



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 62 of 1986

An Act to amend the Land Tax Act, 1936.

[Assented to 6 November 1986]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the “Land Tax Act Amendment Act, 1986”. Short title.

(2) The Land Tax Act, 1936, is in this Act referred to as “the principal Act”.

2. (1) Subject to subsection (2), this Act shall be deemed to have come into operation at midnight on 30 June, 1986. Commencement.

(2) Section 7 (and the schedule) shall come into operation on a day to be fixed by proclamation.

3. Section 10 of the principal Act is amended by striking out paragraph (i) of subsection (1) and substituting the following paragraphs: Amendment of s. 10—
Exemption from land tax.

(i) 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;

(ia) 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;

- (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;
 - (iii) an association of ex-servicemen or of dependants of ex-servicemen that holds the land for the social or recreational purposes of its members;
 - (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;
 - (v) an association that holds the land wholly or mainly for the recreation of the local community;
 - (vi) an association that holds the land for the purpose of agricultural shows, and exhibitions of a similar nature;
 - (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;

Repeal of ss. 11 and 11a and substitution of new section.

4. Sections 11 and 11a of the principal Act are repealed and the following section is substituted:

Taxable value of land.

11. (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 the thirtieth day of 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.

Repeal of s. 12 and substitution of new section.

5. Section 12 of the principal Act is repealed and the following section is substituted:

Scale of land tax.

12. (1) Subject to this section, land tax is calculated in accordance with the following table:

Taxable Value of Land Subject to Tax	Amount of Tax
Not exceeding \$60 000	Nil
Exceeding \$60 000 but not exceeding \$80 000	4c for each \$10 over \$60 000
Exceeding \$80 000 but not exceeding \$120 000	\$80 plus 10c for each \$10 over \$80 000
Exceeding \$120 000 but not exceeding \$160 000	\$480 plus 15c for each \$10 over \$120 000
Exceeding \$160 000 but not exceeding \$200 000	\$1 080 plus 20c for each \$10 over \$160 000
Exceeding \$200 000	\$1 880 plus 24c for each \$10 over \$200 000.

Where the taxpayer owns land in the metropolitan area with a taxable value, or aggregate taxable value, in excess of \$200 000, land tax in respect of that land is augmented by an additional levy of 0.5c for each \$10 over \$200 000.

(2) For the purposes of the above table, if the taxable value of land is not exactly divisible into multiples of \$10, any remainder is treated as if it were a further multiple of \$10.

(3) 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.

(4) 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.

(5) Notwithstanding the above provisions, a taxpayer is entitled to a partial remission of land tax in respect of the financial year commencing on 1 July, 1986, calculated as follows:

- (a) if the taxable value of the land in respect of which the taxpayer is liable to land tax does not exceed \$200 000, the remission is 25% of the land tax that would, but for this subsection, be payable;
- (b) if the taxable value of the land in respect of which the taxpayer is liable to land tax exceeds \$200 000, the remission is \$470 plus 10% of the land tax that would, but for this subsection, be payable on that part of the taxable value of the land that exceeds \$200 000.

6. Section 12a of the principal Act is repealed.

Repeal of s. 12a.

7. The principal Act is amended as indicated in the schedule.

Statute Law
revision
amendments.

THE SCHEDULE
Land Tax Act, 1936

Section Amended	How Amended
Section 1	Strike out "and shall come into operation on a day to be fixed by the Governor by proclamation".
Section 2	This section is repealed.
Section 3	This section is repealed.
Section 4 (1)	Delete ", and in all regulations continued in force by or made under this Act, unless inconsistent with the context" and substitute "unless the contrary intention appears".
Definition of "the Commissioner"	Delete this definition and substitute: "the Commissioner" means the Commissioner of Land Tax or any deputy of the Commissioner of Land Tax and includes any other person while performing any of the duties or functions of the Commissioner of Land Tax.
Definition of "contribution"	Delete this definition.
Definition of "contributor"	Delete this definition.
Definition of "liquidator"	Delete "the person who, whether or not appointed as liquidator, is the person" and substitute "a person who, whether or not appointed as liquidator, is".
Definition of "owner"	Delete "entitling him" from paragraph (a) and substitute "conferring a right".
Definition of "particular notice"	Delete "to the tax whereon the notice refers" and substitute "to which the notice relates".
Definition of "returns"	Delete "which are required under this Act to be furnished" and substitute "that are required to be furnished under this Act".
Definition of "Treasurer"	Delete this definition.
Section 4a	Delete this section and substitute: 4a. (1) There shall be a Commissioner of Land Tax. (2) The Commissioner shall have such staff as is necessary for the administration of this Act. (3) The Commissioner and the Commissioner's staff are Public Service employees.
	<small>The Commissioner and staff.</small>
Section 6	Delete this section.
Sections 8 and 9	Delete these sections.
Section 10 (1) (a)	Delete this paragraph and substitute: (a) land of the Crown that is not subject to— (i) a perpetual lease; or (ii) an agreement for sale or right of purchase.
Section 10 (4)	Delete "whilst so subject".
Section 10 (5)	Delete "shall be held to interfere" and substitute "interferes".
Section 10a (4)	Delete this subsection and substitute: (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).
Section 10a (5)	Delete this subsection and substitute: (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.
Section 10a (6)	Delete "on which he receives the notice" and substitute "of receipt of the notice".

Section Amended	How Amended
Section 10a (9)	Delete this subsection and substitute: (9) If an owner of land fails to comply with subsection (8), the owner is guilty of an offence. Penalty: \$500.
Section 10a (10)	Delete "but no such exemption shall be effective before the thirtieth day of June, 1980".
Section 10a (11) (a) (i)	After "his" insert "or her". After "he" insert "or she".
Section 10a (12) (c)	Delete "his".
Section 10a (12)	After "his" insert "or her".
Section 12c	Delete this section and substitute: 12c. 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 rural areas.
Section 15 (1)	Delete this subsection and substitute: (1) Subject to subsection (1a), where 2 or more persons are the owners of land, the same amount of land tax is payable in respect of that land as if only 1 person were the owner.
Section 15 (2) (a)	Delete "his" and substitute "that person's".
Section 19	Delete this section.
Section 32 (1)	Delete this subsection and substitute: (1) Subject to this Act, no land and no person assessed for land tax is relieved of a charge or liability for land 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.
Section 32 (2)	Delete ", or any part thereof,".
Section 33	Delete this section and substitute: 33. (1) Subject to this Act, the following are taxpayers in their representative capacity— (a) an agent of a person permanently or temporarily absent from the State; (b) a trustee, executor, administrator, guardian, manager or receiver. (2) Subject to this Act, a person who is a taxpayer in a representative capacity is, in respect of land that is held or managed by the person in that capacity, liable under this Act as if that person were the beneficial owner of the land.
	Taxpayers representative capacity.
Section 35 (2)	Delete this subsection and substitute: (2) A taxpayer who has paid land 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.
Sections 36, 37, 38 and 39	Delete these sections.
Section 40	Delete this section and substitute: 40. A taxpayer who pays tax in a representative capacity is entitled— (a) to recover the amount paid from those beneficially entitled to the land; or (b) to retain the amount of the payment from money that comes into his or her hands in the representative capacity.
	Indemnity to taxpayer in representative capacity.

Section Amended	How Amended
Section 41	Delete this section.
Section 42 (1)	Delete "but without prejudice to such validity as it may have in any other respect or for any other purpose".
Section 56a	Delete "to him". Delete "his" and substitute "the taxpayer's". Delete "served upon him".
Section 57	Delete "for such period as he thinks proper".
Section 58	Delete this section and substitute: 58. (1) If land tax is unpaid at the expiration of 30 days from the date on which it fell due, the amount of the land tax shall be increased by a fine of 5 per cent of the amount in arrears. (2) The Commissioner may, for any proper reason, remit a fine under this section wholly or in part.
	Fine for unpaid land tax.
Section 58a (1)	Delete "for such period as he thinks fit".
Section 58a (2)	Delete "he is".
Section 58a (4)	Delete "shall be" and substitute "is".
Section 59	Delete this section and substitute: 59. (1) If tax is in arrears, it may be recovered as a debt due to the Commissioner. (2) The taking of proceedings for the recovery of tax under subsection (1) does not prevent the Commissioner from proceeding under any other provision of this Act for the recovery of the tax. (3) If it appears from a valuation roll under the Valuation of Land Act, 1971, that the defendant in proceedings for the recovery of tax under this Act was the owner of the land in respect of which the tax was assessed, it shall be presumed in the absence of proof to the contrary that the defendant is liable to pay the tax.
	Recovery of land tax as a debt.
Section 61 (1) (a)	Delete this paragraph and substitute: (a) any person from whom money is due or may become due to a taxpayer.
Section 61 (1)	Delete "to him". Delete "on him".
Section 61 (2)	Delete this subsection and substitute: (2) A person who fails to comply with a notice under this section is guilty of an offence. Penalty: \$100.
Section 61 (4)	Delete this subsection and substitute: (4) A person making a payment under this section is entitled to indemnity from the taxpayer in respect of that payment.
Section 61 (5)	Delete "any notice given under subsection (1) of".
Section 62	Delete this section and substitute: 62. (1) If land tax is in arrears for 6 months or more, the Commissioner may have a notice published in the <i>Gazette</i> — (a) specifying the land in respect of which the tax is payable; (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.
	Notice of intention to let or sell.

Section Amended	How Amended
Sections 63 and 64	<p>(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—</p> <p>(a) let the land;</p> <p>or</p> <p>(b) apply to the Supreme Court for an order for the sale of the land.</p> <p>(3) The Supreme Court may, on an application under subsection (2) (b)—</p> <p>(a) make an order for the sale of the land; and</p> <p>(b) give directions as to how the proceeds of sale are to be dealt with.</p> <p>(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 shall be applied by the Commissioner towards the payment of the arrears of tax and the costs of proceeding under this section and any surplus shall 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.</p>
Section 65	<p>Delete these sections.</p> <p>Delete this section and substitute:</p> <p>65. Where land is unencumbered except by a liability to pay land 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 land tax.</p>
Transfer of land to the Crown.	
Section 66	<p>Delete this section and substitute:</p> <p>66. Subject to this Act, tax is, until payment, a first charge on the land subject to the tax.</p>
Land tax to be a first charge on land.	
Section 66a (4)	<p>Delete "his successors in title shall be" and substitute "the purchaser's successors in title are".</p> <p>Delete "shall be or remain" and substitute "is or remains".</p>
Section 68 (2)	<p>Delete this subsection and substitute:</p> <p>(2) Subject to this section, the Commissioner may (whether or not an application for amendment of the assessment has been made) amend an assessment of tax by making such alterations or additions as are necessary to ensure its completeness and accuracy.</p>
Section 68 (5)	<p>Delete "that he has paid (if any) and the tax that he ought to have paid according to the amended assessment" and substitute "(if any) already paid under the assessment and the tax that is to be paid according to assessment as amended".</p>
Section 68a (1)	<p>Delete "notice of the decision of the Commissioner is served personally or by post upon him" and substitute "receiving notice of the decision of the Commissioner".</p>
Sections 69, 70, 71 and 72	<p>Delete these sections.</p>
Section 73	<p>Delete this section and substitute:</p> <p>73. (1) The Commissioner or a member of the Commissioner's staff may, for the purposes of this Act—</p> <p>(a) enter premises and inspect and take extracts from, or make copies of, any books or documents in the premises that appear relevant to the assessment of land tax;</p> <p>(b) require the occupier of any land to disclose the name of the owner of the land.</p>
Powers of inspection and inquiry.	

Section Amended	How Amended
	(2) A person who— (a) hinders the Commissioner or a member of the Commissioner's staff in the exercise of powers conferred by subsection (1); or (b) refuses or fails to disclose the name of the owner of land or intentionally gives an incorrect name when required to disclose the name under subsection (1), is guilty of an offence. Penalty: \$200.
Section 74 (1), (2), (3)	Delete these subsections and substitute: (1) A local court constituted of a magistrate may, on the application of the Commissioner, summon a person— (a) to appear for examination before the court on a question relevant to the administration of this Act; or (b) to produce documents or other records before the court. (2) A person summoned to appear for examination under subsection (1) (a) is liable to answer all questions relevant to the matter under investigation put by or on behalf of the Commissioner.
Section 75 (1)	Delete this subsection and substitute: (1) The production of the <i>Gazette</i> containing— (a) a notice purporting to be published by the Commissioner under this Act; or (b) a notice of the appointment of an officer under this Act, is conclusive evidence of that publication or appointment.
Section 75 (2) (a)	Delete "he" and substitute "the Commissioner". Delete "him" and substitute "the defendant".
Section 76	Delete this section and substitute: 76. The offences constituted by this Act are summary offences.
Section 77	Delete "happening of the circumstances alleged to constitute the offence" and substitute "date on which the offence is alleged to have been committed".
Sections 78 and 79	Delete these sections.
Section 80	Delete this section and substitute: 80. (1) The Governor may make regulations for the purposes of this Act. (2) Any such regulation may impose a penalty not exceeding \$100 for breach of a regulation.
Section 81	Delete this section.
The first schedule	Delete this schedule.

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

D. B. DUNSTAN, Governor