



Western Australia

Land Tax Assessment Amendment Act 2022

As at 21 Nov 2022

No. 42 of 2022

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Land Tax Assessment Amendment Act 2022

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Western Australia

Land Tax Assessment Amendment Act 2022

No. 42 of 2022

An Act to amend the *Land Tax Assessment Act 2002*.

[Assented to 21 November 2022]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Land Tax Assessment Amendment Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 comes into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 is deemed to have come into operation on 1 July 2020;
- (c) the rest of the Act comes into operation on the day after assent day.

3. Act amended

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

Part 2 — Amendments deemed to have commenced on 1 July 2020

4. Section 15A amended

- (1) In section 15A(1)(a) delete “a concession or exemption under section 39B” and insert:

an exemption under section 39B to any extent

- (2) In section 15A(2) delete “by the subdividing owner of the land on the value of the taxable portion of the land for each of the 10 financial years” and insert:

on the land by the subdividing owner of the land for each of the 10 financial years (the *relevant financial years*)

- (3) Delete section 15A(3) and insert:

- (3) If immediately after the subdivision any of the land is in a dwelling or residential park, and there are caravan or camp sites or owner-occupied home sites (as those terms are defined in section 39A) in the park, then —

- (a) a percentage (*P%*) must be calculated in relation to the park under subsection (3A); and
- (b) in determining the taxable value of the land for each of the relevant financial years, the unimproved value of the land in relation to that year must be reduced by an amount equal to *P%* of the unimproved value of the land.

s. 4

- (3A) For the purposes of subsection (3)(a), the percentage must be calculated as follows —
- (a) first, calculate a percentage ($X\%$) in relation to the park using the method set out in section 39C(2) to (8), by reference to the park immediately after the subdivision;
 - (b) second, calculate the percentage ($Y\%$) of the land that is in a dwelling or residential park (as defined in section 39A) immediately after the subdivision;
 - (c) third, multiply $X\%$ by $Y\%$.
- (4) In section 15A(4):
- (a) delete “those 10 financial years” and insert:

the relevant financial years
 - (b) delete “the taxable portion of”.
- (5) In section 15A(5) delete “any part of the taxable portion of the land for any of those 10 financial years is reduced by the amount already charged on that part” and insert:

the land for any of the relevant financial years is reduced by the amount already charged on any part of the land
- (6) Delete section 15A(6).
- (7) In section 15A(7) delete “the taxable portion of”.

(8) After section 15A(8) insert:

- (9) A reference in subsection (1) to an exemption under section 39B is, in relation to a financial year beginning before 1 July 2020, a reference to an exemption or concession under section 39B as that section was in force before 1 July 2020.

Note: The heading to amended section 15A is to read:

Tax payable on newly subdivided dwelling or residential parks

5. Section 20 amended

After section 20(1)(b) insert:

- (c) land that is not exempt under section 26B for the assessment year because income was derived from the property in the period referred to in section 26B(5)(a)(i) or (ii) (whichever is applicable);

6. Section 23 amended

Delete section 23(1)(a) and insert:

- (a) the individual's ownership and use of the property as their primary residence —
- (i) gave rise to an exemption under section 21 or 26B for the financial year in which the individual died; or
- (ii) would have given rise to an exemption under section 21 or 26B for the financial year in which the individual died if, in applying section 21 or 26B to that financial year, the reference in

section 21(1) or 26B(3)(a) to midnight on 30 June in the financial year before the assessment year were a reference to the time immediately before the individual's death;

and

7. Section 26B inserted

After section 26A insert:

26B. Exemption for property owned by individual in care

(1) In this section —

aged care facility has the meaning given in section 38A(1);

care commencement date, for an individual in full-time care, means the day on which the period of full-time care began (whether or not the kind of full-time care has changed in that period).

(2) In this section, an individual is in *full-time care* during any period when —

(a) the individual is being cared for by a person who is qualified for a carer payment under the *Social Security Act 1991* (Commonwealth) Part 2.5 in respect of that care (whether or not the person receives that payment); or

(b) the individual's primary residence is any of the following —

(i) a public hospital as defined in the *Health Services Act 2016* section 8(6);

- (ii) a private hospital as defined in the *Private Hospitals and Health Services Act 1927* section 2(1);
 - (iii) a mental health service as defined in the *Mental Health Act 2014* section 4;
 - (iv) a private psychiatric hostel as defined in the *Private Hospitals and Health Services Act 1927* section 2(1);
 - (v) an aged care facility;
 - (vi) a facility that specialises in palliative care;
 - (vii) a place in another State or a Territory that is equivalent to a place referred to in subparagraph (i), (ii), (iii), (iv), (v) or (vi);
 - (viii) a place of a prescribed class.
- (3) Private residential property (except property held in trust) is exempt for an assessment year if —
- (a) at midnight on 30 June in the financial year before the assessment year —
 - (i) the property is owned by an individual as described in subsection (4); and
 - (ii) the individual is in full-time care;and
 - (b) immediately before the care commencement date —
 - (i) the property was owned by the individual as described in subsection (4); and
 - (ii) the individual used the property as their primary residence.

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- (4) For the purposes of subsection (3)(a)(i) and (b)(i), the property must be owned at the relevant time by —
- (a) the individual; or
 - (b) the individual and their spouse; or
 - (c) the individual and a person with whom the individual has lived in a de facto relationship for at least 2 years, whether or not they still live on that basis at the relevant time; or
 - (d) the person or persons referred to in paragraph (a), (b) or (c) and 1 or more other persons each of whom is an owner only because of a requirement by a financial institution for a guarantee of money advanced on the security of the property.
- (5) Despite subsection (3), the property is not exempt if —
- (a) the individual or any other person derived any income from the property in —
 - (i) if the care commencement date was in the financial year before the assessment year — the period beginning on the care commencement date and ending immediately before the assessment year; or
 - (ii) otherwise — the financial year before the assessment year;
 - or
 - (b) any other property owned by the individual is exempt for the assessment year under this Division as a result of its use by the individual as their primary residence.

8. Part 3 Division 4A replaced

Delete Part 3 Division 4A and insert:

Division 4A — Land used for dwelling or residential parks

39A. Terms used

In this Division —

camp has the meaning given in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

caravan has the meaning given in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

caravan or camp site means a short-stay site set aside, marked, or intended to be used for 1 caravan or camp;

dwelling or residential park —

- (a) means a dwelling park or a residential park; and
- (b) includes a place that is both a dwelling park and a residential park;

dwelling park means a caravan park or camping ground (as those terms are defined in the *Caravan Parks and Camping Grounds Act 1995* section 5(1)) that is —

- (a) operated, or required to be operated, under a licence issued under that Act; or
- (b) operated by a local government (as defined in section 5(2) of that Act) on land that is not owned by, or vested in, the local government;

excluded land means any of the following land in a dwelling or residential park —

- (a) land used for a hotel, motel, hostel, lodging house, boarding house, shop, cafe or restaurant;

- (b) land not already mentioned in paragraph (a) that is the subject of a licence under the *Liquor Control Act 1988*;
- (c) land on which clearing works have been undertaken for the purposes of development on the land;
- (d) land used for prescribed purposes;
- (e) land that the Commissioner considers is not used for the purposes of operating the dwelling or residential park;

long-stay site has the meaning given in the *Residential Parks (Long-stay Tenants) Act 2006* section 3;

operate has the meaning given in the *Caravan Parks and Camping Grounds Act 1995* section 5(1);

owner-occupied home site means a long-stay site in relation to which a site-only agreement (as defined in the *Residential Parks (Long-stay Tenants) Act 2006* section 3) is in force;

park site means an area of land in a dwelling or residential park that is set aside, marked, or intended to be used for —

- (a) 1 caravan, camp or relocatable home; or
- (b) 1 holiday cabin, chalet or similar building;

relocatable home has the meaning given in the *Residential Parks (Long-stay Tenants) Act 2006* section 3;

residential park has the meaning given in the *Residential Parks (Long-stay Tenants) Act 2006* section 5B;

short-stay site means a park site that is not a long-stay site.

39B. Exemption for land in dwelling or residential parks

- (1) Land in a dwelling or residential park is exempt for an assessment year, to the extent set out in subsection (2), if at midnight on 30 June in the previous financial year there are caravan or camp sites or owner-occupied home sites in the park.
- (2) The land is exempt in a proportion that is equal to the percentage ($X\%$) calculated under section 39C.
- (3) If the land in the park is not wholly exempt for the assessment year under subsections (1) and (2), then for the purposes of determining the taxable value of the land in the park for the assessment year, the unimproved value of the land must be reduced by an amount that is equal to $X\%$ of that unimproved value.

39C. Calculating percentage for exemption for dwelling or residential parks

- (1) This section sets out the method to be used in calculating the percentage that applies in determining the extent to which land in a dwelling or residential park is exempt for an assessment year under section 39B.
- (2) First, calculate the proportion of the short-stay sites in the park that are caravan or camp sites using the following formula —

$$\frac{C}{S}$$

where —

C is the number of caravan or camp sites in the park;

S is the number of short-stay sites in the park.

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- (3) Second, calculate the short-stay exemption component using the following formula —

$$\frac{S}{T} \times P1$$

where —

S is the number of short-stay sites in the park;

T is the total number of park sites in the park;

P1 is the proportion of the short-stay sites that are caravan or camp sites calculated under subsection (2), rounded up to 1 if the proportion is 0.75 or higher.

- (4) Third, calculate the proportion of the long-stay sites in the park that are owner-occupied home sites using the following formula —

$$\frac{O}{L}$$

where —

O is the number of owner-occupied home sites in the park;

L is the number of long-stay sites in the park.

- (5) Fourth, calculate the long-stay exemption component using the following formula —

$$\frac{L}{T} \times P2$$

where —

L is the number of long-stay sites in the park;

T is the total number of park sites in the park;

P2 is the proportion of the long-stay sites that are owner-occupied home sites calculated under subsection (4), rounded up to 1 if the proportion is 0.75 or higher.

- (6) Fifth, calculate the proportion of the total land in the park that is excluded land using the following formula —

$$\frac{E}{A}$$

where —

E is the area of the excluded land in the park in square metres;

A is the total area of the park in square metres.

- (7) Sixth, calculate the proportion that applies for the purposes of determining the extent to which the land in the park is exempt under section 39B using the following formula —

$$(C1 + C2) \times (1 - P3)$$

where —

C1 is the short-stay exemption component calculated under subsection (3);

C2 is the long-stay exemption component calculated under subsection (5);

P3 is the proportion of the total land in the park that is excluded land calculated under subsection (6).

- (8) Seventh, convert the proportion calculated under subsection (7) to a percentage.

39D. Provisions about calculations under s. 39C

- (1) A calculation under section 39C must be made by reference to the dwelling or residential park as at midnight on 30 June in the financial year before the assessment year.
- (2) If at that time there are no caravan or camp sites in the park —
 - (a) the steps in section 39C(2) and (3) must be omitted; and
 - (b) for the purposes of the calculation in section 39C(7), the short-stay exemption component calculated under section 39C(3) is taken to be zero.
- (3) If at that time there are no owner-occupied home sites in the park —
 - (a) the steps in section 39C(4) and (5) must be omitted; and
 - (b) for the purposes of the calculation in section 39C(7), the long-stay exemption component calculated under section 39C(5) is taken to be zero.
- (4) A calculation under section 39C must be rounded to 4 decimal places.

9. Section 42 amended

In section 42(3)(a) delete “25 or 25A; or” and insert:

25, 25A or 26B; or

Note: The heading to amended section 42 is to read:

One year exemption for land vacated for sale by mortgagee

Part 3 — Amendments commencing on day after Royal Assent

10. Section 18A amended

In section 18A(2)(b) after “exemption” insert:

provision

11. Section 20 amended

(1) In section 20(1):

- (a) delete “A taxpayer may apply to the Commissioner for an exemption, concession or further concession for any of the following land —” and insert:

The Commissioner may, on application or on the Commissioner’s own initiative, grant an exemption, concession or further concession for any of the following land for an assessment year —

- (b) in paragraph (a) delete “under section 21, 22 or 23 because of its use by the individual as his or her” and insert:

for the assessment year under section 21, 22 or 23 because of its use by the individual as their

- (c) in paragraph (b) delete “an” and insert:

the

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(d) in paragraph (f) after “under section 42” insert:

for the assessment year

(2) In section 20(2) delete “the exemption, concession or further concession for the whole or part of a lot or parcel of land the subject of an application under subsection (1)” and insert:

an exemption, concession or further concession under subsection (1) for the whole or part of a lot or parcel of land

(3) Delete section 20(3) and insert:

(2A) The Commissioner may revoke an exemption, concession or further concession granted under subsection (1) if the Commissioner is no longer satisfied that the grounds referred to in subsection (2) exist.

(2B) The Commissioner must give a taxpayer written notice of a decision —

(a) not to grant an exemption, concession or further concession under subsection (1) on application by the taxpayer; or

(b) to revoke under subsection (2A) an exemption, concession or further concession granted to the taxpayer under subsection (1).

(3) A taxpayer may appeal to the Minister against a decision of the Commissioner referred to in subsection (2B)(a) or (b).

- (4) In section 20(4):
- (a) delete “may” and insert:

under subsection (3) must
 - (b) delete “issued,” and insert:

given,
 - (c) delete “applicant.” and insert:

taxpayer.
- (5) In section 20(6) delete “applicant” and insert:

taxpayer
- (6) In section 20(7) delete “applicant.” and insert:

taxpayer.

Note: The heading to amended section 20 is to read:

Commissioner’s power to grant exemption or concession for land

12. Section 20A inserted

At the end of Part 3 Division 1 insert:

20A. Owner of land subject to exemption or concession may be required to notify Commissioner of event or circumstance

- (1) The Commissioner may serve a notice on an owner of land in a financial year (the *relevant year*) if —
 - (a) an exemption, concession or further concession has been granted for the land for the relevant year under a paragraph of section 20(1); or
 - (b) an assessment of land tax in relation to the land has been made on the basis that an exemption or concession applies to the land for the relevant year under a provision of Divisions 2 to 5.
- (2) A notice under subsection (1) must —
 - (a) describe 1 or more relevant events or circumstances; and
 - (b) require the person on whom the notice is served to notify the Commissioner of the occurrence of any of those relevant events or circumstances during —
 - (i) the relevant year; or
 - (ii) any of the 5 subsequent financial years;and
 - (c) state the time within which the person is required to notify the Commissioner of the occurrence of a relevant event or circumstance.

- (3) For the purposes of this section, a *relevant event or circumstance*, in relation to a notice under subsection (1), is an event or circumstance that the Commissioner considers will or may affect —
- (a) for a notice under subsection (1)(a) —
 - (i) whether the exemption, concession or further concession granted for the relevant year will be revoked under section 20(2A); or
 - (ii) whether an exemption, concession or further concession will be granted for the land for a subsequent financial year under the same paragraph of section 20(1);
 - or
 - (b) for a notice under subsection (1)(b) —
 - (i) whether the exemption or concession continues to apply to the land for the relevant year; or
 - (ii) whether an exemption or concession will apply to the land for a subsequent financial year under the same provision of Divisions 2 to 5.
- (4) For the purposes of subsection (2)(c), a notice under subsection (1) must not require a person to notify the Commissioner of the occurrence of a relevant event or circumstance —
- (a) earlier than the 49th day after the day on which the relevant event or circumstance occurs; or
 - (b) later than 30 September in the financial year after the financial year in which the relevant event or circumstance occurs.

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- (5) A person served with a notice under subsection (1) must comply with the notice.
Penalty for this subsection: a fine of \$5 000.
- (6) Despite subsection (5), a person served with a notice under subsection (1) is not required to notify the Commissioner of the occurrence of a relevant event or circumstance in compliance with the notice if, at the time the relevant event or circumstance occurs —
- (a) the person has ceased to be an owner of the land; or
 - (b) an assessment of land tax has been made in relation to the land for an assessment year (other than an assessment year before the relevant year) on the basis that —
 - (i) for a notice under subsection (1)(a) — no exemption is granted for the assessment year under the same paragraph of section 20(1); or
 - (ii) for a notice under subsection (1)(b) — no exemption or concession under the same provision of Divisions 2 to 5 applies to the land for the assessment year.

13. Section 23A amended

- (1) Delete section 23A(3).
- (2) In section 23A delete the Penalty.

Note: The heading to amended section 23A is to read:

Exemption for residence owned by executor or administrator if beneficiary in will has right to future ownership and is resident

14. Section 23 amended

- (1) Delete section 23(3).
- (2) In section 23(4) delete “notified,” and insert:

notified in accordance with section 20A,

15. Section 26 amended

- (1) Delete section 26(2).
- (2) In section 26 delete the Penalty.

Note: The heading to amended section 26 is to read:

Exemption for residence of disabled person held in trust

16. Section 26A amended

- (1) Delete section 26A(7).
- (2) In section 26A delete the Penalty.

Note: The heading to amended section 26A is to read:

Exemption for residence of disabled person owned by relative

17. Section 30F deleted

Delete section 30F.

18. Schedule 1 Division 7 inserted

At the end of Schedule 1 insert:

**Division 7 — Provisions for *Land Tax Assessment
Amendment Act 2022***

**22. Application of amendments made by *Land Tax
Assessment Amendment Act 2022 Part 2***

- (1) The amendments made by the *Land Tax Assessment Amendment Act 2022 Part 2* apply in relation to assessment years that begin on or after 1 July 2020.
- (2) This clause has effect subject to clause 23.

23. Reduced exemption percentage for land used for dwelling or residential park does not apply for certain financial years

- (1) In this clause —
dwelling or residential park has the meaning given in section 39A;
new exemption percentage, for land in a dwelling or residential park for a financial year, means the percentage calculated under section 39C for the land for the year;
old exemption percentage, for land in a dwelling or residential park for a financial year, means the percentage of the land that would have been exempt land for the year under old Part 3 Division 4A if the amendment made by the *Land Tax Assessment Amendment Act 2022* section 8 had not been made;
old Part 3 Division 4A means Part 3 Division 4A as in force immediately before the *Land Tax Assessment Amendment Act 2022 Part 2* was deemed to come into operation under section 2(b) of that Act;
relevant year means a financial year that begins —
 - (a) on or after 1 July 2020; and

- (b) no later than the next 1 July following the day on which the *Land Tax Assessment Amendment Act 2022* receives the Royal Assent.
- (2) Despite section 39B(2), if the new exemption percentage for land in a dwelling or residential park for a relevant year is less than the old exemption percentage for the land for the year, the land is taken to be exempt under section 39B for the year to the extent of the old exemption percentage rather than the new exemption percentage.

24. Continued application of notification requirements

- (1) In this clause —
commencement day means the day on which the *Land Tax Assessment Amendment Act 2022* Part 3 comes into operation;
commencement year means the financial year in which commencement day occurs.
- (2) Despite the deletion of sections 23A(3), 23(3), 26(2), 26A(7) and 30F by the *Land Tax Assessment Amendment Act 2022* Part 3 —
 - (a) if property is exempt under section 23A for the commencement year — section 23A(3) and the Penalty to section 23A, as in force immediately before commencement day, continue to apply in relation to the use of the property at midnight on 30 June in the commencement year; and
 - (b) if property is exempt under section 23 for the commencement year — section 23(3), as in force immediately before commencement day, continues to apply in relation to any rent or other income derived from the property in the commencement year; and
 - (c) if property is exempt under section 26 for the commencement year — section 26(2) and the Penalty to section 26, as in force immediately before commencement day, continue to apply in relation to the ownership and use of the property at

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midnight on 30 June in the commencement year;
and

- (d) if property is exempt under section 26A for the commencement year — section 26A(7) and the Penalty to section 26A, as in force immediately before commencement day, continue to apply in relation to the use of the property at midnight on 30 June in the commencement year; and
 - (e) if land is exempt under Part 3 Division 3 for the commencement year — section 30F, as in force immediately before commencement day, continues to apply in relation to a change (as defined in that section) that occurs in the commencement year.
- (3) Subclause (2) does not apply in relation to land if a notice is served under section 20A(1) in relation to the land in the commencement year.

25. Reassessment

Subject to the *Taxation Administration Act 2003* section 17, the Commissioner must make any reassessment necessary to give effect to this Division and the amendments made by the *Land Tax Assessment Amendment Act 2022* Part 2.

19. Various references to gender removed

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 16(2)(a) and (10)(a)	his or her	the Commissioner's
s. 21(1)(a)	his or her	the individual's
s. 21(1)(b)	a husband and wife,	spouses,

Provision	Delete	Insert
s. 21(1)(b)	his or her	that spouse's
s. 21(1)(c)	his or her	that person's
s. 22(b)(ii)(I) s. 23(2)(a)	he or she	the individual
s. 22(c) s. 23A(1)(c) s. 24(1)(d) and (2)(b) s. 24A(1)(e) and (2)(b) s. 25(2) s. 25A(1)(e) and (2)(b) s. 26A(2)(a) s. 27A(1)(i)	his or her	their
s. 26(1)(b)	his or her	the beneficiary's
Glossary cl. 1 def. of <i>non-strata home unit</i> para. (b)(i)	his or her	the person's
Glossary cl. 1 def. of <i>trustee</i> para. (c)	himself or herself	themselves