land tax)”.

Amendment of  
s. 41—  
Contracts  
relieving from  
burden of  
taxation.

13. Section 41 of the principal Act is amended by striking out subsection (2).

Amendment of  
s. 66—  
Land tax to  
be first  
charge on  
land.

14. Section 66 of the principal Act is amended by striking out the passage “All land tax” and substituting the passage “Subject to this Act, all land tax”.

Insertion of  
new s. 66a.

15. (1) The following section is inserted after section 66 of the principal Act:

Certificates  
in respect  
of liability  
to land tax.

66a. (1) Upon application by the purchaser of any land, or his agent, and payment of the prescribed fee, the Commissioner may issue a certificate showing—

(a) 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”);

and

(b) the amount (if any) of the differential tax to which any person will become liable upon vesting of the land in the purchaser.

(2) Where the Commissioner is unable to calculate exactly either or both of the amounts referred to in subsection (1), he may make estimates of that amount or those amounts.

(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 amounts referred to in subsection (1) shall relate to the whole of the land comprised in the assessment.

(4) Where—

(a) the amounts (if any) stated in a certificate given under this section are paid within a period specified in the certificate;

or

(b) the certificate indicates that no amounts are or will be payable, the purchaser and his successors in title shall be released from any liability to land tax that accrued in respect of the land before the relevant date or by reason of vesting of the land in the purchaser, and no such liability shall be or remain a charge upon the land after it becomes vested in the purchaser.

(2) This section shall come into operation on a day to be fixed by proclamation.

16. Section 68 of the principal Act is amended by striking out subsections (2), (3) and (4) and substituting the following subsections:

Amendment of  
s. 68—  
Alteration to  
valuations or  
assessments  
of tax.

(2) Subject to the provisions of this section, the Commissioner may, of his own motion or upon an application received from a taxpayer, amend any assessment of tax by making such alterations in or additions to the assessment as he thinks necessary to ensure its completeness and accuracy.

(3) An amendment may be made under this section—

(a) where an application by a taxpayer under this section is made within three years after the service of notice of the assessment or an amendment to the assessment and the taxpayer has supplied to the Commissioner within that period or such further period as the Commissioner may allow all information required for the purpose of deciding the application—at any time;

(b) where the Commissioner is of the opinion that a taxpayer has attempted to evade the payment of land tax—at any time;

(c) in any other case—within three years after the service of notice of the assessment or of an amendment to the assessment.

(4) Where an amendment to an assessment has been made in accordance with this section and a period of more than three years has elapsed since the service of notice of the original assessment any further amendment of the assessment shall, subject to the provisions of this section, be limited to the matter the subject of the prior amendment.

(5) Where the amendment to an assessment has the effect of imposing any fresh liability, or increasing an existing liability, the taxpayer shall be liable to pay the difference between the tax that he has paid (if any) and the tax that he ought to have paid according to the amended assessment.

(6) Where an alteration in an assessment has the effect of reducing the taxpayer's liability the Commissioner shall refund any tax overpaid.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor