

**2007**

**The Legislative Assembly for  
Australian Capital Territory**

**Land Tax (Interest and Penalty) Amendment Bill 2007**

**Explanatory Statement**

**Circulated by authority of  
Treasurer  
Jon Stanhope MLA**

# Land Tax (Interest and Penalty) Amendment Bill 2007

## Summary

This Bill amends the *Land Tax Act 2004* and the *Taxation Administration Act 1999*.

## Overview

The *Land Tax Act 2004* is amended to insert a new section 19A to reinforce the original intention of the legislation regarding the levying of interest and penalty tax where an owner fails to notify the commissioner that their property is rented.

Section 14 of the *Land Tax Act 2004* requires an owner of a property to notify the commissioner within 30 days if their property becomes rented. Where a taxpayer fails to notify the commissioner, section 19A will enable interest to be levied on the amount of land tax from 30 days after the start of the quarter for which the tax is imposed.

Division 5.2 of the *Taxation Administration Act 1999* applies penalty tax in the event of a tax default. Under section 19A, the failure to comply with section 14 of the *Land Tax Act 2004* will be taken to be a tax default and as such, attract penalty tax under the *Taxation Administration Act 1999*.

This Bill also makes a minor amendment to the *Taxation Administration Act 1999* to include a note under section 30 (1), as a cross reference to section 19A of the *Land Tax Act 2004*. Effectively, this note will highlight within the penalty tax provisions of the *Taxation Administration Act 1999* that a failure to comply with section 14 of the *Land Tax Act 2004* is considered to be a tax default for the purposes of penalty tax.



## Details of the Land Tax (Interest and Penalty) Amendment Bill 2007

### Clause 1 - Name of Act

This Act is the *Land Tax (Interest and Penalty) Amendment Act 2007*.

### Clause 2 – Commencement

This Act commences on the day after its notification.

### Clause 3 – Legislation amended

This Act amends the *Land Tax Act 2004* and the *Taxation Administration Act 1999*.

### Clause 4 – New section 19A

This is a new provision being inserted. Subsection (1) restricts the application of section 19A to where land tax is imposed on rented residential land and where the owner of that land, fails under section 14 of the *Land Tax Act 2004* to notify the Commissioner that the property is rented. An obligation to notify the Commissioner applies regardless of whether the person purchases a rented property or the property they own becomes rented.

Subsection (2) specifies that where subsection (1) applies, an owner is liable to pay interest, which will be applied 30 days after the start of the quarter for which the tax is imposed. Land tax is levied on a quarterly basis and liability starts from the commencement of the 1<sup>st</sup> quarter after the property becomes rented.

Subsections (3) and (4) specify how the interest is to be calculated. Interest will be applied on a monthly basis on the 1<sup>st</sup> day of the month at the interest rate applying to that day and on the total amount of land tax payable at that time. The interest is applied for a whole month regardless of whether the land tax is payable for part of a month. This methodology for calculating interest accords with how interest is currently applied to unpaid overdue land tax under the *Land Tax Act 2004*.

Subsection (5) sets out how the penalty tax provisions in division 5.2 of the *Taxation Administration Act 1999* relate to section 19A. Division 5.2 pertains to penalty tax in relation to certain tax defaults and for the purposes of section 19A, an owner's failure to comply with section 14 of the *Land Tax Act 2004* is taken to be a tax default. Tax defaults are otherwise defined in the dictionary in the *Taxation Administration Act 1999* as a failure by a taxpayer to pay, in accordance with a tax law, the whole or part of tax that the taxpayer is liable to pay.

Under division 5.2, penalty tax is not payable in relation to interest under division 5.1 of the *Taxation Administration Act 1999*. Subsection (5) provides that a reference to interest under division 5.1 is taken as if it were a reference to interest under section 19A of the *Land Tax Act 2004* and as such, interest in relation to an owner's failure to comply with section 14 of the *Land Tax Act 2004* is not subject to penalty tax.

Subsection (5) also references an amount of tax unpaid as if it were an amount of land tax payable that arises from non-disclosure and as such, subject to penalty tax.

Subsection (6) removes any ambiguity regarding when interest and penalty tax can be charged by specifying that section 19A applies to land tax levied before or after the commencement of the provisions.

**Clause 5 – Taxation Administration Act 1999, section 30 (1), new note**

Section 30 (1) of the *Taxation Administration Act 1999* provides that a taxpayer is liable to pay penalty tax if a tax default happens. This clause inserts a note at section 30 (1) as a cross reference to the new land tax provision, to indicate that a failure to comply with section 14 of the *Land Tax Act 2004* is taken to be considered a tax default.

