

WESTERN AUSTRALIA

**LAND TAX ASSESSMENT
AMENDMENT ACT 1994**

No. 63 of 1994

AN ACT to amend the *Land Tax Assessment Act 1976*.

The Parliament of Western Australia enacts as follows:

[Assented to 7 November 1994.]

Short title

1. This Act may be cited as the *Land Tax Assessment Amendment Act 1994*.

Commencement

2. (1) Except as provided in subsection (2), this Act comes into operation on the day on which it receives the Royal Assent.

(2) Section 7 comes into operation on such day as is fixed by proclamation.

Application

3. (1) The amendment made by section 5 —

(a) applies in respect of the year of assessment commencing on 1 July 1994 and each subsequent year of assessment; and

(b) is to be taken to have applied in respect of the year of assessment that commenced on 1 July 1988 and each subsequent year of assessment up to and including the year of assessment that commenced on 1 July 1993.

(2) The amendments made by section 10 apply in respect of the year of assessment commencing on 1 July 1994 and each subsequent year of assessment.

Principal Act

4. In this Act the *Land Tax Assessment Act 1976** is referred to as the principal Act.

[* *Reprinted as at 1 December 1982.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 115.]

Section 5 amended

5. Section 5 (1) of the principal Act is amended, in the definition of “public statutory authority”, by inserting after “State” the following —

“

, but does not include the Government Employees Superannuation Board established by the *Government Employees Superannuation Act 1987*.

”.

Section 15 amended

6. (1) Section 15 (1) of the principal Act is amended by deleting the passage commencing with “except that” and ending with “tax is payable”.

(2) Section 15 (4) of the principal Act is repealed.

Section 37B amended and transitional provision

7. (1) Section 37B of the principal Act is amended —

(a) by inserting after the section designation “37B.” the subsection designation “(1)”; and

(b) by inserting the following subsection —

“

(2) If the amendment of the assessment has the effect of reducing the land tax payable, the Commissioner shall —

(a) refund any tax overpaid; and

- (b) pay interest on the amount refunded at the prescribed rate from the date of payment of the tax.

”.

(2) Subsection (2) (b) of section 37B of the principal Act inserted by subsection (1) of this section applies to amended assessments in respect of objections or appeals allowed after the commencement of this section.

Section 47 amended

8. Section 47 of the principal Act is amended, in paragraph (b), by inserting after “the purchaser” the following —

“ or his representative ”.

Section 48 amended

9. Section 48 (1) of the principal Act is repealed and the following subsections are substituted —

“

(1) The Commissioner shall on application in respect of any land —

- (a) by the owner or a purchaser of the land; or
- (b) by a representative of the owner or of a purchaser of the land,

issue a certificate showing if there is any assessed land tax charged on the land described in the application.

(1a) In subsection (1) “**representative**” in relation to any land means a person who satisfies the

Commissioner that he is authorized to act for the owner or purchaser.

”.

Schedule amended

10. (1) The Schedule to the principal Act is amended in Part I by inserting after clause 7 the following clauses —

“

7A. (a) *Interpretation*

In this clause —

“**non-profit association**” means a society, club or association not carried on for the purpose of profit or gain to its individual members;

“**sport**” includes any game;

“**sports association**” means a non-profit association the principal object of which is to provide facilities for its members to engage in any form of sport.

(b) *Class of land*

Land owned by, vested in, or held in trust for —

- (i) a sports association that is used as a site for the purposes of providing facilities necessary for or conducive to the attainment of the sporting objects of the association; or
- (ii) any other non-profit association that is used solely as a site for the purposes of providing facilities that are —
 - (I) necessary for or conducive to the attainment of the objects of the association; and

(II) not available for use on a paying basis by persons (other than guests of members) who are not members of the association,

and the fact that facilities provided include facilities for the sale of liquor does not affect the application of this clause to the land.

7B. (a) *Interpretation*

In this clause —

“ancillary purpose” means —

- (a) a facility provided under a retirement village scheme for the exclusive use of residents and their guests; and
- (b) a facility used for the provision of management services required by the scheme;

“residence contract” and **“resident”** have the meanings given to them by the *Retirement Villages Act 1992*;

“retirement village scheme” means a retirement village scheme within the meaning in the *Retirement Villages Act 1992* for which all necessary approvals under Part XV of the *Local Government Act 1960* are in force.

(b) *Class of land*

Land comprised in a retirement village scheme that is —

- (i) occupied, or available for occupation, as residential premises under a residence contract; or
- (ii) used for an ancillary purpose,

under the scheme, but only to the extent that the land is not exempt land under any other provision of this Act.

(2) The Schedule to the principal Act is amended in Part I, in clause 9, by inserting immediately before paragraph (a) the following paragraph —

“

(aa) *Interpretation*

(i) In this clause “**exempt proprietary company**” has the same meaning as it has in the Corporations Law.

(ii) Where —

(I) 2 persons have all of the shares in the share capital of an exempt proprietary company; and

(II) one of those persons holds only one of those shares and that share is held in trust for the other person,

the latter person shall be deemed for the purposes of paragraph (a) to be the person who holds all of the share capital of the company.

”.

(3) The Schedule to the principal Act is amended in Part I, in clause 9 (a), by deleting “within the meaning of the *Companies (Western Australia) Code*” in each place where it occurs.

(4) The Schedule to the principal Act is amended in Part I in clause 9 (b) (vi) by deleting “(vi) The qualification specified in subparagraph (v) does” and substituting the following —

“

(vii) The qualifications specified in subparagraphs (v) and (vi) do

”.

(5) The Schedule to the principal Act is amended in Part I, in clause 9 (b), by inserting after subparagraph (v) the following subparagraph —

“

(vi) Where on or after 1 July in any year of assessment —

(I) land becomes land of the class specified in paragraph (a) by reason of a person or persons (“**the occupier**”) using the land solely or principally as his or their ordinary place of residence;

(II) the land was not within that class at midnight on the 30 June immediately preceding that year of assessment by reason only that the occupier had ceased occupation, or not taken up occupation, to enable refurbishment of an existing dwellinghouse on the land to be carried out;

(III) the occupier is the first occupier of the dwellinghouse following the refurbishment; and

(IV) the occupier or the owner of the land or another person did not derive rent or other income from the land in respect of any part of the period from the beginning of the year of assessment to the time of re-occupation,

an exemption in respect of the land, as qualified by subparagraphs (i), (ii), (iii) and (iv), shall be deemed to apply to that year of assessment, and if an assessment relating to that land has been made it shall be amended accordingly.

”

(6) The Schedule to the principal Act is amended by deleting Part II and substituting the following Part —

“

PART II

(a) *Interpretation*

In this Part —

“**area of the lot or parcel**” includes any part of a building erected on the lot or parcel that is capable of being let;

“**non-profit association**” means a society, club or association not carried on for the purpose of profit or gain to its individual members.

(b) *Class of land*

Any lot or parcel of land owned by, vested in, or held in trust for a non-profit association and partly used, to the extent of not less than one-half of the area of the lot or parcel, as a site for the purposes of providing facilities that are —

- (i) necessary for or conducive to the attainment of the objects of the society, club or association; and
- (ii) not available for use on a paying basis by persons (other than guests of members) who are not members of the association,

and the fact that facilities provided include facilities for the sale of liquor does not affect the application of this clause to the lot or parcel.

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