



Australian Capital Territory

Revenue Legislation Amendment Act 2019

A2019-7

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Australian Capital Territory

Revenue Legislation Amendment Act 2019

A2019-7

An Act to amend legislation about revenue collection, and for other purposes

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

1 Name of Act

This Act is the *Revenue Legislation Amendment Act 2019*.

2 Commencement

- (1) This Act (other than schedule 1, amendments 1.45 and 1.46) commences on the day after its notification day.

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

- (2) Schedule 1, amendments 1.45 and 1.46 commence on 1 July 2019.

3 Legislation amended

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Betting Operations Tax Act 2018

[1.1] Section 12 (2) (b)

substitute

- (b) pay to the commissioner the amount of betting operations tax payable by the operator under section 10 (2) (b).

[1.2] Section 12 (4) (b)

omit

section 10 (1) (b)

substitute

section 10 (2) (b)

[1.3] Dictionary, definition of *gaming Act*, new paragraph (e)

insert

- (e) the *Pool Betting Act 1964*.

Part 1.2 Duties Act 1999

[1.4] Section 10 (1) (f), note

omit

[1.5] Section 51 (3)

substitute

- (3) This section applies to a declared land sublease as if it were a Crown lease.
- (4) In this section:

development lease means a Crown lease or declared land sublease that is expressed to be granted for the purpose of developing the land comprised in the lease or sublease for subdivision and resale.

[1.6] Section 75AA, definition of *home buyer concession scheme*, except note

substitute

home buyer concession scheme means a home buyer concession scheme determined under the [Taxation Administration Act](#), section 139 (Determination of amounts payable under tax laws).

[1.7] Section 115A, definition of *FS (BTGR) Act*

omit

[1.8] Section 115A, new definition of *FS (TR) Act*

insert

FS (TR) Act means the [Financial Sector \(Transfer and Restructure\) Act 1999](#) (Cwlth).

[1.9] Section 244 (1)

omit

A person

substitute

A relevant person for a dutiable transaction

[1.10] Section 244 (1) (a)

omit

a dutiable transaction

substitute

the dutiable transaction

[1.11] New section 244 (5)

insert

(5) In this section:

relevant person, for a dutiable transaction, means the transferor, transferee or mortgagee of the property the subject of the dutiable transaction.

[1.12] Dictionary, definition of *FS (BTGR) Act*

omit

[1.13] Dictionary, new definition of *FS (TR) Act*

insert

FS (TR) Act, for part 3.6 (Voluntary transfers under Financial Sector (Transfer and Restructure) Act 1999 (Cwlth))—see section 115A.

[1.14] Further amendments, mentions of *Financial Sector (Business Transfer and Group Restructure) Act 1999 (Cwlth)*

omit

Financial Sector (Business Transfer and Group Restructure) Act 1999
(Cwlth)

substitute

Financial Sector (Transfer and Restructure) Act 1999 (Cwlth)

in

- part 3.6 heading
- dictionary, definitions of

asset

business

receiving body

voluntary transfer

[1.15] Further amendments, mentions of *FS (BTGR) Act*

omit

[FS \(BTGR\) Act](#)

substitute

[FS \(TR\) Act](#)

in

- section 115A, definitions of

asset

business

receiving body

voluntary transfer

- section 115B (1), note
- section 115B (3) (d)

Part 1.3 Land Rent Act 2008

[1.16] Section 18 heading

substitute

18 Definitions—pt 5

[1.17] Section 18, new definition of *tax*

insert

tax means a tax under the following tax laws:

- (a) the *Duties Act 1999*;
- (b) the *Land Tax Act 2004*;
- (c) the *Rates Act 2004*.

[1.18] Section 26 (3)

substitute

- (3) In the application, the commissioner may ask that the proceeds of the sale also be applied in paying the total amount of any tax in arrears for the land rent lease, and any land rent or tax in arrears for 1 or more related parcels of land stated in the application.

[1.19] Section 26 (4) (a) (iii) (A)

omit

land tax or rates

substitute

tax

[1.20] Section 26 (4) (a) (iii) (B)

omit

, land tax or rates

substitute

or tax

[1.21] Section 26A (3)

substitute

- (3) In the application, the commissioner may ask that the proceeds of the sale also be applied in paying the total amount of any land rent or tax in arrears for the land rent lease, and any land rent or tax in arrears for 1 or more related parcels of land stated in the application.

[1.22] Section 26A (4) (a) (ii) (A) and (B)

omit

, land tax or rates

substitute

or tax

[1.23] Section 27 (6) (b) and (e)

omit

, land tax or rates

substitute

or tax

[1.24] Section 31 (1)

omit

A person

substitute

A relevant person for a land rent lease

[1.25] Section 31 (1) (a)

omit

a land rent lease

substitute

the lease

[1.26] New section 31 (5)

insert

(5) In this section:

relevant person, for a land rent lease, means—

- (a) the lessee, buyer or mortgagee of the land rent lease; or
- (b) the purchaser of a parcel of land under the land rent lease.

[1.27] Dictionary, new definition of *tax*

insert

tax, for part 5 (Land rent—payment and recovery of unpaid rent)—
see section 18.

Part 1.4 Land Tax Act 2004

[1.28] **New section 10 (1) (ba)**

after the note, insert

- (ba) a parcel of land if exempted under section 13A (Exemption for land provided for affordable community housing);

[1.29] **New section 13A**

insert

13A Exemption for land provided for affordable community housing

- (1) This section applies if an owner of a parcel of land—
- (a) enters into an agreement with a registered community housing provider; and
 - (b) makes the parcel of land available under the agreement to the provider for the purpose of affordable community housing.
- (2) The parcel of land is exempt from land tax.

Note Under s 14, the commissioner must be told within 30 days if there is a change in circumstances that would cause land tax to become payable for the parcel.

- (3) An agreement under subsection (1) must require the registered community housing provider to—
- (a) take all reasonable steps to rent the parcel of land for affordable community housing; and
 - (b) before the 1st day of a quarter, notify the commissioner whether or not the parcel of land is rented.

- (4) Subsection (2) does not apply if—
- (a) the parcel of land is not rented within 3 months after the date the parcel—
 - (i) is made available under the agreement to the registered community housing provider; or
 - (ii) if rented, stops being rented; or
 - (b) any part of the parcel of land is rented for a purpose other than affordable community housing under the agreement; or
 - (c) the owner does not satisfy the criteria determined under subsection (5) (a); or
 - (d) the parcel of land would exceed the maximum number of parcels determined under subsection (5) (b) (i); or
 - (e) the amount of land tax exempted would exceed the maximum value of land tax determined under subsection (5) (b) (ii); or
 - (f) the parcel of land would exceed the maximum number of parcels for which an owner is entitled determined under subsection (5) (b) (iii).
- (5) The Minister may determine—
- (a) criteria that an owner of a parcel of land must satisfy before being eligible for an exemption under this section; and
 - (b) 1 or more of the following:
 - (i) the maximum number of parcels of land that are entitled to an exemption under this section;
 - (ii) the maximum value of land tax that may be exempted under this section;
 - (iii) the maximum number of parcels of land for which an owner is entitled to an exemption under this section.

- (6) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (7) This section and section 10 (1) (ba) expire on 30 June 2021.

- (8) In this section:

affordable community housing means community housing that is—

- (a) rented at a rate that is less than the current market rent; and
- (b) affordable by people on low or moderate incomes.

community housing—see the [Community Housing Providers National Law \(ACT\)](#), section 4 (1).

Community Housing Providers National Law (ACT) means the provisions applying because of the [Community Housing Providers National Law \(ACT\) Act 2013](#), section 7.

registered community housing provider—see the [Community Housing Providers National Law \(ACT\)](#), section 4 (1).

[1.30] Section 17F (3), definition of *P*, except note

substitute

P—see section 17E (4).

[1.31] Section 36

substitute

36 Remission of interest

The commissioner may, if the commissioner considers it appropriate in the circumstances, remit interest payable by a person in relation to land tax by any amount.

[1.32] Section 38 (i)

omit

section 36 (1)

substitute

section 36

[1.33] Section 41 (1)

omit

A person

substitute

A relevant person for a parcel of land

[1.34] Section 41 (1) (a)

omit

a parcel of land

substitute

the parcel

[1.35] Section 41 (5), new definition of *relevant person*

insert

relevant person, for a parcel of land, means—

- (a) the owner of the parcel; or
- (b) a buyer who has entered into a contract to buy the parcel; or
- (c) a mortgagee of the parcel.

Part 1.5 Planning and Development Act 2007

[1.36] Section 272B (2) (a)

omit

duty, rates and land tax

substitute

tax

[1.37] New section 272B (4)

after the note, insert

(4) In this section:

tax means a tax under the following tax laws:

(a) division 9.6.3 (Variation of nominal rent leases);

Note An unpaid amount of tax may arise under div 9.6.3 if an amount is deferred under a deferral arrangement or due to a reconsideration, reassessment or review.

(b) the *Duties Act 1999*;

(c) the *Land Tax Act 2004*;

(d) the *Rates Act 2004*.

[1.38] Section 279AE (2)

omit

A person

substitute

A relevant person in relation to the land to which the lease variation charge applies

[1.39] New section 279AE (6)

insert

(6) In this section:

relevant person, in relation to land to which a lease variation charge applies, means—

- (a) the lessee, buyer or mortgagee of the land; or
- (b) an applicant for a development application in relation to the land, if the applicant is not the lessee.

Part 1.6 Rates Act 2004

[1.40] Section 43

substitute

43 Remission of interest

- (1) The commissioner may, if the commissioner considers it appropriate in the circumstances, remit interest payable by a person in relation to rates by any amount.
- (2) In this section:
rates includes an amount for which a person is indebted to the Territory because of a determination under division 7.2 (Deferral of rates).

[1.41] Section 76 (1)

omit

A person

substitute

A relevant person for a parcel of land

[1.42] Section 76 (1) (a)

omit

a parcel of land

substitute

the parcel

[1.43] New section 76 (5)

insert

(5) In this section:

relevant person, for a parcel of land, means—

- (a) the owner of the parcel; or
- (b) a buyer who has entered into a contract to buy the parcel; or
- (c) a mortgagee of the parcel.

Part 1.7 Taxation Administration Act 1999

[1.44] Section 29

substitute

29 Remission of interest

The commissioner may, if the commissioner considers it appropriate in the circumstances, remit interest by any amount.

Note The commissioner's decision refusing to remit interest is a commissioner-reviewable decision (see s 107, def ***commissioner-reviewable decision***), and the commissioner must give an internal review notice to the person (see s 107B).

[1.45] Section 31 (2) to (5)

substitute

- (2) The commissioner may increase the amount of penalty tax payable in relation to a tax default to 50% of the amount of tax unpaid if the commissioner is satisfied that the tax default—
 - (a) was caused wholly or partly by the taxpayer (or a person acting on behalf of the taxpayer)—
 - (i) delaying the payment of tax; or
 - (ii) delaying the provision of information required for the assessment of tax; or
 - (iii) providing information required under a tax law that is incorrect, incomplete or misleading; or
 - (b) is the taxpayer's second or subsequent tax default in relation to a tax liability, or in relation to a similar or related tax liability.
- (3) Subsection (2) applies to a tax default in the same way whether the tax default happened before or after the subsection commenced.
- (4) The commissioner may increase the amount of penalty tax payable in relation to a tax default to 75% of the amount of tax unpaid if the commissioner is satisfied that the tax default was caused wholly or partly by the intentional disregard by the taxpayer (or a person acting on behalf of the taxpayer) of a tax law.

[1.46] Table 34, items 3 and 4

substitute

3	tax default	25%	5%	20%
4	<ul style="list-style-type: none">• delayed payment of tax• delayed provision of information• provided incorrect, incomplete or misleading information• second or subsequent tax default	50%	10%	40%

[1.47] Section 36

omit

, of not less than 14 days, specified

substitute

stated

[1.48] Section 37

substitute

37 Remission of penalty tax

The commissioner may, if the commissioner considers it appropriate in the circumstances, remit penalty tax by any amount.

Note The commissioner's decision refusing to remit penalty tax payable by a person is an internally reviewable decision (see s 107, def ***internally reviewable decision***), and the commissioner must give an internal review notice to the person (see s 107B).

[1.49] Division 7.3 heading

substitute

Division 7.3 Tax in arrears—recovery measures

[1.50] Section 56H (2)

substitute

- (2) The charge takes priority over a sale (other than as provided under subsection (4)), conveyance, transfer, mortgage, charge, lien or encumbrance in relation to the parcel.
- (2A) The commissioner may notify a mortgagee of the parcel or credit provider of the owner of the parcel, about the tax payable (the *tax debt*) by the owner (the *debtor*), the charge and the effect of subsection (2).
- (2B) However, the commissioner may notify a mortgagee or credit provider only if—
 - (a) the commissioner has registered the charge on the parcel under the *Land Titles Act 1925*; and
 - (b) the tax debt is in arrears; and
 - (c) the tax debt is more than—
 - (i) \$2 000; or
 - (ii) another amount determined by the Minister; and
 - (d) the commissioner has—
 - (i) taken reasonable steps to make arrangements for the debtor to pay the tax debt; and
 - (ii) notified the debtor, in writing, that the mortgagee or credit provider will be notified under subsection (2A) not earlier than 28 days after the date of the notice to the debtor.

- (2C) A determination under subsection (2B) (c) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2D) If the commissioner notifies the mortgagee or credit provider under subsection (2A), the commissioner must give a copy of the notice to the debtor.

[1.51] Section 56H (3) (a) (iv)

after

section 279AE

insert

(Certificate of lease variation charge and other amounts)

[1.52] New section 56H (4)

insert

- (4) The charge ends on the earlier of the following:
- (a) the commissioner applies under the [Land Titles Act 1925](#) to remove the charge;
 - (b) the sale or disposition of the parcel with the commissioner's consent.

[1.53] New section 56HA

insert

56HA Recovery of tax from mortgagee

- (1) This section applies if—
 - (a) a mortgagee of a parcel of land has been notified about a tax debt under section 56H (2A); and
 - (b) the tax debt has been in arrears for at least 1 year.
- (2) The commissioner must, in writing, notify the debtor that—
 - (a) the tax debt is in arrears; and
 - (b) if the tax debt is not paid within 90 days after the date of the notice, the tax debt will be recovered from the mortgagee of the parcel.
- (3) If the tax debt is not paid within the 90-day period, the commissioner may, by written notice, require the mortgagee of the parcel to pay the tax debt for the debtor.
- (4) However, before recovering the tax debt from the mortgagee, the commissioner must be satisfied that the recovery is reasonable in the circumstances including, from the information available, whether the recovery is likely to cause substantial hardship to the debtor or other people.

Example

partner or dependent children occupying the parcel as their principal place of residence

- (5) If the commissioner notifies the mortgagee of the parcel under subsection (3), the commissioner must give a copy of the notice to the debtor.

- (6) The tax debt must be paid to the commissioner on the later of the following:
 - (a) receipt of the notice;
 - (b) the date stated in the notice.
- (7) If the mortgagee pays the tax debt for the debtor—
 - (a) the mortgagee may recover the tax debt from the debtor as a debt; and
 - (b) the tax debt is taken to be secured by the mortgage in addition to any other amount secured by it.
- (8) In this section:
 - debtor*—see section 56H (2A).
 - tax debt*—see section 56H (2A).

[1.54] Section 56J (12), definition of *related*, paragraph (b)

omit

section 56H

substitute

section 56I

[1.55] Section 56K (1)

omit 1st mention of

section 56I

substitute

section 56J

[1.56] New sections 56L to 56N

in division 7.3, insert

56L Registration of charge on land

- (1) This section applies if—
 - (a) a person (the *debtor*) is liable to pay an amount of tax (a *tax debt*) that is more than—
 - (i) \$2 000; or
 - (ii) another amount determined by the Minister; and
 - (b) the tax debt is in arrears; and
 - (c) the debtor is the owner of 1 or more parcels of land, either solely or jointly with another person (the *joint owner*).
- (2) A determination under subsection (1) (a) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).
- (3) The commissioner may apply to register a charge for the tax debt under the [Land Titles Act 1925](#) on 1 of the parcels.
- (4) The application must identify the parcel of land subject to the charge.
- (5) However, the commissioner may register the charge only if—
 - (a) the commissioner has—
 - (i) taken reasonable steps to make arrangements for the debtor to pay the tax debt; and

- (ii) if the charge is to be registered for a jointly-owned parcel—considered from the information available whether the registration is likely to cause substantial hardship to the debtor, the joint owner or other people; and

Example

partner or dependent children occupying the parcel as their principal place of residence

- (iii) notified the debtor and any joint owner, in writing, that a charge will be registered on the parcel not earlier than 28 days after the date of the notice to the debtor and joint owner.
- (6) If the commissioner registers a charge under subsection (3), the commissioner must notify the debtor and any joint owner, in writing, of the registration.

56M Registered charge on other land takes priority

- (1) This section applies if the commissioner registers a charge on a parcel of land under section 56L.
- (2) The charge takes priority over a sale (other than as provided under subsection (7)), conveyance, transfer, mortgage, charge, lien or encumbrance in relation to the parcel.
- (3) The commissioner may notify the mortgagee of the parcel or a credit provider of the debtor about the tax debt, charge and the effect of subsection (2).
- (4) However, the commissioner may notify a mortgagee or credit provider only if the commissioner has notified the debtor and any joint owner, in writing, that the mortgagee or credit provider will be notified under subsection (3) not earlier than 28 days after the date of the notice to the debtor and joint owner.
- (5) If the commissioner notifies the mortgagee or credit provider under subsection (3), the commissioner must give a copy of the notice to the debtor and any joint owner.

- (6) The charge does not have effect against an honest purchaser of the parcel of land for value if—
- (a) the purchaser had obtained a certificate under—
 - (i) for tax payable under the *Duties Act 1999*—the *Duties Act 1999*, section 244 (Certificate of duty and other charges); or
 - (ii) for tax payable under the *Land Tax Act 2004*—the *Land Tax Act 2004*, section 41 (Certificate of land tax and other charges) in relation to the parcel before the purchase; or
 - (iii) for tax payable under the *Rates Act 2004*—the *Rates Act 2004*, section 76 (Certificate of rates and other charges) in relation to the parcel before the purchase; or
 - (iv) for tax payable under the *Planning and Development Act 2007*, division 9.6.3 (Variation of nominal rent leases)—the *Planning and Development Act 2007*, section 279AE (Certificate of lease variation charge and other amounts) in relation to the parcel before the purchase; and
 - (b) at the time of purchase, the purchaser did not have notice of liability under the charge.
- (7) The charge ends on the earlier of the following:
- (a) the commissioner applies under the *Land Titles Act 1925* to remove the charge;
 - (b) the sale or disposition of the parcel of land with the commissioner's consent.
- (8) In this section:
- debtor**—see section 56L (1).
- joint owner**—see section 56L (1).
- tax debt**—see section 56L (1).

56N Recovery of tax from mortgagee of other land

- (1) This section applies if—
 - (a) a mortgagee of a parcel of land has been notified about a tax debt under section 56M (3); and
 - (b) the tax debt has been in arrears for at least 1 year.
- (2) The commissioner must, in writing, notify the debtor—
 - (a) that the tax debt is in arrears; and
 - (b) if the tax debt is not paid within 90 days after the date of the notice, the tax debt will be recovered from the mortgagee of the parcel.
- (3) If the tax debt is not paid within the 90-day period, the commissioner may, by written notice, require the mortgagee to pay the tax debt for the debtor.
- (4) However, before recovering the tax debt from the mortgagee, the commissioner must be satisfied that the recovery is reasonable in the circumstances including, from the information available, whether the recovery is likely to cause substantial hardship to the debtor, any joint owner or other people.

Example

partner or dependent children occupying the parcel as their principal place of residence

- (5) If the commissioner notifies the mortgagee under subsection (3), the commissioner must give a copy of the notice to the debtor and any joint owner.
- (6) The tax debt must be paid to the commissioner, on the later of the following:
 - (a) receipt of the notice;
 - (b) the date stated in the notice.

- (7) If the mortgagee pays the tax debt for the debtor—
- (a) the mortgagee may recover the tax debt from the debtor as a debt; and
 - (b) the tax debt is taken to be secured by the mortgage in addition to any other amount secured by it.
- (8) In this section:
- debtor*—see section 56L (1).
- joint owner*—see section 56L (1).
- tax debt*—see section 56L (1).

[1.57] New section 97 (aa)

insert

- (aa) if—
- (i) it is unreasonable or impracticable to obtain consent under paragraph (a); and
 - (ii) the tax officer reasonably believes that the disclosure is necessary to lessen or prevent a serious threat to a person's life, health or safety, or to public health or safety; or

[1.58] Dictionary, definitions of *owner* and *parcel*

substitute

owner, of a parcel of land, for division 7.3 (Tax in arrears—recovery measures)—see section 56G.

parcel, of land, for division 7.3 (Tax in arrears—recovery measures)—see section 56G.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 14 February 2019.

2 Notification

Notified under the [Legislation Act](#) on 27 March 2019.

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 Revenue Legislation Amendment Bill 2019, which was passed by the Legislative Assembly on 21 March 2019.

Clerk of the Legislative Assembly

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