



TASMANIA

LAND TAX ACT 1991

No. 36 of 1991

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LAND TAX ACT 1991

No. 36 of 1991

AN ACT to prescribe the scales of land tax in respect of various classes of land for the financial year beginning 1 July 1991 and for related purposes

[Royal Assent 13 November 1991]

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:—

Short title

1—This Act may be cited as the *Land Tax Act 1991*.

Commencement

2—This Act is deemed to have commenced on 1 July 1991.

Construction

3—(1) This Act is incorporated with, and is to be read as part of, the *Land and Income Taxation Act 1910*.

(2) In this Act, the *Land and Income Taxation Act 1910** is referred to as the Principal Act.

Interpretation

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

“**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 private residence, but does not include a stratum flat or a unit;

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

“**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 to occupy, whether under a lease or licence, by virtue of holding, whether alone or jointly or in common with one or more other persons, shares in the company; or

* 1 Geo. V No. 47. For this Act, as amended to 1959, see Reprint of Statutes (1826-1959), Vol. 3, p. 225. Subsequently amended by No. 39 of 1960, No. 41 of 1961, No. 55 of 1965, No. 80 of 1971, No. 75 of 1973, No. 74 of 1976, No. 85 of 1977, No. 72 of 1978, No. 55 of 1979, Nos. 9 and 78 of 1982, No. 60 of 1983, Nos. 29 and 55 of 1984, No. 108 of 1987, No. 54 of 1989 and No. 5 of 1990.

- (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 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 that person—

but does not include a stratum flat.

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

Land tax payable in respect of land on which there is a principal residence

5—(1) Where on 1 July 1991 a dwelling-house or stratum flat is occupied as a principal residence, the amount of land tax leviable and payable for the financial year commencing on that date in respect of the land on which the dwelling-house is constructed or, the stratum flat, is, subject to this section and sections 6, 9 and 10, and to the provisions of the Principal Act, such amount as is calculated by reference to the scale of land tax specified in Schedule 1.

(2) Where on 1 July 1991 a part of a dwelling-house or stratum flat is occupied as a principal residence and another part is not so occupied and, in the case of a dwelling-house, the land on which the dwelling-house is constructed is not rural land and is not land to which subsection (5) applies, the amount of land tax leviable and payable for the financial year commencing on that date in respect of that land or, in respect of the stratum flat is the aggregate of—

- (a) the amount that would be payable as land tax under Schedule 1 if the part of the dwelling-house or stratum flat occupied as a principal residence had a separate assessed land value determined in accordance with subsection (3); and
- (b) the amount that would be payable as land tax under Schedule 3 if the part of the dwelling-house or stratum flat not so occupied had a separate assessed land value determined in accordance with subsection (4).

(3) For the purpose of subsection (2) (a), the assessed land value of the part of the dwelling-house or stratum flat occupied as a principal residence is determined in accordance with the following formula:—

$$d = \frac{e}{t} \times v$$

where—

- “d” is the assessed land value to be determined; and
- “e” is the floor area of the part of the dwelling-house or stratum flat occupied as a principal residence; and
- “t” is the total floor area of the dwelling-house or stratum flat; and
- “v” is the assessed land value of the land on which the dwelling-house is constructed or of the stratum flat.

(4) For the purposes of subsection (2) (b), the assessed land value of the part of the dwelling-house or stratum flat not occupied as a principal residence is determined in accordance with the following formula:—

$$f = \frac{g}{t} \times v$$

where—

- “f” is the assessed land value to be determined; and
- “g” is the floor area of the part of the dwelling-house or stratum flat not occupied as a principal residence; and
- “t” is the total floor area of the dwelling-house or stratum flat; and
- “v” is the assessed land value of the land on which the dwelling-house is constructed or of the stratum flat.

(5) Where on 1 July 1991—

- (a) a dwelling-house occupied as a principal residence is constructed on a parcel of land that is not rural land; and

- (b) a part of the parcel of land is used otherwise than as a dwelling-house or is used for a purpose other than a bona fide domestic purpose in connection with the use of that dwelling-house for residential purposes—

the amount of land tax leviable and payable for the financial year commencing on that date in respect of that parcel of land is the aggregate of—

- (c) the amount that would be payable as land tax under Schedule 1 if the part of the parcel of land on which the dwelling-house occupied, or the part of the dwelling-house occupied, as a principal residence is constructed, together with any part of that parcel that is used for bona fide domestic purposes in connection with the use of that dwelling-house or part of the dwelling-house for residential purposes, had a separate assessed land value determined in accordance with subsection (6); and
- (d) the amount that would be payable as land tax under Schedule 3 if that part of the parcel of land remaining after excluding that dwelling-house, or part of the dwelling-house, together with the part of the parcel used for bona fide domestic purposes as referred to in paragraph (c), had a separate assessed land value determined in accordance with subsection (7).

(6) For the purposes of subsection (5) (c), the assessed land value of the part of the parcel of land on which the dwelling-house occupied, or the part of the dwelling-house occupied, as a principal residence is constructed, together with any part of that parcel that is used for bona fide domestic purposes in connection with the use of that dwelling-house or part of the dwelling-house for residential purposes, is determined in accordance with the following formula:—

$$d = \frac{e}{f} \times v$$

where—

- “d” is the assessed land value to be determined; and
- “e” is the area of the part of the parcel of land on which the dwelling-house occupied, or the part of the dwelling-house occupied, as a principal residence is constructed, together with any part of that parcel that is used for bona fide domestic purposes in connection with the use of that dwelling-house or part of the dwelling-house for residential purposes; and

“t” is the total area of the parcel of land; and

“v” is the assessed land value of the parcel of land.

(7) For the purposes of subsection (5) (d), the assessed land value of the part of the parcel of land remaining after excluding the dwelling-house, or the part of the dwelling-house, together with the part of the parcel used for bona fide domestic purposes as referred to in subsection (5) (c), is determined in accordance with the following formula:—

$$f = \frac{g}{t} \times v$$

where—

“f” is the assessed land value to be determined; and

“g” is the area of that part of the parcel of land remaining after excluding the dwelling-house, or part of the dwelling-house, together with the part of the parcel used for bona fide domestic purposes as referred to in subsection (5) (c); and

“t” is the total area of the parcel of land; and

“v” is the assessed land value of the parcel of land.

(8) For the purpose of this section and section 6, a dwelling-house constructed on land that is referred to in subsection (1), or a stratum flat that is so referred to, is occupied as a principal residence only if it is occupied—

- (a) by the owner, or, in the case of land or a stratum flat owned jointly or in common, by one or more of the owners, as his or her, or their, only or principal place of residence; or
- (b) by the spouse or former spouse, or a parent or child, of the owner, or, in the case of land or a stratum flat owned jointly or in common, of one of the owners, as the only or principal place of residence of that spouse, former spouse, parent or child; or
- (c) where the owner is the executor, administrator or trustee of an estate comprising or including the land or flat, by a beneficiary or beneficiaries of the estate as his or her, or their, only or principal place of residence.

Land tax payable in respect of rural land

6—(1) Where on 1 July 1991 land is rural land, the amount of land tax leviable and payable for the financial year commencing on that date in respect of that land is, subject to subsection (2) and sections 9 and 10, and to the provisions of the Principal Act, such amount as is calculated by reference to the scale of land tax specified in Schedule 2.

(2) Where on 1 July 1991 a dwelling-house was constructed on land that was rural land, the amount of land tax leviable and payable for the financial year beginning on that date in respect of that land is assessed by reference to the scale of land tax specified in Schedule 2 notwithstanding that, but for this subsection, the dwelling-house could be treated as the principal residence of the owner of that land.

Land tax payable by other owners

7—Where on 1 July 1991 land is land to which sections 5, 6 and 8 do not apply, the amount of land tax leviable and payable for the financial year commencing on that date in respect of that land is, subject to section 10 and to the provisions of the Principal Act, such amount as is calculated by reference to the scale of land tax specified in Schedule 3.

Land tax payable by home-unit company and certain joint owners

8—(1) Where on 1 July 1991—

(a) 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

(b) there is constructed on that land a building that contains, or buildings that comprise or contain, 2 or more units—

the amount of land tax leviable and payable for the financial year commencing on that date in respect of that land is, subject to sections 9 and 10 and to the provisions of the Principal Act, the aggregate of the amounts determined in respect of all units in that building or those buildings in accordance with subsections (2), (3) and (4) in so far as those subsections are applicable to those units.

(2) In relation to a unit which is occupied wholly as a principal residence, the amount to be determined in respect of the unit for the purposes of subsection (1) is the amount that would be payable as land tax under Schedule 1 if the unit had an assessed land value of an amount determined in accordance with the following formula:—

$$a = \frac{b}{t} \times v$$

where—

- “a” is the assessed land value to be determined; and
- “b” is the floor area of that unit; and
- “t” is the total floor area of all units in or comprising the building or buildings constructed on the land concerned; and
- “v” is the assessed land value of that land.

(3) In relation to a unit, no part of which is occupied as a principal residence, the amount to be determined in respect of the unit for the purposes of subsection (1) is the amount that would be payable under Schedule 3 if the unit had an assessed land value of an amount determined in accordance with the following formula:—

$$a = \frac{b}{t} \times v$$

where—

- “a” is the assessed land value to be determined; and
- “b” is the floor area of the unit; and
- “t” is the total floor area of all units in or comprising the building or buildings constructed on the land concerned; and
- “v” is the assessed land value of that land.

(4) In relation to a unit, a part of which is occupied as a principal residence and another part of which is not so occupied, the amount to be determined in respect of the unit for the purposes of subsection (1) is the aggregate of—

- (a) the amount that would be payable as land tax under Schedule 1 if the part of the unit occupied as a principal residence had a separate assessed land value determined in accordance with subsection (5); and

(b) the amount that would be payable as land tax under Schedule 3 if the part of the unit not so occupied had a separate assessed land value determined in accordance with subsection (6).

(5) For the purposes of subsection (4) (a), the assessed land value of the part of the unit occupied as a principal residence is determined in accordance with the following formula:—

$$d = \frac{e}{t} \times v$$

where—

“d” is the assessed land value to be determined; and

“e” is the floor area of that part of the unit; and

“t” is the total floor area of all units in or comprising the building or buildings constructed on the land concerned; and

“v” is the assessed land value of that land.

(6) For the purposes of subsection (4) (b), the assessed land value of the part of the unit not occupied as a principal residence is determined in accordance with the following formula:—

$$f = \frac{g}{t} \times v$$

where—

“f” is the assessed land value to be determined; and

“g” is the floor area of that part of the unit; and

“t” is the total floor area of all units in or comprising the building or buildings constructed on the land concerned; and

“v” is the assessed land value of that land.

(7) For the purpose of this section, a unit is occupied as a principal residence 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 that shareholder’s only or principal place of residence; or

- (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 her, 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 or her only or principal place of residence; or
 - (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 her, or their, only or principal place of residence.

Onus of establishing certain facts to be on owner

9—(1) The onus of establishing to the satisfaction of the Commissioner that, on 1 July 1991—

- (a) a dwelling-house or part of a dwelling-house constructed on a particular parcel of land or a stratum flat or part of a stratum flat was a principal residence within the meaning of section 5; or

(b) a particular parcel of land was rural land—

is, for the purposes of this Act, on the owner of the land or stratum flat, and, unless and until the owner of the land or stratum flat establishes that fact to the satisfaction of the Commissioner, the Commissioner may, notwithstanding any other provision of this Act, assess the land tax payable in respect of that land or stratum flat as if the dwelling-house or part of the dwelling-house or the stratum flat or part of the stratum flat were not occupied as a principal residence or, as the case may be, as if the land were not rural land.

(2) Where the Commissioner has assessed a parcel of land or a stratum flat in accordance with subsection (1) and—

(a) the owner of the land subsequently establishes to the satisfaction of the Commissioner that a dwelling-house or part of a dwelling-house constructed on the parcel of land or stratum flat was, on 1 July 1991, occupied as a principal residence within the meaning of section 5; or

(b) the owner of the land so establishes that the land was, on that date, rural land—

that owner is entitled to a rebate of land tax, or, if the land tax has already been paid, to a refund of land tax, of an amount equal to the difference between the amount so assessed and the amount leviable and payable under this Act if the owner of the land or stratum flat had, before that assessment was made, established that the dwelling-house or a part of the dwelling-house constructed on the land or stratum flat was a principal residence or, that the land was rural land.

(3) The onus of establishing to the satisfaction of the Commissioner that, on 1 July 1991—

(a) land was land to which section 8 applied; or

(b) any particular unit or a part of any particular unit was occupied as a principal residence within the meaning of that section—

is, for the purposes of this Act, on the company or joint owners, and, unless and until the company establishes or the joint owners establish that fact, the Commissioner may assess the land tax payable in respect of the land on which the building is, or the buildings are, constructed as if the land were not land to which section 8 applied on that date or as if the unit or part of the unit were not occupied as a principal residence on that date.

(4) Where the Commissioner has assessed a parcel of land in accordance with subsection (3) and the company or joint owners concerned subsequently establish to the satisfaction of the Commissioner the relevant fact as provided by that subsection, that company is, or those owners are, entitled to a rebate of land tax, or, if the land tax has already been paid, to a refund of land tax, of an amount equal to the difference between the amount so assessed and the amount leviable and payable under this Act if the company or joint owners had, before that assessment was made, established that fact.

Adjustment of land tax

10—Where, for the purposes of the Principal Act, the amount of land tax assessed in respect of a person for the financial year commencing on 1 July 1991 is an amount which is not exactly divisible by 10 and a number of cents remains after making such a division, the amount of land tax payable by that person is, notwithstanding that assessment—

- (a) if that number does not exceed 5—the amount as determined less that number of cents; or
- (b) if that number exceeds 5—the amount exactly divisible by 10 next greater than the amount so determined.

Validity of Act

11—Notwithstanding section 41 of the *Constitution Act 1934*, this Act is valid and has effect.

SCHEDULE 1

Sections 5 and 8

**SCALE OF LAND TAX IN RESPECT OF LAND ON WHICH THERE IS
A PRINCIPAL RESIDENCE**

Assessed land value of land	Amounts and rates of land tax
Assessed land value not exceeding \$1 000	NIL
Assessed land value exceeding \$1 000, but not exceeding \$15 000	\$25
Assessed land value exceeding \$15 000, but not exceeding \$35 000	\$25 and 0·2 cents for each dollar of the assessed land value in excess of \$15 000
Assessed land value exceeding \$35 000, but not exceeding \$50 000	\$65 and 0·3 cents for each dollar of the assessed land value in excess of \$35 000
Assessed land value exceeding \$50 000, but not exceeding \$65 000	\$110 and 0·4 cents for each dollar of the assessed land value in excess of \$50 000
Assessed land value exceeding \$65 000	\$170

SCHEDULE 2

Section 6

SCALE OF LAND TAX IN RESPECT OF RURAL LAND

Assessed land value of land	Amounts and rates of land tax
Assessed land value not exceeding \$1 000	NIL
Assessed land value exceeding \$1 000, but not exceeding \$15 000	\$25
Assessed land value exceeding \$15 000, but not exceeding \$100 000	\$25 and 0·2 cents for each dollar of the assessed land value in excess of \$15 000
Assessed land value exceeding \$100 000, but not exceeding \$250 000	\$195 and 0·3 cents for each dollar of the assessed land value in excess of \$100 000
Assessed land value exceeding \$250 000	\$645

SCHEDULE 3

Sections 5, 7 and 8

GENERAL SCALE OF LAND TAX

Assessed land value of land	Amounts and rates of land tax
Assessed land value not exceeding \$1 000	NIL
Assessed land value exceeding \$1 000, but not exceeding \$15 000	\$25
Assessed land value exceeding \$15 000, but not exceeding \$40 000	\$25 and 0.75 cents for each dollar of the assessed land value in excess of \$15 000
Assessed land value exceeding \$40 000, but not exceeding \$85 000	\$212.50 and 1.0 cents for each dollar of the assessed land value in excess of \$40 000
Assessed land value exceeding \$85 000, but not exceeding \$125 000	\$662.50 and 1.25 cents for each dollar of the assessed land value in excess of \$85 000
Assessed land value exceeding \$125 000, but not exceeding \$170 000	\$1 162.50 and 1.50 cents for each dollar of the assessed land value in excess of \$125 000
Assessed land value exceeding \$170 000, but not exceeding \$210 000	\$1 837.50 and 1.75 cents for each dollar of the assessed land value in excess of \$170 000
Assessed land value exceeding \$210 000, but not exceeding \$250 000	\$2 537.50 and 2.0 cents for each dollar of the assessed land value in excess of \$210 000
Assessed land value exceeding \$250 000, but not exceeding \$500 000	\$3 337.50 and 2.25 cents for each dollar of the assessed land value in excess of \$250 000
Assessed land value exceeding \$500 000	\$8 962.50 and 2.5 cents for each dollar of the assessed land value in excess of \$500 000

