

WESTERN AUSTRALIA

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# LAND TAX ASSESSMENT AMENDMENT ACT

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No. 23 of 1989

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

[Assented to 1 December 1989]

The Parliament of Western Australia enacts as follows:

## Short title

1. This Act may be cited as the *Land Tax Assessment Amendment Act 1989*.

## Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

**Principal Act**

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

[\*Reprinted as approved 1 December 1982 and amended by Acts Nos. 87 of 1984, 31, 40 and 98 of 1985, 69 of 1986 and 31 of 1988.]

**Section 4 repealed**

4. Section 4 of the principal Act is repealed.

**Heading to Part IV amended**

5. The heading to Part IV of the principal Act is amended by deleting "AND CONCESSIONS" and substituting the following—

“ , CONCESSIONS AND REBATES ”.

**Section 23 inserted**

6. After section 22 of the principal Act the following section is inserted—

**Rebates**

“ 23. (1) The Commissioner shall grant a rebate under this section of land tax levied on a person or persons (in this section called “the owner”) in respect of the year of assessment commencing on 1 July 1989 or any subsequent year of assessment where the Commissioner is satisfied that—

(a) the owner was at midnight on 30 June immediately preceding the year of assessment—

(i) the owner of exempt land that was exempt land because of the use of that land by the owner or other persons as an ordinary place of residence in accordance with clause 9, 10 or 11 of Part I of the Schedule; and

(ii) the owner of other land (in this section called “the non-exempt land”) that would have been exempt land if, instead of the exempt land, the non-exempt

land had been used by the owner or other persons as an ordinary place of residence in accordance with clause 9, 10 or 11 of Part I of the Schedule;

- (b) the owner became the owner of the exempt land or the non-exempt land during the year immediately preceding the year of assessment;
- (c) the use of the exempt land as an ordinary place of residence by the owner or other persons referred to in paragraph (a) (i) on that 30 June was—
  - (i) in the year before the year of assessment, preceded by similar use by the same persons of the non-exempt land; or
  - (ii) in the year of assessment, succeeded by similar use by the same persons of the non-exempt land;
- (d) during the year of assessment the owner sold or otherwise disposed of whichever of the exempt land or the non-exempt land the owner had first acquired and delivered possession to the new owner in that year;
- (e) the owner or any other person did not derive rent or other income in respect of the period during which the owner owned both the exempt land and the non-exempt land from whichever land was not used as an ordinary place of residence by the owner or other persons referred to in paragraph (a) (i);
- (f) a written application for a rebate under this section has been made by the owner in a form approved by the Commissioner and lodged with the Commissioner—
  - (i) after the sale or other disposition and delivery of possession of the land referred to in paragraph (d); and
  - (ii) not later than 3 months after the end of the year of assessment.

(2) The amount of the rebate to be granted to an owner under this section shall be the amount by which the assessment of that owner would have been reduced if the non-exempt land were deemed to be exempt land on account of a deemed use of that land by the owner or other persons referred to in subsection (1) (a) (i) as an ordinary place of residence.

(3) Where a rebate is granted under this section, the Commissioner shall cause appropriate action to be taken for the amendment or cancellation of any assessment issued to the owner and for any refund of the rebated land tax to be made. ”.

### Section 54 amended

7. Section 54 of the principal Act is amended in paragraph (b) by inserting after “returns” the following—

“ or application for a rebate ”.

### Schedule amended

8. The Schedule to the principal Act is amended in clause 9 of Part I by inserting before paragraph (a) the following paragraph—

“ (aa) *Interpretation*

In respect of the year of assessment commencing on 1 July 1989 or any subsequent year of assessment, a natural person who, or an exempt proprietary company within the meaning of the *Companies (Western Australia) Code* which, holds land as a trustee is not an owner of the land for the purposes of this clause, notwithstanding any other entitlement that person or company may have to the same land for an estate of freehold in possession. ”.

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