



Australian Capital Territory

Rates and Land Tax Legislation Amendment Act 2009

A2009-52

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Rates and Land Tax Legislation Amendment Act 2009

A2009-52

An Act to amend legislation in relation to rates and land tax, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Rates and Land Tax Legislation Amendment Act 2009*.

2 Commencement

This Act commences on 1 January 2010.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Part 2 Land Tax Act 2004

3 Legislation amended—pt 2

This part amends the *Land Tax Act 2004*.

4 Section 14

substitute

14 Commissioner to be told if residential land rented

- (1) This section applies in relation to a parcel of land that—
 - (a) is leased for residential purposes; and
 - (b) is rented by a tenant.
- (2) A relevant person must tell the commissioner, in writing—
 - (a) that the parcel is rented; and
 - (b) when the rental began.

Note 1 If a form is approved under the *Taxation Administration Act 1999*, s 139C, the form must be used.

Note 2 It is an offence to fail to notify the commissioner under this section (see *Taxation Administration Act 1999*, s 67 (2)).

Note 3 It is also an offence to knowingly avoid paying, or disclosing a liability to pay, part or all of an amount of tax (see *Taxation Administration Act 1999*, s 65 (1)).

- (3) The relevant person must tell the commissioner the information mentioned in subsection (2) not later than 30 days after—
 - (a) if there is a change of ownership of the parcel—the day the ownership changes; or
 - (b) in any other case—the day the rental begins.

(4) This section does not apply if the owner of the parcel of land is a corporation.

(5) In this section:

relevant person means—

- (a) the owner of the parcel of land; or
- (b) if the owner has authorised an agent to act on the owner's behalf in relation to the rental of the parcel—the agent.

Examples—agent

accountant, real estate agent, solicitor

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

5 Dictionary, definition of *owner*, new paragraph (aa)

insert

- (aa) if the registered proprietor has sold the interest to another person (the *new owner*) and the new owner is in possession of the parcel but not yet registered as the proprietor—the new owner; or

6 Dictionary, definition of *unit owner*

substitute

unit owner means—

- (a) the registered proprietor of the lease of a unit; or
- (b) if the registered proprietor has sold the interest to another person (the *new owner*) and the new owner is in possession of the unit but not yet registered as the proprietor—the new owner.

Part 3 Land Titles (Unit Titles) Act 1970

7 Legislation amended—pt 3

This part amends the *Land Titles (Unit Titles) Act 1970*.

8 Registration of units plan New section 7 (1) (e)

insert

- (e) a certificate issued by the commissioner for revenue certifying that—
- (i) no rates or other amounts assessed as payable under the *Rates Act 2004* are outstanding for the financial year in which the units plan is to be registered; and
 - (ii) no land tax or other amounts assessed as payable under the *Land Tax Act 2004* are outstanding for the quarter in which the units plan is to be registered.

Note A person may apply for a certificate of land tax and other charges under the *Land Tax Act 2004*, s 41 and a certificate of rates and other charges under the *Rates Act 2004*, s 76.

Part 4 Rates Act 2004

9 Legislation amended—pt 4

This part amends the *Rates Act 2004*.

10 Dictionary Section 3, note 1

omit

For example, the signpost definition '*unit owner*—see Unit Titles Act, dictionary' means that the term 'unit owner' is defined in that dictionary and the definition applies to this Act.

substitute

For example, the signpost definition '*land tax*—see the *Land Tax Act 2004*, dictionary.' means that the term 'land tax' is defined in that dictionary and the definition applies to this Act.

11 Meaning of *unimproved value* Section 6 (3), definition of *prescribed date*, paragraph (c)

substitute

- (c) for a redetermination of the unimproved value of the parcel under section 11 (Redetermination—error) or section 11A (Redetermination—change of circumstances)—the date the redetermination begins to apply to the parcel.

12 First determination of *unimproved value* Section 9 (3)

omit

rates

substitute

a parcel of land

13 Section 9 (4)

omit

rates

substitute

the parcel

**14 Annual redeterminations
Section 10 (2)**

omit

rates

substitute

the parcel

15 Section 11

substitute

11 Redetermination—error

- (1) This section applies if an error was made in relation to a determination of the unimproved value of a parcel of land as at a particular date.
- (2) The commissioner may redetermine the unimproved value of the parcel as at that date.

- (3) The redetermination applies to the parcel for the period—
- (a) beginning on 1 July in the calendar year in which the relevant date when the redetermination is made falls; and
 - (b) ending on 30 June in the next calendar year.

Example

A clerical error was made in relation to the determination of Branko's parcel of land as at 1 January 2009, resulting in the unimproved value of the land being incorrectly determined as \$220 000. The unimproved value of parcel was correctly determined as at 1 January 2007 as \$230 000 and 1 January 2008 as \$240 000.

The average unimproved value of the land for the year beginning 1 July 2009 was calculated as—

$$(\$230\,000 + \$240\,000 + \$220\,000)/3 = \$230\,000$$

After the clerical error was corrected, the unimproved value of the parcel was correctly redetermined as at 1 January 2009 as \$250 000.

The average unimproved value of the land was recalculated as (the *recalculated AUV*)—

$$(\$230\,000 + \$240\,000 + \$250\,000)/3 = \$240\,000$$

The recalculated AUV applies for the period starting on 1 July 2009 and ending on 30 June 2010.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) In this section:
- error**, in relation to a determination, includes—
- (a) an error in making a valuation on which the determination is based; and
 - (b) the duplication of an error in relation to an earlier determination.

11A Redetermination—change of circumstances

- (1) This section applies if a change of circumstances happens in relation to a parcel of land that affects the unimproved value of the land.
- (2) The commissioner may redetermine the unimproved value of the parcel as at a date if the unimproved value as at that date is used in calculating the average unimproved value of the land for the year in which the change of circumstances happens.
- (3) The commissioner may also redetermine the unimproved value of the parcel as at a later date if a determination of the unimproved value as at that date did not take the change of circumstances into account.
- (4) A redetermination under subsection (2) applies to the parcel for the period—
 - (a) beginning on the day the change of circumstances happened; and
 - (b) ending on 30 June in the next calendar year.
- (5) A redetermination under subsection (3) applies to the parcel for the period—
 - (a) beginning on 1 July in the calendar year in which the relevant date when the redetermination is made falls; and
 - (b) ending on 30 June in the next calendar year.

Example—s (4)

On 1 September 2009, Mungo obtained development approval for an authorised use of Mungo's parcel of land (the *change of circumstances*) that increases the unimproved value of the parcel. Before the change of circumstances, the commissioner determined the unimproved value of the land as at 1 January 2007 as \$260 000, 1 January 2008 as \$280 000 and 1 January 2009 as \$300 000.

The average unimproved value (the *original AUV*) of the land for the year beginning 1 July 2009 was calculated as—

$(\$260\,000 + \$280\,000 + \$300\,000)/3 = \$280\,000$

After the change of circumstances, the commissioner redetermined the unimproved value of the land as at 1 January 2007 as \$320 000, 1 January 2008 as \$340 000 and 1 January 2009 as \$360 000.

The average unimproved value (the *recalculated AUV*) of the land was recalculated as:

$$(\$320\,000 + \$340\,000 + \$360\,000)/3 = \$340\,000$$

The original AUV applies for the period starting on 1 July 2009 and ending on 31 August 2009, and the recalculated AUV applies for the period starting on 1 September 2009 and ending on 30 June 2010.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

16 Dictionary, definition of *owner*, new paragraph (ia)

insert

- (ia) if the registered proprietor has sold the interest to another person (the *new owner*) and the new owner is in possession of the parcel but not yet registered as the proprietor—the new owner; or

17 Dictionary, definition of *unit owner*

substitute

unit owner means—

- (a) the registered proprietor of the lease of a unit; or
- (b) if the registered proprietor has sold the interest to another person (the *new owner*) and the new owner is in possession of the unit but not yet registered as the proprietor—the new owner.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 19 November 2009.

2 Notification

Notified under the Legislation Act on 18 December 2009.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Rates and Land Tax Legislation Amendment Bill 2009, which was passed by the Legislative Assembly on 8 December 2009.

Clerk of the Legislative Assembly

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