

Western Australia

Revenue Laws Amendment (Taxation) Act 2009

As at 16 Sep 2009

No. 19 of 2009

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Revenue Laws Amendment (Taxation) Act 2009

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Western Australia

Revenue Laws Amendment (Taxation) Act 2009

No. 19 of 2009

An Act to amend —

- **the *Land Tax Assessment Act 2002*; and**
- **the *Land Tax Act 2002*; and**
- **the *Metropolitan Region Improvement Tax Act 1959*,**
and for related matters.

[Assented to 16 September 2009]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Revenue Laws Amendment (Taxation) Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act —
 - (i) comes into operation on 1 July 2009 if assent day is not later than that day; or
 - (ii) is deemed to have come into operation on 1 July 2009 if assent day is later than that day.

Part 2 — *Land Tax Assessment Act 2002* amended

3. Act amended

This Part amends the *Land Tax Assessment Act 2002*.

4. Section 10 replaced

Delete section 10 and insert:

10. Assessing land tax

Unless this Act provides otherwise, the amount of land tax payable for taxable land for an assessment year is the amount calculated by applying the rate fixed in relation to the land under the *Land Tax Act 2002* to the amount equal to the taxable value of the land for the assessment year.

5. Section 13 amended

In section 13(1):

- (a) delete “Act to the unimproved” and insert:

Act, other than in clause 6, to the taxable

- (b) delete “unimproved” (second occurrence) and insert:

taxable

6. Section 14 amended

- (1) In section 14(2) delete “unimproved”.

s. 7

- (2) Delete section 14(6) and insert:
 - (6) For the purposes of subsection (2), the value of the taxable portion of the property for a financial year is —
 - (a) if the financial year is 2008/09 or earlier — the amount that bears to the unimproved value of the whole of the property at midnight on 30 June immediately before the financial year the same proportion as the area of the taxable portion bears to the whole area of the property; or
 - (b) in any other financial year — the amount that bears to the taxable value of the whole of the property for the financial year the same proportion as the area of the taxable portion bears to the whole area of the property.

7. Section 15 amended

- (1) In section 15(2) delete “unimproved”.
- (2) Delete section 15(6) and insert:
 - (6) For the purposes of subsection (2), the value of the taxable portion of the land for a financial year is —
 - (a) if the financial year is 2008/09 or earlier — the amount that bears to the unimproved value of the whole of the land at midnight on 30 June immediately before the financial year the same proportion as the area of the taxable portion bears to the whole area of the land; or
 - (b) in any other financial year — the amount that bears to the taxable value of the whole of the land for the financial year the same proportion as the area of the taxable portion bears to the whole area of the land.

8. Section 15A amended

- (1) In section 15A(2) delete “unimproved”.
- (2) Delete section 15A(6) and insert:
 - (6) For the purposes of subsection (2), the value of the taxable portion of the land for a financial year is —
 - (a) if the financial year is 2008/09 or earlier — the amount that bears to the unimproved value of the whole of the land at midnight on 30 June immediately before the financial year the same proportion as the area of the taxable portion bears to the whole area of the land; or
 - (b) in any other financial year — the amount that bears to the taxable value of the whole of the land for the financial year the same proportion as the area of the taxable portion bears to the whole area of the land.

9. Section 28 amended

- (1) In section 28(2) delete “unimproved” (each occurrence) and insert:

taxable
- (2) In section 28(3) delete the passage that begins with “where —” and ends with “subsection (7).” and insert:

where —
LT is greater than RE;
R is the amount of the rebate;

s. 10

LT (short for land tax) is the amount of land tax levied on the aggregated taxable value of all of the taxable land owned by the applicant;

RE (short for residential equivalent) is the amount of the land tax that would be payable on the sum of —

- (a) the aggregated taxable value of all of the taxable land owned by the applicant other than the private residential property referred to in subsection (2)(a); and
- (b) the taxable value of that private residential property determined as if the property were zoned under a scheme referred to in subsection (2)(a) for use solely for residential purposes.

(3) Delete section 28(7).

10. Section 43A inserted

At the end of Part 3 Division 5 insert:

43A. Concessional value for newly subdivided land

- (1) If a lot (the *old lot*) is subdivided in the financial year before an assessment year, the land tax payable on a lot created by the subdivision (the *new lot*) is assessed under this section if —
 - (a) the new lot was not created pursuant to a strata plan as referred to in clause 3(1)(d); and
 - (b) the ownership of the new lot has not changed since the old lot was subdivided; and
 - (c) the new lot is wholly within the old lot; and

- (d) the new lot was created to be used solely or principally for residential purposes; and
 - (e) the new lot does not have on it a building that is used, or is suitable to be used, for residential purposes; and
 - (f) the new lot has an area of not more than 2 000 m² or, if its area is more than 2 000 m², it is to be used for a building or a group of buildings that —
 - (i) is solely for residential purposes; and
 - (ii) contains a number of separate residential units;
- and
- (g) the owner of the new lot applies under subsection (2) to have the land tax assessed under this section.
- (2) An application must —
- (a) be in an approved form; and
 - (b) be received by the Commissioner on or before 31 August in the assessment year, unless the Commissioner gives an extension under subsection (3).
- (3) The Commissioner may extend the time for lodging an application from 31 August to any date before the following 1 July if —
- (a) the owner applies for the extension before the end of the assessment year; and
 - (b) the Commissioner is satisfied that there are reasonable grounds for extending the time.
- (4) A decision of the Commissioner made under subsection (3) is non-reviewable.

s. 11

- (5) The land tax on the new lot is payable on the lesser of these values —
 - (a) the concessional value of the new lot calculated in accordance with subsection (6);
 - (b) the unimproved value of the new lot at 30 June immediately before the assessment year.
- (6) The concessional value of the new lot is the amount equal to the amount that bears the same proportion to the old lot's unimproved value as at midnight on 30 June immediately before the financial year in which the new lot was created as the area of the new lot bears to the area of the old lot.
- (7) A reference in a land tax Act, other than in clause 6, to the taxable value of the land in the new lot is a reference to whichever value, under subsection (5), is the value on which the land tax on the new lot is payable.

11. Schedule 1 amended

At the end of Schedule 1 insert:

Division 2 — Provision for *Revenue Laws Amendment (Taxation) Act 2009*

2. Regulations for clause 6

If regulations made under section 46 for the purposes of prescribing the percentage for clause 6(4) are made after 1 July 2009, they may be deemed to have come into operation on 1 July 2009.

12. Glossary amended

- (1) In the Glossary clause 1:
- (a) delete the definitions of *aggregated unimproved value* and *unimproved value*;
 - (b) insert in alphabetical order:

aggregated taxable value, in relation to 2 or more lots or parcels of land, means the amount equal to the sum of the taxable values of each taxable lot or parcel;

strata plan has the same meaning as in the *Strata Titles Act 1985*;

survey-strata plan has the same meaning as in the *Strata Titles Act 1985*;

taxable value has the meaning given in clause 6;

unimproved value of land, means the unimproved value of the land determined under the *Valuation of Land Act 1978*.

- (2) In the Glossary clause 2(1) in the definition of *lot* paragraph (a)(vii) delete “survey strata plan” and insert:

survey-strata plan

- (3) In the Glossary after clause 5 insert:

6. Taxable value

- (1) Unless the contrary intention appears, the taxable value of land is to be determined under this clause.
- (2) The taxable value of land for a financial year is —
 - (a) if the capped value of the land can be used in determining the taxable value for that year, the lesser of these values at midnight on 30 June immediately before that year —
 - (i) the capped value of the land;

s. 13

- (ii) the unimproved value of the land;
 - (b) otherwise, the unimproved value of the land at midnight on 30 June immediately before that year.
- (3) The capped value of land cannot be used in determining the taxable value of the land for a financial year if the land is a lot that was created when land was subdivided in the financial year immediately before that year.
- (4) The capped value of land at midnight on 30 June immediately before a financial year is —
 - (a) if under section 43A the concessional value of the land was the value on which land tax on the land for the previous financial year was payable — the prescribed percentage, for the financial year, of the unimproved value of the land at midnight on 30 June immediately before that previous financial year;
 - (b) otherwise —
 - (i) if the financial year is 2009/10 — the prescribed percentage, for that year, of the unimproved value of the land at midnight on 30 June 2008; or
 - (ii) if the financial year is after 2009/10 — the prescribed percentage, for that year, of the taxable value of the land for the previous financial year.

13. “Unimproved value” changed to “taxable value” in some places

In the provisions listed in the Table delete “unimproved” (each occurrence) and insert:

taxable

Table

s. 11(1)	s. 16(6)
s. 16(7)	s. 16(8)
s. 31(4)	

Part 3 — Land Tax Act 2002 amended

14. Act amended

This Part amends the *Land Tax Act 2002*.

15. Section 5 amended

In section 5:

- (a) delete “unimproved value of the land.” and insert:

value of the land referred to in the table.

- (b) in Table 7 delete “**and subsequent financial years**”;

- (c) after Table 7 insert:

**Table 8: Land tax rates for 2009/10
and subsequent financial years**

Taxable value of the land		Rate of land tax
Exceeding (\$)	Not exceeding (\$)	
0	300 000	Nil
300 000	1 000 000	0.09 cent for each \$1 in excess of \$300 000
1 000 000	2 200 000	\$630 + 0.47 cent for each \$1 in excess of \$1 000 000
2 200 000	5 500 000	\$6 270 + 1.22 cents for each \$1 in excess of \$2 200 000
5 500 000	11 000 000	\$46 530 + 1.46 cents for each \$1 in excess of \$5 500 000
11 000 000		\$126 830 + 2.16 cents for each \$1 in excess of \$11 000 000

Part 4 — Metropolitan Region Improvement Tax Act 1959 amended

16. Act amended

This Part amends the *Metropolitan Region Improvement Tax Act 1959*.

17. Section 10 amended

In section 10:

- (a) delete “unimproved value of the land.” and insert:

value of the land referred to in the Table.

- (b) in Table 2 delete “**and subsequent years of assessment**”;

- (c) after Table 2 insert:

Table 3: Metropolitan Region Improvement Tax rates for 2009/10 and subsequent years of assessment

Taxable value of the land		Rate of Metropolitan Region Improvement Tax
Exceeding (\$)	Not exceeding (\$)	
0	300 000	Nil
300 000		0.14 cent for each \$1 in excess of \$300 000

