



LAND AND INCOME TAXATION AMENDMENT

No. 55 of 1979

TABLE OF PROVISIONS

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| <p>1. Short title.</p> <p>2. Commencement.</p> <p>3. Principal Act.</p> <p>4. Amendment of section 2 of Principal Act (Interpretation).</p> <p>5. Amendment of section 21A of Principal Act (Rebates in respect of land on which dwell-</p> | <p>ing-houses are constructed and in respect of strata flats).</p> <p>6. Substitution of section 21B of Principal Act.</p> <p>21B—Rebates in respect of land owned by home-unit companies and joint owners.</p> |
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AN ACT to amend the Land and Income Taxation Act 1910 for the purpose of making further provision with respect to the allowing of rebates on certain residential properties and with respect to certain other matters.

[Royal Assent 11 December 1979]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Land and Income Taxation Amendment Act 1979*. Short title.

Commencement. **2**—This Act shall be deemed to have commenced on 1st July 1979.

Principal Act. **3**—In this Act, the *Land and Income Taxation Act 1910** is referred to as the Principal Act.

Amendment of section 2 of Principal Act (Interpretation). **4**—Section 2 (1) of the Principal Act is amended by omitting “occupation as a separate dwelling” from the definition of “flat” and substituting “separate occupation”.

Amendment of section 21A of Principal Act (Rebates in respect of land on which dwelling-houses are constructed and in respect of strata flats). **5**—(1) Section 21A (1) of the Principal Act is amended by omitting the definition of “dwelling-house” and substituting the following definition: —

“dwelling-house” means a building constructed on land in respect of which a separate valuation made in accordance with the *Land Valuation Act 1971* is in force, being a building all or part of which is designed or adapted for occupation as a separate dwelling;

(2) Section 21A of the Principal Act is further amended by omitting from subsections (2) and (3) “situated” and substituting “constructed”.

(3) Section 21A of the Principal Act is further amended by omitting subsection (4) and substituting the following subsection:—

(4) If the owner of land or a stratum flat referred to in subsection (2) is—

(a) a company or partnership; or

(b) a company or partnership jointly or in common with another person or other persons,

not being a trustee company acting in its representative capacity or a partnership acting in the capacity of a trustee, there is no entitlement to a rebate under that subsection in respect of that land or stratum flat.

* 1 Geo. V No. 47. For the Act, as amended to 1959, see the Reprint of Statutes (1826-1959), Vol 3, p. 225. Subsequently amended by No. 39 of 1960, No. 41 of 1961, No. 55 of 1963, No. 80 of 1971, No. 75 of 1973, No. 74 of 1976, No. 85 of 1977, and No. 72 of 1978.

(4) Section 21A of the Principal Act is further amended by omitting subsection (6) and substituting the following subsections:—

(6) Where a part of a dwelling-house or stratum flat is occupied in accordance with subsection (3) and another part is otherwise occupied or is used for a purpose other than the purpose of a dwelling, the entitlement to a rebate under subsection (2) shall apply only in respect of such part of the land value of the land on which the dwelling-house is constructed or, as the case may be, of the stratum flat as is determined in accordance with the formula set out in subsection (7), and land tax shall be levied and paid on the remainder of that land value to the extent that it would be leviable and payable if no part of the land or stratum flat were occupied in accordance with subsection (3).

(7) The following formula is the formula for the purpose of subsection (6):—

$$a = \frac{b}{c} \times d$$

where—

- “ a ” is the part of the land value to be determined;
- “ b ” is the total floor area of that part of the dwelling-house or stratum flat that is occupied in accordance with subsection (3);
- “ c ” is the total floor area of that dwelling-house or stratum flat; and
- “ d ” is the land value of the land on which that dwelling-house is constructed or, as the case may be, of that stratum flat.

6—Section 21B of the Principal Act is repealed and the following section is substituted:—

21B—(1) In this section—

“ home-unit company ” means a company in which all the issued shares are owned by persons each of whom has, by virtue of his being the holder of shares in the company, an exclusive right, whether under a lease or licence, to occupy a unit which forms part of a building or buildings on land that is owned by the company;

Substitution of section 21B of Principal Act.

Rebate in respect of land owned by home-unit companies and joint owners.

“ joint owners ”, in relation to land, means persons who own the land either jointly or in common, and
“ joint owner ” means one of those persons;

“ unit ” means—

(a) in relation to a building constructed on land owned by a home-unit company—a flat which a person has an exclusive right, whether under a lease or licence, to occupy by virtue of his being the holder, whether alone or jointly or in common with one or more other persons, of shares in the company; or

(b) in relation to a building constructed on land owned by 2 or more joint owners—a flat which a person has an exclusive right to occupy by virtue of his having an interest in the land as a joint owner and also of having entered into an agreement or arrangement with the other joint owner or owners whereby an exclusive right to occupy the flat is conferred on him,

but does not include a stratum flat within the meaning of section 21A.

(2) For the purpose of this section, a person shall be treated as having an exclusive right to occupy a unit notwithstanding that he may have let the unit or part of the unit to another person or that he shares the occupation of the unit with one or more other persons.

(3) Where, at the commencement of a financial year, land in respect of which a separate valuation made in accordance with the *Land Valuation Act* 1971 is in force is owned by a home-unit company or by 2 or more joint owners, and there is constructed on that land a building that contains, or buildings that comprise or contain, 2 or more units at least one of which is occupied in accordance with subsection (4), the home-unit company or, as the case may be, those joint owners are, subject to this section but notwithstanding any other provision of this Act, entitled to a rebate of an amount (if any), determined under the Act fixing the scale or scales of land tax for that year, in respect of the land tax assessed on that land for that financial year.

(4) For the purpose of subsection (3), a unit is occupied in accordance with this subsection only if—

(a) in the case of a unit forming part of a building or comprising or forming part of one of 2 or more buildings constructed on land owned by a home-unit company, it is occupied—

(i) by a shareholder of the company as his only or principal place of residence;

(ii) by the spouse or former spouse, or a parent or child, of any such shareholder as the only or principal place of residence of that spouse, former spouse, parent, or child; or

(iii) where any such shareholder is the executor, administrator, or trustee of an estate comprising or including the shares by virtue of which an exclusive right to occupy the unit is conferred—by a beneficiary or beneficiaries of the estate as his or their only or principal place of residence; or

(b) in the case of a unit forming part of a building or comprising or forming part of one of 2 or more buildings constructed on land owned by 2 or more joint owners, it is occupied—

(i) by any of those owners as his only or principal place of residence;

(ii) by the spouse or former spouse, or a parent or child, of any such owner as the only or principal place of residence of that spouse, former spouse, parent, or child; or

(iii) where any such owner is the executor, administrator, or trustee of an estate comprising or including the interest by virtue of which an exclusive right to occupy the unit is conferred—by a beneficiary or beneficiaries of the estate as his or their only or principal place of residence.

(5) If a shareholder or joint owner entitled to occupy a unit is—

(a) a company or partnership; or

(b) a company or partnership with another person or other persons,

not being a trustee company acting in its representative capacity or a partnership acting in the capacity of a trustee, the unit shall not be regarded as being occupied in accordance with subsection (4).