

2018

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Land Tax Amendment Bill 2018

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Definitions for pt 2	
Section 7, definition of <i>rent</i>	2
5 Section 7, new definition of <i>residential tenancy agreement</i>	2
6 Section 7, definition of <i>tenancy agreement</i>	3
7 Section 7, definition of <i>tenant</i>	3
8 Section 7, definition of <i>trustee</i>	3
9 When is something <i>rented</i> for pt 2?	
Section 8 (1)	3
10 Section 8 (3) to (5)	3

J2017-490

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

Contents

	Page	
11	New section 8A	3
12	Imposition of land tax Section 9 (1)	4
13	Section 9 (2) (a)	4
14	Section 9 (3)	4
15	Land exempted from s 9 generally New section 10 (1) (aa)	4
16	Land exempted from land tax Section 11 (2)	5
17	Section 11 (3), definitions of <i>new residential premises</i> and <i>substantial renovations</i>	5
18	New sections 11A to 11I	5
19	Application for compassionate case exemption Section 12 (1)	12
20	New section 12 (4)	12
21	Decision on compassionate application New section 13 (6)	13
22	Section 14	13
23	Commissioner to be told if residential land owned by an individual as trustee Section 14A	14
24	Multiple dwellings New section 15 (1) (ab)	15
25	Section 15 (5), definition of <i>dwelling</i>	15
26	Land partly owned by corporation or trustee Section 16 (1)	15
27	Payment of land tax Section 17 (6) (b)	16
28	Section 17 (7), new definition of <i>land tax</i>	16
29	New part 2A	16
30	Land tax for part of quarter Section 18	22
31	New section 18A	22
32	Interest and penalty tax on land tax if no disclosure Section 19A (1) (b)	22
33	Section 19A (4)	22

Contents

	Page
34	Section 19A (5) (a) 23
35	Unit subdivisions—land tax Section 27 (4) and (5) 23
36	Section 27 (7), definition of <i>dwelling</i> 24
37	Section 27 (7), definition of <i>TUE</i> 24
38	New section 33 24
39	Section 38 25
40	Review of decisions by ACAT Section 39 (1) 26
41	Certificate of land tax and other charges New section 41 (5) 26
42	Dictionary, note 2 26
43	Dictionary, new definitions 27
44	Dictionary, definition of <i>land tax</i> 27
45	Dictionary, new definitions 28
46	Dictionary, definition of <i>tenancy agreement</i> 28
47	Rates Act 2004 Section 29 (5), definition of <i>TUE</i> 28

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FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Land Tax Amendment Bill 2018

A Bill for

An Act to amend the *Land Tax Act 2004*, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Land Tax Amendment Act 2018*.

3 **2 Commencement**

4 This Act commences on 1 July 2018.

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

7 **3 Legislation amended**

8 This Act amends the *Land Tax Act 2004*.

9 *Note* This Act also amends the *Rates Act 2004* (see s 51).

10 **4 Definitions for pt 2**
11 **Section 7, definition of *rent***

12 *before*
13 tenancy
14 *insert*
15 residential

16 **5 Section 7, new definition of *residential tenancy***
17 ***agreement***

18 *insert*
19 ***residential tenancy agreement***—see the *Residential Tenancies*
20 *Act 1997*, section 6A.

1 **6 Section 7, definition of *tenancy agreement***

2 *omit*

3 **7 Section 7, definition of *tenant***

4 *substitute*

5 *tenant*—see the [Residential Tenancies Act 1997](#), section 6.

6 **8 Section 7, definition of *trustee***

7 *substitute*

8 *trustee* does not include a guardian or manager of the property of a
9 person with a legal disability.

10 **9 When is something *rented* for pt 2?**
11 **Section 8 (1)**

12 *omit*

13 land tax,

14 **10 Section 8 (3) to (5)**

15 *omit*

16 **11 New section 8A**

17 *insert*

18 **8A When is land tax payable on parcel of land for pt 2?**

19 (1) For this part, land tax is payable on a parcel of land for a quarter if it
20 is payable on the 1st day of the quarter.

21 (2) Land tax is taken to be payable on a parcel of land on the 1st day of
22 a quarter if it is not exempt under this part from land tax on that day.

- 1 (3) If an exemption under this part stops applying to a parcel of land,
2 land tax is payable on the 1st day of the quarter after the date the
3 exemption stops applying.

4 **12 Imposition of land tax**
5 **Section 9 (1)**

6 *substitute*

- 7 (1) Land tax at the appropriate rate is imposed for a quarter on each
8 parcel of rateable land that is residential land.
9 (1A) However, land tax is not imposed on a parcel of land that is exempt
10 under section 10 or section 11.

11 **13 Section 9 (2) (a)**

12 *after*

13 section 27 (4)

14 *insert*

15 , (5) or (6), whichever applies

16 **14 Section 9 (3)**

17 *omit*

18 **15 Land exempted from s 9 generally**
19 **New section 10 (1) (aa)**

20 *before paragraph (a), insert*

- 21 (aa) a parcel of land if exempted under the following provisions:
22 (i) section 11A (Principal place of residence exemption);
23 (ii) section 11B (Moving out of principal place of residence);

- 1 (iii) section 11C (Moving into principal place of residence);
2 (iv) section 11D (Exemption after death of owner);
3 (v) section 11G (Exemption for life tenant);
4 (vi) section 11H (Exemption if nil or nominal rent paid);
5 (vii) section 11I (Exemption if land becomes unfit for
6 occupation);

7 **16 Land exempted from land tax**
8 **Section 11 (2)**

9 *omit*

10 **17 Section 11 (3), definitions of *new residential premises***
11 **and *substantial renovations***

12 *omit*

13 **18 New sections 11A to 11I**

14 *insert*

15 **11A Principal place of residence exemption**

- 16 (1) This section applies if a parcel of land is, on the 1st day of a quarter,
17 occupied as the principal place of residence of 1 or more owners of
18 the parcel of land.
19 (2) The parcel of land is exempt from land tax.

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

- 1 (3) However, for 2 people in a domestic partnership with more than
2 1 parcel of land, only 1 parcel may be eligible for an exemption
3 under this section unless the commissioner is satisfied the people
4 have separated and there is no reasonable likelihood of cohabitation
5 being resumed.

6 *Note* Under s 38 and the [Taxation Administration Act](#), s 108, the
7 commissioner must give the person a reviewable decision notice in
8 relation to a decision to refuse to exempt a parcel of land because the
9 commissioner is not satisfied 2 people in a domestic partnership have
10 separated.

11 **11B Moving out of principal place of residence**

- 12 (1) This section applies if an owner of a parcel of land—
13 (a) occupies the parcel as the principal place of residence; and
14 (b) stops occupying the parcel as the principal place of residence.
15 (2) The parcel of land is exempt from land tax for the 1st quarter after
16 the date the owner stops occupying the parcel as the principal place
17 of residence.

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

- 21 (3) Subsection (2) does not apply if the parcel of land is rented by a
22 tenant.

23 **11C Moving into principal place of residence**

- 24 (1) This section applies if—
25 (a) a person becomes the owner of a parcel of land for occupation
26 as the principal place of residence of the person; or
27 (b) a parcel of land stops being rented so it can be occupied as a
28 principal place of residence by a person.

- 1 (2) The parcel of land is exempt from land tax for the 1st quarter after
2 the date—
- 3 (a) for subsection (1) (a)—the person became the owner of the
4 parcel; or
- 5 (b) for subsection (1) (b)—the parcel stopped being rented.
- 6 *Note* Under s 14 the commissioner must be told within 30 days if there is a
7 change in circumstances that would cause land tax to become payable
8 for the parcel.
- 9 (3) Subsection (2) does not apply if the parcel of land is—
- 10 (a) not occupied as the principal place of residence of the person
11 within 3 months after the date—
- 12 (i) the person became the owner of the parcel; or
- 13 (ii) the parcel stopped being rented; or
- 14 (b) rented by a tenant, other than the vendor of the parcel of land
15 under a rental arrangement with the person for not longer than
16 3 months.

17 **11D Exemption after death of owner**

- 18 (1) This section applies if—
- 19 (a) a parcel of land is occupied as the principal place of residence
20 by the owner of the parcel; and
- 21 (b) the owner dies.
- 22 (2) The parcel of land is exempt from land tax for 2 years after the date
23 of the owner's death if, during the 2-year period, the parcel is
24 registered in the name of—
- 25 (a) the deceased owner; or

1 (b) the personal representative.

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

5 (3) Before the 2-year period ends, the personal representative may
6 apply, in writing, to the commissioner to extend the period.

7 (4) The application must set out the grounds on which it is made.

8 **11E Decision on extension of period**

9 (1) On receiving an application under section 11D, the commissioner
10 may extend the period mentioned in section 11D (2).

11 (2) The commissioner may extend the period if—

12 (a) the parcel of land—

13 (i) has not been rented since the date of the owner's death;
14 and

15 (ii) is not registered in the name of a person other than the
16 deceased owner or the deceased owner's personal
17 representative; and

18 (b) the commissioner is satisfied that—

19 (i) a person is occupying the parcel of land as the person's
20 principal place of residence; and

21 (ii) the person is likely to be a person in whom the deceased
22 owner's interest in the parcel will vest in accordance with
23 the administration of the deceased's owner's estate.

24 (3) The commissioner must tell the personal representative, in writing,
25 of the decision under subsection (1) and—

26 (a) if the commissioner extends the period—state the extended
27 period; or

1 (b) if the commissioner refuses to extend the period—state the
2 reasons for the refusal.

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

6 (4) The commissioner may, by written notice given to the personal
7 representative, revoke an extension if satisfied that the extension
8 should no longer be given.

9 *Note* Under s 38 and the [Taxation Administration Act](#), s 108, the
10 commissioner must also give the person a reviewable decision notice in
11 relation to a decision to—

12 (a) extend the period for less than the period applied for; or

13 (b) refuse to extend the period; or

14 (c) revoke an extension.

15 **11F Applications lodged out of time**

16 (1) The commissioner may allow a person to lodge an application after
17 the 2-year period mentioned in section 11D (Exemption after death
18 of owner).

19 (2) The person must state fully and in detail, in writing, the
20 circumstances concerning and the reasons for the failure to make the
21 application within the 2-year period.

22 (3) The commissioner may, after considering the circumstances
23 concerning and the reasons for the failure to make the application
24 within the period—

25 (a) if satisfied that it is just and fair for the application to be
26 lodged after the period—give permission unconditionally or
27 subject to conditions; or

28 (b) refuse permission.

- 1 (4) The commissioner must tell the person, in writing, of the decision
2 under subsection (3) and—
- 3 (a) if the commissioner gives permission subject to a condition—
4 state the condition; or
- 5 (b) if the commissioner refuses permission—state the reasons for
6 the refusal.
- 7 *Note 1* Under s 38 and the [Taxation Administration Act](#), s 108, the
8 commissioner must also give the person a reviewable decision notice in
9 relation to a decision to—
- 10 (a) give permission subject to a condition; or
11 (b) refuse permission.
- 12 *Note 2* Under s 14 the commissioner must be told within 30 days if there is a
13 change in circumstances that would cause land tax to become payable
14 for the parcel.

15 **11G Exemption for life tenant**

- 16 (1) This section applies if a parcel of land is, on the 1st day of a
17 quarter—
- 18 (a) owned by someone other than a corporation or trustee; and
19 (b) occupied as the principal place of residence of a person having
20 a life or term interest in the parcel of land under a will.
- 21 (2) The parcel of land is exempt from land tax.
- 22 (3) Subsection (2) does not apply if the parcel of land is rented to the
23 person or another person.
- 24 *Note* Under s 14 the commissioner must be told within 30 days if there is a
25 change in circumstances that would cause land tax to become payable
26 for the parcel.

1 **11H Exemption if nil or nominal rent paid**

- 2 (1) This section applies if a parcel of land is, on the 1st day of a
3 quarter—
4 (a) owned by someone other than a corporation or trustee; and
5 (b) occupied by a person who—
6 (i) is liable only to pay an amount that is not more than the
7 total amount required for rates, repairs, maintenance and
8 insurance in relation to the parcel; or
9 (ii) pays no rent for the parcel.
10 (2) The parcel of land is exempt from land tax.

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

14 **11I Exemption if land becomes unfit for occupation**

- 15 (1) This section applies if the commissioner is satisfied that a parcel of
16 land is, or has become, unfit for occupation as a place of residence.

17 **Examples—unfit for occupation**

- 18 1 property under construction or being substantially renovated
19 2 property damaged by fire, flood or other natural disaster
20 3 property maliciously damaged
21 4 property which is otherwise unlawful to occupy under a territory law

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

- 25 (2) The parcel of land is exempt from land tax after the date the parcel
26 became unfit for occupation as a place of residence, until—
27 (a) the date a certificate of occupancy is issued for the parcel; or

1 (b) the commissioner is satisfied that the parcel is fit for
2 occupation as a place of residence.

3 *Note 1* Under s 14 the commissioner must be told within 30 days if there is a
4 change in circumstances that would cause land tax to become payable
5 for the parcel.

6 *Note 2* Under s 38 and the [Taxation Administration Act](#), s 108, the
7 commissioner must give the person a reviewable decision notice in
8 relation to a decision to refuse to exempt a parcel of land because the
9 commissioner is not satisfied the land is, or has become, unfit for
10 occupation as a place of residence.

11 (3) In this section:
12 *certificate of occupancy*—see the [Building Act 2004](#), dictionary.

13 **19 Application for compassionate case exemption**
14 **Section 12 (1)**

15 *substitute*

16 (1) This section applies if, on the 1st day of a quarter, a parcel of
17 residential land is owned by an individual (the *owner*) and not
18 exempt from land tax.

19 **20 New section 12 (4)**

20 *insert*

21 (4) In this section:
22 *land tax* includes a foreign ownership surcharge.

1 **21 Decision on compassionate application**
 2 **New section 13 (6)**

3 *insert*

4 (6) In this section:

5 *land tax* includes a foreign ownership surcharge.

6 **22 Section 14**

7 *substitute*

8 **14 Commissioner to be told of change in circumstances**

9 (1) This section applies in relation to a parcel of land that is—

10 (a) leased for residential purposes; and

11 (b) exempt from land tax or a foreign ownership surcharge.

12 (2) A relevant person for the parcel of land must tell the
 13 commissioner—

14 (a) of any change in the person's circumstances in relation to the
 15 parcel that would cause land tax or a foreign ownership
 16 surcharge to become payable for the parcel; and

17 (b) the date of the change in circumstances.

18 *Note 1* If a form is approved under the [Taxation Administration Act](#), s 139C,
 19 the form must be used.

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

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

1 (3) For subsection (2), the relevant person must tell the commissioner
2 not later than 30 days after the date the circumstances change.

3 **Examples—s (2) and s (3)—changed circumstances**

- 4 1 a change of ownership of the parcel
5 2 the parcel is owned by an individual as trustee
6 3 the parcel is owned by a foreign person or an owner subsequently becomes a
7 foreign person
8 4 the parcel is no longer a principal place of residence
9 5 the parcel is rented
10 6 the parcel is otherwise no longer exempt from land tax or a foreign
11 ownership surcharge

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

15 (4) In this section:

16 *relevant person*, for a parcel of land, means—

- 17 (a) the owner of the parcel of land; or
18 (b) if the owner has authorised an agent to act on the owner's
19 behalf in relation to the parcel—the agent; or
20 (c) if the owner has died—the personal representative.

21 **Examples—par (b)—agent**

22 accountant, real estate agent, solicitor

23 **23 Commissioner to be told if residential land owned by an**
24 **individual as trustee**
25 **Section 14A**

26 *omit*

1 **24 Multiple dwellings**
2 **New section 15 (1) (ab)**

3 *insert*

4 (ab) at least 1 of the dwellings is occupied—

5 (i) as the principal place of residence of 1 or more owners of
6 the parcel, including an owner who is a personal
7 representative of a deceased person; or

8 (ii) as the principal place of residence of a person having a
9 life or term interest in the parcel of land under a will; or

10 (iii) by a person who pays no rent for the parcel, or is liable
11 only to pay an amount that is not more than the total
12 amount required for rates, repairs, maintenance and
13 insurance in relation to the parcel; and

14 **25 Section 15 (5), definition of dwelling**

15 *substitute*

16 *dwelling* means a dwelling within the meaning of the *Planning and*
17 *Development Regulation 2008*, section 5, other than a unit.

18 **26 Land partly owned by corporation or trustee**
19 **Section 16 (1)**

20 *substitute*

21 (1) This section applies to a parcel of residential land that is owned
22 by—

23 (a) 1 or more people who are corporations or trustees; and

- 1 (b) 1 or more people who are exempt from paying land tax for the
2 parcel under—
- 3 (i) section 10 (Land exempted from s 9 generally), other
4 than section 10 (1) (aa) (vii); or
- 5 (ii) section 11 (Land exempted from land tax).

6 **27 Payment of land tax**
7 **Section 17 (6) (b)**

8 *omit*

9 **28 Section 17 (7), new definition of *land tax***

10 *insert*

11 *land tax* includes a foreign ownership surcharge.

12 **29 New part 2A**

13 *insert*

14 **Part 2A Foreign ownership surcharge**

15 **17A Definitions—pt 2A**

16 In this part:

17 *Australian citizen*—see the [Australian Citizenship Act 2007](#)
18 (Cwlth), section 4.

19 *foreign individual* means an individual who, on the 1st day of a
20 quarter, is not—

- 21 (a) an Australian citizen; or
22 (b) a permanent resident; or
23 (c) ordinarily resident in Australia or an external territory.

1 ***foreign person***—

2 (a) means—

3 (i) a foreign individual; or

4 (ii) a foreign corporation; or

5 (iii) a trustee of a foreign trust; but

6 (b) does not include a personal representative of a deceased
7 person.

8 ***permanent resident*** means—

9 (a) a person who holds a permanent visa under the
10 *Migration Act 1958* (Cwlth), section 30 (1); or

11 (b) a New Zealand citizen who holds a special category visa under
12 the *Migration Act 1958* (Cwlth), section 32.

13 **17B What is a foreign corporation?—pt 2A**

14 (1) In this part:

15 ***foreign corporation*** means—

16 (a) a corporation incorporated outside Australia; or

17 (b) a corporation in which 1 or more foreign people hold a
18 controlling interest.

19 (2) A corporation is taken to be a corporation mentioned in
20 subsection (1), definition of ***foreign corporation***, paragraph (b) if,
21 taking their interests together, 1 or more foreign people, or
22 associated people of the foreign people—

23 (a) are entitled to cast, or control the casting of, 50% or more of
24 the maximum number of votes at a general meeting of the
25 corporation; or

26 (b) hold 50% or more of the shares in the corporation.

- 1 **17C** **What is a foreign trust?—pt 2A**
- 2 (1) In this part, a trust is a *foreign trust* if—
- 3 (a) for a trust with fixed beneficial interests—taking their interests
- 4 together, a beneficial interest of 50% or more of the capital of
- 5 the trust estate is held by—
- 6 (i) 1 or more foreign people; or
- 7 (ii) an associated person of the foreign person; or
- 8 (b) for a discretionary trust—a foreign person is named in the trust
- 9 deed who, under the terms of the trust, takes the capital of the
- 10 trust estate if—
- 11 (i) there is an exercise of a power or discretion in favour of
- 12 the person; or
- 13 (ii) a power or discretion is not exercised.
- 14 (2) In this section:
- 15 *discretionary trust*—see the *Duties Act 1999*, dictionary.
- 16 **17D** **When is foreign ownership surcharge payable on parcel**
- 17 **of land for pt 2A?**
- 18 (1) For this part, a foreign ownership surcharge is payable on a parcel of
- 19 land for a quarter if it is payable on the 1st day of the quarter.
- 20 (2) A foreign ownership surcharge is taken to be payable on a parcel of
- 21 land on the 1st day of a quarter if it is not exempt under this part
- 22 from the foreign ownership surcharge on that day.
- 23 (3) If an exemption under this part stops applying to a parcel of land, a
- 24 foreign ownership surcharge is payable on the 1st day of the quarter
- 25 after the date the exemption stops applying.

1 **17E Imposition of foreign ownership surcharge**

2 (1) A foreign ownership surcharge at the appropriate rate is imposed for
3 a quarter on each parcel of rateable land that is—

4 (a) residential land; and

5 (b) on the 1st day of the quarter, owned by a foreign person.

6 (2) However, a foreign ownership surcharge is not imposed on a parcel
7 of land that is exempt under—

8 (a) section 10 (Land exempted from s 9 generally), other than
9 section 10 (1) (aa) (vi); or

10 (b) section 11 (Land exempted from land tax).

11 (3) The *appropriate rate* of the foreign ownership surcharge for a parcel
12 of land is—

13 (a) for a unit that is part of a unit subdivision—the amount worked
14 out for the parcel as follows:

$$15 \quad \text{AUVRUP} \times \frac{\text{UE}}{\text{TUER}}$$

16 (b) in any other case—the amount worked out for the parcel as
17 follows:

$$18 \quad \text{AUV} \times \text{P}$$

19 (4) In this section:

20 *AUV* means the average unimproved value of the parcel of land
21 under the *Rates Act 2004*.

22 *AUVRU* means the AUV of the parcel proportionate to the number
23 of residential units in the parcel, worked out as follows:

$$24 \quad \text{AUV} \times \frac{\text{TUER}}{\text{TUE}}$$

1 *AUVRUP* means the AUVRU adjusted by the applicable percentage
2 rate, worked out as follows:

3
$$\text{AUVRU} \times P$$

4 *P* means the percentage rate determined under the [Taxation](#)
5 [Administration Act](#), section 139 for the parcel of land.

6 *Note* Power to determine a percentage rate under the [Taxation Administration](#)
7 [Act](#) includes the power to determine a different rate for different matters
8 or different classes of matters (see [Legislation Act](#), s 48).

9 *residential unit* means a unit that is residential land.

10 *TUE* means the total unit entitlement of all the units in the units
11 plan.

12 *TUER* means the total unit entitlement of all the residential units in
13 the units plan.

14 *UE* means the unit entitlement of the unit.

15 *unit entitlement*—see the [Unit Titles Act](#), section 8.

16 *units plan* means a units plan under the [Unit Titles Act](#), section 7.

17 **17F Land partly owned by foreign people**

18 (1) This section applies to a parcel of residential land if on the 1st day
19 of a quarter—

20 (a) the parcel is owned by—

21 (i) 1 or more people who are foreign people; and

22 (ii) 1 or more people who are not foreign people; and

23 (b) a foreign ownership surcharge is payable for the parcel.

1 (2) The appropriate rate of foreign ownership surcharge payable under
2 section 17E for the parcel of land is—

3 (a) for a unit that is part of a unit subdivision—the amount worked
4 out for the parcel as follows:

$$5 \quad \text{AUVRUP} \times \frac{\text{UE}}{\text{TUER}} \times \frac{\text{FI}}{\text{AI}}$$

6 (b) in any other case—the amount worked out for the parcel as
7 follows:

$$8 \quad \text{AUV} \times \text{P} \times \frac{\text{FI}}{\text{AI}}$$

9 (3) In this section:

10 *AI* means the value of all interests in the parcel of land.

11 *AUV*—see section 9 (4).

12 *AUVRU* means the AUV of the parcel proportionate to the number
13 of residential units in the parcel, worked out as follows:

$$14 \quad \text{AUV} \times \frac{\text{TUER}}{\text{TUE}}$$

15 *AUVRUP* means the AUVRU adjusted by the applicable percentage
16 rate, worked out as follows:

$$17 \quad \text{AUVRU} \times \text{P}$$

18 *FI* means the value of all interests in the parcel or unit held by
19 foreign people.

20 *P*—see section 9 (4).

21 *Note* Power to determine a percentage rate under the [Taxation Administration](#)
22 [Act](#) includes the power to determine a different rate for different matters
23 or different classes of matters (see [Legislation Act](#), s 48).

24 *residential unit* means a unit that is residential land.

25 *TUE* means the total unit entitlement of all the units in the units
26 plan.

1 *TUER* means the total unit entitlement of all the residential units in
2 the units plan.

3 *UE* means the unit entitlement of the unit.

4 *unit entitlement*—see the [Unit Titles Act](#), section 8.

5 *units plan* means a units plan under the [Unit Titles Act](#), section 7.

6 **30 Land tax for part of quarter**
7 **Section 18**

8 *omit*

9 **31 New section 18A**

10 *in part 3, insert*

11 **18A Meaning of *land tax*—pt 3**

12 In this part:

13 *land tax* includes a foreign ownership surcharge.

14 **32 Interest and penalty tax on land tax if no disclosure**
15 **Section 19A (1) (b)**

16 *substitute*

17 (b) the owner of the parcel of land fails to comply with section 14
18 (Commissioner to be told of change in circumstances).

19 **33 Section 19A (4)**

20 *omit*

34 Section 19A (5) (a)*omit*

or section 14A

**35 Unit subdivisions—land tax
Section 27 (4) and (5)***substitute*

(4) If a unit that is part of a unit subdivision—

(a) is owned by someone other than a corporation or trustee; and

(b) contains multiple dwellings; and

(c) has at least 1 of the dwellings in the unit occupied—

(i) as the principal place of residence by 1 or more owners of the unit, including an owner who is a personal representative of a deceased person; or

(ii) as the principal place of residence by a person having a life or term interest in the unit under a will; or

(iii) by a person who pays no rent for the unit, or is liable only to pay an amount that is not more than the total amount required for rates, repairs, maintenance and insurance in relation to the unit; and

(d) has at least 1 of the dwellings rented by a tenant;

the amount worked out for the unit is as follows:

$$\left(FC \times \frac{FA}{TFA}\right) + \left(AUVRUP \times \frac{UE}{TUER} \times \frac{FA}{TFA}\right)$$

- 1 (5) If a unit that is part of a unit subdivision—
2 (a) is owned by either a corporation or trustee, and
3 (b) another person who is exempt from paying land tax for the
4 parcel under—
5 (i) section 10 (Land exempted from s 9 generally), other
6 than section 10 (1) (aa) (vii); or
7 (ii) section 11 (Land exempted from land tax);

8 the amount worked out for the unit is as follows:

$$9 \quad \left(FC \times \frac{C\&TI}{AI}\right) + \left(AUVRUP \times \frac{UE}{TUER} \times \frac{C\&TI}{AI}\right)$$

10 **36 Section 27 (7), definition of *dwelling***

11 *substitute*

12 *dwelling*—see the *Planning and Development Regulation 2008*,
13 section 5.

14 **37 Section 27 (7), definition of *TUE***

15 *before*

16 unit

17 *insert*

17 total

19 **38 New section 33**

20 *in part 5, insert*

21 **33 Meaning of *land tax*—pt 5**

22 In this part:

23 *land tax* includes a foreign ownership surcharge.

39 Section 38

substitute

38 Objections

The following decisions of the commissioner are prescribed for the [Taxation Administration Act](#), section 100 (Objection):

- (a) a decision under section 11A (3) to refuse to exempt a parcel of land from land tax because the commissioner is not satisfied 2 people in a domestic partnership have separated;
- (b) a decision under section 11E (1) to extend the period of exemption after the death of an owner of a parcel of land for less than the period applied for;
- (c) a decision under section 11E (1) to refuse to extend the period of exemption after the death of an owner of a parcel of land;
- (d) a decision under section 11E (4) to revoke an extension;
- (e) a decision under section 11F (3) to give permission subject to a condition or refuse permission;
- (f) a decision under section 11I (1) to refuse to exempt a parcel of land from land tax because the commissioner is not satisfied the land is, or has become, unfit for occupation as a place of residence;
- (g) a decision under section 13 (1) (b) to refuse to exempt a parcel of land from land tax on compassionate grounds;
- (h) a decision under section 13 (5) revoking an exemption given on compassionate grounds;
- (i) a decision under section 36 (1) to refuse to remit interest payable by a person in relation to land tax;

1 (j) a decision under section 37 to refuse to pay interest on an
2 overpayment or to pay interest other than from the date when
3 the overpayment was made.

4 *Note* Assessments are made under the [Taxation Administration Act](#) and
5 objections may be made under that [Act](#), s 100 (1) (a). For example, if a
6 person is given an assessment for land tax and the person is dissatisfied
7 with the assessment because land tax was not payable in relation to the
8 parcel of land, the person may object under that paragraph.

9 **40 Review of decisions by ACAT**
10 **Section 39 (1)**

11 *omit*

12 section 38 (c)

13 *substitute*

14 section 38 (i)

15 **41 Certificate of land tax and other charges**
16 **New section 41 (5)**

17 *insert*

18 (5) In this section:

19 *land tax* includes a foreign ownership surcharge.

20 **42 Dictionary, note 2**

21 *insert*

- 22
- 23 • Australia
 - 24 • domestic partnership (see s 169 (2))
 - 25 • external territory
 - territory law

43 Dictionary, new definitions

insert

associated person—see the *Duties Act 1999*, dictionary.

Australian citizen, for part 2A (Foreign ownership surcharge)—see section 17A.

foreign corporation, for part 2A (Foreign ownership surcharge)—see section 17B.

foreign individual, for part 2A (Foreign ownership surcharge)—see section 17A.

foreign ownership surcharge includes—

(a) penalty tax; and

(b) the total of—

(i) the costs and expenses reasonably incurred by the Territory in attempting to recover the foreign ownership surcharge; and

(ii) interest payable in relation to the foreign ownership surcharge.

foreign person, for part 2A (Foreign ownership surcharge)—see section 17A.

foreign trust, for part 2A (Foreign ownership surcharge)—see section 17C.

44 Dictionary, definition of *land tax*

substitute

land tax—

(a) for this Act generally, includes—

(i) penalty tax; and

- 1 (ii) the total of—
- 2 (A) the costs and expenses reasonably incurred by the
- 3 Territory in attempting to recover the land tax; and
- 4 (B) interest payable in relation to the land tax; and
- 5 (b) for part 3 (Enforcement)—see section 18A; and
- 6 (c) for part 5 (Exemptions, remissions and certain interest
- 7 payments)—see section 33.

8 **45 Dictionary, new definitions**

9 *permanent resident*, for part 2A (Foreign ownership surcharge)—

10 see section 17A.

11 *personal representative*, in relation to a deceased person, means—

- 12 (a) an executor of the deceased person's will; or
- 13 (b) an administrator of the deceased person's estate.

14 *residential tenancy agreement*, for part 2 (Imposition and payment

15 of land tax)—see section 7.

16 **46 Dictionary, definition of *tenancy agreement***

17 *omit*

18 **47 Rates Act 2004**

19 **Section 29 (5), definition of *TUE***

20 *before*

21 *unit*

22 *insert*

23 *total*

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 12 April 2018.

2 Notification

Notified under the [Legislation Act](#) on 2018.

3 Republications of amended laws

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

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