

2009

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Rates and Land Tax Legislation Amendment Bill 2009

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Rates and Land Tax Legislation Amendment Bill 2009

A Bill for

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:

J2009-428

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 This Act commences on 1 January 2010.

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

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

3 (5) In this section:

4 *relevant person* means—

5 (a) the owner of the parcel of land; or

6 (b) if the owner has authorised an agent to act on the owner's
7 behalf in relation to the rental of the parcel—the agent.

8 **Examples—agent**

9 accountant, real estate agent, solicitor

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

13 **5 Dictionary, definition of *owner*, new paragraph (aa)**

14 *insert*

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

19 **6 Dictionary, definition of *unit owner***

20 *substitute*

21 *unit owner* means—

22 (a) the registered proprietor of the lease of a unit; or

23 (b) if the registered proprietor has sold the interest to another
24 person (the *new owner*) and the new owner is in possession of
25 the unit but not yet registered as the proprietor—the new
26 owner.

1 **Part 3** **Land Titles (Unit Titles) Act 1970**

2 **7** **Legislation amended—pt 3**

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

4 **8** **Registration of units plan**
5 **New section 7 (1) (e)**

6 *insert*

7 (e) a certificate issued by the commissioner for revenue certifying
8 that—

- 9 (i) no rates or other amounts assessed as payable under the
10 *Rates Act 2004* are outstanding for the financial year in
11 which the units plan is to be registered; and
12 (ii) no land tax or other amounts assessed as payable under
13 the *Land Tax Act 2004* are outstanding for the quarter in
14 which the units plan is to be registered.

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

1 **Part 4 Rates Act 2004**

2 **9 Legislation amended—pt 4**

3 This part amends the *Rates Act 2004*.

4 **10 Dictionary**
5 **Section 3, note 1**

6 *omit*

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

10 *substitute*

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

14 **11 Meaning of *unimproved value***
15 **Section 6 (3), definition of *prescribed date*, paragraph (c)**

16 *substitute*

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

21 **12 First determination of *unimproved value***
22 **Section 9 (3)**

23 *omit*

24 rates

25 *substitute*

26 a parcel of land

1 **13 Section 9 (4)**

2 *omit*

3 rates

4 *substitute*

5 the parcel

6 **14 Annual redeterminations**
7 **Section 10 (2)**

8 *omit*

9 rates

10 *substitute*

11 the parcel

12 **15 Section 11**

13 *substitute*

14 **11 Redetermination—error**

15 (1) This section applies if an error was made in relation to a
16 determination of the unimproved value of a parcel of land as at a
17 particular date.

18 (2) The commissioner may redetermine the unimproved value of the
19 parcel as at that date.

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

5 **Example**

6 A clerical error was made in relation to the determination of Branko's parcel of
7 land as at 1 January 2009, resulting in the unimproved value of the land being
8 incorrectly determined as \$220 000. The unimproved value of parcel was
9 correctly determined as at 1 January 2007 as \$230 000 and 1 January 2008 as
10 \$240 000.

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

13 $(\$230\,000 + \$240\,000 + \$220\,000)/3 = \$230\,000$

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

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

18 $(\$230\,000 + \$240\,000 + \$250\,000)/3 = \$240\,000$

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

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

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

1 **11A Redetermination—change of circumstances**

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

22 **Example—s (4)**

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

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

30 $(\$260\,000 + \$280\,000 + \$300\,000)/3 = \$280\,000$

1 After the change of circumstances, the commissioner redetermined the
2 unimproved value of the land as at 1 January 2007 as \$320 000, 1 January 2008 as
3 \$340 000 and 1 January 2009 as \$360 000.
4 The average unimproved value (the *recalculated AUV*) of the land was
5 recalculated as:
6 $(\$320\,000 + \$340\,000 + \$360\,000)/3 = \$340\,000$
7 The original AUV applies for the period starting on 1 July 2009 and ending on
8 31 August 2009, and the recalculated AUV applies for the period starting on
9 1 September 2009 and ending on 30 June 2010.
10 *Note* An example is part of the Act, is not exhaustive and may extend, but
11 does not limit, the meaning of the provision in which it appears (see
12 Legislation Act, s 126 and s 132).

13 **16 Dictionary, definition of owner, new paragraph (ia)**

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

19 **17 Dictionary, definition of unit owner**

20 *substitute*
21 *unit owner* means—
22 (a) the registered proprietor of the lease of a unit; or
23 (b) if the registered proprietor has sold the interest to another
24 person (the *new owner*) and the new owner is in possession of
25 the unit but not yet registered as the proprietor—the new
26 owner.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2009.

2 Notification

Notified under the Legislation Act on 2009.

3 Republications of amended laws

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

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