



Australian Capital Territory

Revenue Legislation Amendment Act 2021

A2021-10

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Australian Capital Territory

Revenue Legislation Amendment Act 2021

A2021-10

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 2021*.

2 Commencement

- (1) This Act, other than amendment 1.11, 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) Amendment 1.11 commences, or is taken to have commenced, on the earlier of—
- (a) the day after this Act’s notification day; and
 - (b) 30 June 2021.

3 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Duties Act 1999

[1.1] Section 10 (1) (i)

substitute

- (i) an interest in any dutiable property mentioned in paragraphs (a) to (h), except to the extent that—
 - (i) it is, or is attributable to, an option over dutiable property;
or
 - (ii) it is an interest under a commercial lease or a sublease of a commercial lease, other than a commercial lease with premium.

[1.2] Table 16, item 1, column 2

after

dutiable property

insert

, other than dutiable property mentioned in s 10 (1) (h)

[1.3] Table 16, new item 1A

insert

1A	transfer of dutiable property mentioned in s 10 (1) (h)	when the option to purchase is granted	90 days
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[1.4] Section 73B (2)

omit

[1.5] New section 109

in part 3.4, insert

109 Disability exemption

- (1) Duty under this part is not payable by a person who acquires a land use entitlement by an allotment of shares or an issue of units if—
- (a) each of the following applies:
- (i) the person receives an NDIS amount as a participant under the *National Disability Insurance Scheme Act 2013* (Cwlth) or someone else receives the NDIS amount on the person's behalf;
 - (ii) the person receives or holds 1 of the following and has done so for at least 1 year immediately before the date of the acquisition of the land use entitlement:
 - (A) an age pension under the *Social Security Act 1991* (Cwlth);
 - (B) an age service pension under the *Veterans' Entitlements Act 1986* (Cwlth);
 - (C) a disability support pension under the *Social Security Act 1991* (Cwlth);
 - (D) a current gold card;
 - (iii) the commissioner is satisfied that the land the subject of the land use entitlement is to be used as the principal place of residence of the person; or
- (b) the land use entitlement—
- (i) is acquired by a special disability trust; and

- (ii) the commissioner is satisfied that the land the subject of the land use entitlement is to be used as the principal place of residence of the beneficiary of the trust.
- (2) For subsection (1)—
- (a) the shares allotted or units issued for the land use entitlement must be in a corporation or trust that is—
 - (i) a charitable organisation for a tax law, registered as a charity under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth); or
 - (ii) a not-for-profit housing corporation; and
 - (b) the land the subject of the land use entitlement must be used for supportive housing; and
 - (c) any other criteria determined under subsection (3) must be satisfied.
- (3) The Minister may determine other criteria for an exemption from duty under this section, including criteria relating to the purpose of the land use entitlement under subsection (2) (b).
- (4) A determination is a disallowable instrument.
- (5) In this section:

charitable organisation, for a tax law—see section 232.

gold card means a card known as the Repatriation Health Card—For All Conditions that evidences a person’s eligibility, under the *Veterans’ Entitlements Act 1986* (Cwlth) or the *Military Rehabilitation and Compensation Act 2004* (Cwlth), to be provided with treatment for all injuries or diseases.

NDIS amount—see the *National Disability Insurance Scheme Act 2013* (Cwlth), section 9.

not-for-profit housing corporation—see the *Land Tax Act 2004*, section 11 (2).

retirement village—see the *Retirement Villages Act 2012*, section 10.

supportive housing—

- (a) means premises used to provide residential accommodation for people with physical or intellectual disability; but
- (b) does not include a retirement village or premises used for student accommodation.

Example—par (a)

housing for people with intellectual disability that fosters independent living

[1.6] Dictionary, new definition of *special disability trust*

insert

special disability trust—see the *Social Security Act 1991* (Cwlth), section 1209L.

Part 1.2 Land Tax Act 2004

[1.7] Section 11A (1)

substitute

- (1) This section applies if a parcel of land is, on the 1st day of a quarter—
 - (a) owned by someone other than a corporation or trustee; and
 - (b) occupied as the principal place of residence of 1 or more owners of the parcel of land.

[1.8] Section 11B (1)

after

parcel of land

insert

, other than a parcel of land owned by a corporation or trustee

[1.9] Section 11C (1)

after

person

insert

, other than a corporation or trustee,

[1.10] Sections 11CA (1) and 11D (1) (a)

after

parcel of land

insert

, other than a parcel of land owned by a corporation or trustee,

[1.11] Section 13A (7)

omit

Part 1.3 Land Titles (Unit Titles) Act 1970

[1.12] New section 7 (1) (d) (iv)

before the notes, insert

- (iv) no lease variation charges, payable or deferred under a deferral arrangement under the [Planning and Development Act 2007](#), division 9.6.3 (Variation of nominal rent leases), are outstanding at the time the units plan is to be registered;

[1.13] Section 7 (1) (d), note 2

substitute

Note 2 A person may apply for a certificate of duty, land tax, rates and other charges under the [Duties Act 1999](#), s 244, [Land Tax Act 2004](#), s 41, [Rates Act 2004](#), s 76 and [Planning and Development Act 2007](#), s 279AE.

[1.14] New section 7 (3)

insert

(3) In this section:

deferral arrangement, for a lease variation charge—see the *Planning and Development Act 2007*, section 279AB (2).

lease variation charge—see the *Planning and Development Act 2007*, dictionary.

Part 1.4 Payroll Tax Act 2011

[1.15] Sections 9 (1) (b) and 87 (2) (b)

omit

21 days

substitute

28 days

Part 1.5 Planning and Development Act 2007

[1.16] Section 276D (1), note 1

substitute

Note 1 The notice of assessment is an assessment under the *Taxation Administration Act 1999* as if the lease variation charge were a tax liability of the lessee under that Act (see this Act, s 279B (1)). However, no obligation to pay the lease variation charge arises on the giving of the notice (see s 279B (2)). The planning and land authority must not execute a variation of the lease unless the lessee has paid the assessed lease variation charge or the amount has been deferred (see s 276B (1)).

[1.17] Section 276E (2)

substitute

- (2) In considering whether to determine a lease variation charge for a s 276E chargeable variation, the Treasurer must—
- (a) obtain advice from an accredited valuer at least once every 3 years; and
 - (b) have regard to that advice; and
 - (c) comply with any other requirement prescribed by regulation.

[1.18] Section 279AA (2)

after

defer

insert

the time for

[1.19] Section 279B (1)

omit

tax payable

substitute

tax liability

[1.20] Section 279B (2) and note

substitute

- (2) However, the tax liability is only payable if the planning and land authority executes a variation of the lease to which the chargeable variation relates.

Note 1 The time for payment of the tax liability for the lease variation charge may be extended to a time after the date of execution of the lease variation under a deferral arrangement (see s 279AB (2)).

Note 2 A charge on the land under the *Taxation Administration Act 1999*, s 56H arises when the tax liability becomes payable.

Note 3 The planning and land authority must not execute a variation of a nominal rent lease unless the lessee has paid, or deferred, the lease variation charge worked out under s 276C less any remission under s 278, plus any increase under s 279 (see s 276B (1) and s 276C).

Part 1.6 Rates Act 2004

[1.21] Section 20 heading

substitute

20 Disapplication of provisions of Taxation Administration Act

[1.22] Section 20

omit

, division 5.2 (Penalty tax)

[1.23] New section 20A

insert

20A Penalty tax

- (1) The [Taxation Administration Act](#), division 5.2 (Penalty tax) does not apply to unpaid overdue rates.
- (2) However, the commissioner may impose penalty tax for unpaid overdue rates payable by a corporation or trust.
- (3) If the commissioner imposes penalty tax on a corporation or trust, the [Taxation Administration Act](#), division 5.2 applies to the corporation or trust as if—
 - (a) the unpaid overdue rates were a tax default; and
 - (b) a reference to interest under that [Act](#), division 5.1 were a reference to interest under this Act, section 21; and
 - (c) a reference to a taxpayer were a reference to the corporation or trust; and
 - (d) a reference to the amount of tax unpaid were a reference to the amount of the unpaid overdue rates.
- (4) Subsection (2) applies in relation to rates that are unpaid and overdue on or after 1 August 2021.
- (5) In this section:
trust does not include a special disability trust.

[1.24] Section 31 (1) (b) (ii) (B)

substitute

- (B) intends to start the development not later than 2 years after the day the application is made.

Example—working out the 2-year period

ABC Mixed Developments Pty Ltd plans to make a qualifying development application for a parcel of land on 1 July 2021. When the application is made, ABC Mixed Development Pty Ltd must intend to start the development on the parcel on or before 1 July 2023.

[1.25] Section 31 (3) (b)

substitute

- (b) if the development approval has been given—a copy of the development approval; and

[1.26] New section 31 (4)

insert

- (4) In this section:

development approval—see the *Planning and Development Act 2007*, dictionary.

[1.27] Section 40E (2)

substitute

- (2) For the purposes of working out the growth index over a calendar year, the commissioner must give Canberra Airport information about the calculation of the growth index on 1 January in the calendar year, by 31 July in that year.

[1.28] Section 45, definition of *special disability trust*

omit

[1.29] New section 70 (aa)

before section 70 (a), insert

- (aa) a decision under section 20A (2) to impose penalty tax for unpaid overdue rates payable by a corporation or trust;

[1.30] Section 71 (2)

substitute

- (2) The objection must be made within—
- (a) 60 days after the day the commissioner gives notice under section 12 (2) of the amount determined as the unimproved value of the parcel; or
 - (b) if the Minister determines a longer period—the period determined.
- (2A) A determination is a disallowable instrument.

[1.31] Dictionary, definition of *special disability trust*

omit

, for part 7 (Deferral and rebates)

Part 1.7 Taxation Administration Act 1999

[1.32] New section 56H (2A)

insert

- (2A) The commissioner may give the registrar-general written notice of the charge.

Note If the registrar-general is given notice that land is affected by a territory or Commonwealth law, or anything done under it, under the [Land Titles Act 1925](#), s 14 (3), the registrar-general must record the effect of the law in the register kept under that [Act](#), s 43.

[1.33] Section 56H (4) (a)

substitute

- (a) the charge has been recorded in the register under the *Land Titles Act 1925*; and

[1.34] New section 56H (7) (a) (ia)

insert

- (ia) for tax payable under the *Land Rent Act 2008*—the *Land Rent Act 2008*, section 31 (Certificate of land rent and other charges) in relation to the parcel before the purchase; or

[1.35] New section 56H (8)

insert

- (8) In this section:
register—see the *Land Titles Act 1925*, dictionary.

[1.36] Section 56L heading

substitute

56L Creation of charge on other land

[1.37] New section 56L (1) (d)

insert

- (d) the tax debt is not related to the parcel or parcels of land.

Note Section 56H deals with tax payable that relates to a parcel of land.

[1.38] Section 56L (3)

substitute

- (3) The commissioner may, by written notice to the registrar-general, create a charge on 1 of the parcels.

Note If the registrar-general is given notice that land is affected by a territory or Commonwealth law, or anything done under it, under the [Land Titles Act 1925](#), s 14 (3), the registrar-general must record the effect of the law in the register kept under that [Act](#), s 43.

[1.39] Section 56L (4)

omit

application

substitute

written notice

[1.40] Section 56L (5) and (6)

substitute

- (5) However, the commissioner may create the charge only if the commissioner has—
- (a) taken reasonable steps to make arrangements for the debtor to pay the tax debt; and
 - (b) if the charge is to be created on a jointly-owned parcel—considered from the information available whether the charge 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

- (c) notified the debtor and any joint owner, in writing, that the commissioner intends to create a charge on the parcel not earlier than 28 days after the date of the notice to the debtor and joint owner.
- (6) If the commissioner creates a charge under subsection (3), the commissioner must notify the debtor and any joint owner, in writing, of the existence of the charge.

[1.41] Section 56M (1)

substitute

- (1) This section applies if a charge on a parcel of land is created under section 56L (3).

[1.42] New section 56M (6) (a) (ia)

insert

- (ia) for tax payable under the *Land Rent Act 2008*—the *Land Rent Act 2008*, section 31 (Certificate of land rent and other charges) in relation to the parcel before the purchase; or

[1.43] Section 97 (e) (vii) to (xi)

substitute

- (vii) for the administration or execution of a tax law or the *Fair Trading (Australian Consumer Law) Act 1992*—the commissioner for fair trading;
- (viii) for the administration or execution of the *Australian Bureau of Statistics Act 1975* (Cwlth) or the *Census and Statistics Act 1905* (Cwlth)—the Australian statistician;

- (ix) for the administration or execution of the *Australian Crime Commission Act 2002* (Cwlth), or a law of the Territory, a State or another Territory that makes provision for the operation of the Commission in the State or Territory—the Australian Crime Commission;
- (x) for the administration or execution of the *Corporations Act* or the *Australian Securities and Investments Commission Act 2001* (Cwlth), part 3 (Investigations and information-gathering)—ASIC;
- (xi) for investigating an offence against, or enforcing, a law of the Territory, the Commonwealth, a State or another Territory—
 - (A) a Commonwealth enforcement body, in connection with its functions; or
 - (B) a Commonwealth intelligence body, in connection with its functions;
- (xii) for the administration or execution of the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth)—the Australian Charities and Not-for-profits Commission;
- (xiii) for the administration or execution of the *Child Support (Registration and Collection) Act 1988* (Cwlth) or the *Child Support (Assessment) Act 1989* (Cwlth)—the Child Support Registrar;
- (xiv) for the administration or execution of the *Paid Parental Leave Act 2010* (Cwlth) or the *A New Tax System (Family Assistance) (Administration) Act 1999* (Cwlth)—the Chief Executive Centrelink;

- (xv) for the administration or execution of the *Foreign Acquisitions and Takeovers Act 1975* (Cwlth) and supporting the administration of matters in relation to foreign investment—
 - (A) the body known as the Foreign Investment Review Board; or
 - (B) the Treasurer of the Commonwealth;
- (xvi) for supporting the provision of community waste and recycling services, only if the information relates to the ownership of property—the director-general of the administrative unit responsible for transport and city services;
- (xvii) for the administration or execution of the *Government Procurement Act 2001*, part 2B (Secure local jobs code)—the secure local jobs code registrar;
- (xviii) a Minister, to enable the Minister to respond to a constituent about the constituent's obligations under a tax law (whether about the payment of tax or otherwise);
- (xix) a person prescribed by regulation for this section.

[1.44] New section 97 (2) and (3)

insert

- (2) If a tax officer may disclose information to a person under subsection (1) (e) (the *primary recipient*) for a particular purpose, the tax officer may also disclose the information to another person (the *secondary recipient*) to enable the secondary recipient to exercise a function, for or on behalf of the primary recipient, in relation to that purpose.

(3) In this section:

ASIC means the Australian Securities and Investments Commission under the *Australian Securities and Investments Commission Act 2001* (Cwlth).

Australian Crime Commission means the Australian Crime Commission established by the *Australian Crime Commission Act 2002* (Cwlth).

Chief Executive Centrelink—see the *Human Services (Centrelink) Act 1997* (Cwlth), section 7.

Child Support Registrar means the Child Support Registrar under the *Child Support (Registration and Collection) Act 1988* (Cwlth).

Commonwealth enforcement body means the following:

- (a) the Office of National Intelligence established under the *Office of National Intelligence Act 2018* (Cwlth), section 6;
- (b) that part of the Defence Department known as the Defence Intelligence Organisation;
- (c) that part of the Defence Department known as the Australian Geospatial-Intelligence Organisation;
- (d) the Integrity Commissioner appointed under the *Law Enforcement Integrity Commissioner Act 2006* (Cwlth), section 175.

Commonwealth intelligence body—see the *Information Privacy Act 2014*, section 25 (2).

Defence Department—see the *Information Privacy Act 2014*, section 25 (2).

secure local jobs code registrar means the secure local jobs code registrar appointed under the *Government Procurement Act 2001*, section 22V.

[1.45] Dictionary, note 2

insert

- administrative unit
- Corporations Act

**Part 1.8 Taxation Administration
 Regulation 2004**

[1.46] Section 4 heading

substitute

4 Permitted disclosure of information—Act, s 97 (1) (e) (xix)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 31 March 2021.

2 Notification

Notified under the [Legislation Act](#) on 19 May 2021.

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 2021, which was passed by the Legislative Assembly on 12 May 2021.

Clerk of the Legislative Assembly

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