BERMUDA

LAND VALUATION AND TAX AMENDMENT ACT 2015

2015 : 29

TABLE OF CONTENTS

WHEREAS it is expedient to amend the Land Valuation and Tax Act 1967;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Land Valuation and Tax Act 1967 ("the principal Act"), may be cited as the Land Valuation and Tax Amendment Act 2015.

Amends section 1

2 Section 1(1) of the principal Act is amended—

(a) in the definition of "annual rental value", by deleting "means the rent at which a valuation unit might" and substituting ", in relation to a valuation unit, means its annual rental value as assessed under this Act, based on the rent at which the valuation unit might, on or about the valuation date on the open market,";

(b) in the definition of "charitable organization", by deleting "any person or body of persons having exclusively charitable purposes and relying" and substituting "a charity within the meaning given in section 2 of the Charities Act 2014, which relies";

(c) in the definition of "charitable purposes", by deleting "means the relief of poverty, the advancement of education, the advancement of religion and other purposes beneficial to the community" and substituting "has the meaning given in section 2 of the Charities Act 2014";

(d) by, after the definition of "the Director", inserting the following new definition—

" "draft valuation list" means a draft valuation list prepared under section 3 as read with section 26(1);";

(e) in the proviso to the definition of "owner", by deleting paragraph (d);

(f) by, after the definition of "public utility undertaking", inserting the following new definitions—

" "quinquennial draft valuation list" means a draft valuation list which, as provided in section 26, is prepared more or less quinquennially;

"quinquennial valuation list" means a valuation list which, as provided in section 26, more or less quinquennially supersedes the valuation list in being immediately before its confirmation;";

(g) by, after the definition of "Tribunal", inserting the following new definitions—

" "valuation date" means the date by reference to which the annual rental value of a valuation unit shall be assessed, the date being—

(a) in respect of a valuation list that is in effect at the time that the Land Valuation and Tax Amendment Act 2015 comes into operation, 31 December 2009 (the date of deposit under section 9 (as read with section 26) of the draft 2009 valuation list); and

(b) in respect of—

(i) a draft valuation list that is deposited under section 9 (as read with section 26) at any time after the coming into operation of the Land Valuation and Tax Amendment Act 2015;

(ii) a valuation list, being a draft valuation list referred to in subparagraph (i) which is confirmed under section 22 (as read with section 26(3)); and

(iii) for the avoidance of doubt, objections to the draft valuation list, proposals of the Director for the amendment of the draft valuation list or the valuation list, and objections to such proposals,

18 months before the effective date of the valuation list to which it relates;

"valuation list" means a valuation list for Bermuda confirmed under section 22 as read with section 26(3);".

Amends section 2

3 Section 2 of the principal Act is amended by deleting "Director and such Assistant Directors" and substituting "Director of Land Valuation and such Assistant Directors of Land Valuation".

Amends section 3

4 Section 3(1)(d) of the principal Act is amended by deleting "1954" and substituting "1996".

Amends section 6

5 Section 6(1) of the principal Act is amended by deleting "and occupier".

Amends section 7

6 Section 7 of the principal Act is amended by, after subsection (2), inserting—

"(2A) If any person on whom a notice to make a return has been served under this section fails without reasonable excuse—

(a) to make such return in accordance with subsection (2); or

(b) although he makes the return in accordance with subsection (2), withholds particulars or makes any statement or representation which he knows to be false or misleading in a material particular (relating to the annual rental value of the valuation unit) as are reasonably required for the purpose of enabling the Director accurately to compile the draft valuation list,

he shall not later adduce those particulars in an objection to the draft valuation list or in an objection to proposals of the Director for the amendment of the draft valuation list or valuation list (once the draft valuation list is confirmed).".

Amends section 8

7 Section 8 of the principal Act is amended—

(a) in the heading, by deleting "land" and substituting "valuation unit"; and

(b) in subsection (1), by deleting "enter on" and substituting "enter".

Amends section 9

8 Section 9 of the principal Act is amended—

(a) in subsection (1), by deleting "the thirtieth day of June in the year in which it is prepared (or such later date as the Minister may in any particular case allow)" and substituting "the effective date"; and

(b) in subsection (2), by deleting "and in at least one daily newspaper".

Amends section 10

9 Section 10(2) of the principal Act is amended by deleting "twenty-eight days" and substituting "six months".

Amends section 11

10 Section 11(2) of the principal Act is amended by, after "notice", inserting "in the prescribed form".

Amends section 12

11 Section 12(1) of the principal Act is amended by deleting "twenty-eight days" and substituting "six months".

Amends section 16

12 Section 16 of the principal Act is amended by deleting "notice of objection has been lodged" and substituting "Director's reply".

Amends section 17

13 Section 17 of the principal Act is amended—

(a) in subsection (1)(c), by deleting "or occupier"; and

(b) by repealing subsection (3).

Amends section 18

14 Section 18 of the principal Act is amended—

(a) in the proviso to subsection (3), by deleting "in the opinion of the Tribunal any amendment so proposed is formal only, then the Tribunal may dispense with the requirement of serving notice of that amendment" and substituting "the Director is satisfied that any amendment is formal only, then the Director may dispense with the requirement of making a proposal or serving notice of that amendment, and may amend the list accordingly";

(b) by, after subsection (3), inserting—

"(3A) For the purposes of the proviso to subsection (3), an amendment to the draft valuation list is "formal only" if the amendment—

(a) is to the name, description or address of a valuation unit; and

(b) is either—

(i) requested by the owner, and the Director is satisfied that it is necessary or expedient; or

(ii) a correction of an error which the Director is satisfied is otherwise necessary or expedient."; and

(c) in the proviso to subsection (4), by deleting "fourteen days after the date of the deposit of the proposal with the Tribunal or the date of its service on the owner of the valuation unit affected thereby, whichever date is the later, or such later date as may be prescribed." and substituting—

"the latest of the following—

(a) the twenty-eighth day after the date on which the proposal was served on the owner of the valuation unit concerned;

(b) the latest day allowed by or under section 12(1) for a notice of objection to be served on the Director; or

(c) such date as may be prescribed.".

Amends section 20

15 Section 20 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting "draft valuation list and the objections" and substituting "draft valuation list or valuation list and the objections"; and

(ii) by deleting "draft valuation list as may be" and substituting "draft valuation list or valuation list as may be";

(b) in subsection (3)(a), by deleting "current on the date of the deposit of" and substituting "in"; and

(c) by, after subsection (3), inserting—

"(3A) Subject to section 7(2A), in considering objections to the draft valuation list or objections to proposals by the Director for amendment of the draft valuation list, the Tribunal may have regard to evidence of the market rental value of a valuation unit, but only evidence that was current on or about the valuation date.

(3B) In considering objections to proposals to amend a valuation list (once the draft valuation list is confirmed), the Tribunal—

(a) shall have regard to—

(i) annual rental values in the valuation list concerned; and

(ii) the object of ensuring that the annual rental values in the valuation list are fair one with another; and

(b) shall not have regard to evidence of the market rental value of a valuation unit.

(3C) In subsections (3A) and (3B), "evidence of the market rental value of a valuation unit" means evidence of the rent which the owner has received (or might reasonably expect to receive) for the tenancy of the valuation unit.".

Amends section 21

16 Section 21(3) of the principal Act is amended by deleting "and to produce" and substituting "and, subject to sections 7(2A) and 20(3B)(b), to produce".

Amends section 22

17 Section 22(1) of the principal Act is amended—

(a) by deleting "As soon as practicable after the determination of all the objections and proposals (other than objections and proposals that have been deferred under section 20(1) (e), (f) or (g)) but not later than six months," and substituting "No earlier than six months, but not later than seven months,"; and

(b) by deleting "first day of July of the year in which it was deposited under section 9" and substituting "effective date".

Amends section 25

18 Section 25 of the principal Act is amended—

(a) in subsection (1), by after "proposal to the Tribunal", inserting "and owner of each valuation unit affected by the proposal";

(b) in subsection (3), by deleting "17(2) and (3), section 18(1), (2) and (4) and section 20(1)(g), (2) and (3)(a)" and substituting "17(2), section 18(2) and (4) and section 20(1)(g), (2), (3) and (3A)"; and

(c) in subsection (7), by deleting ", and the Tribunal shall act in relation to the proposal, as it affects that unit, accordingly".

Amends section 26

19 Section 26 of the principal Act is amended—

(a) in subsection (1), by deleting "before the 31 December 2004, and quinquennially thereafter" and substituting "quinquennially";

(b) in subsection (2), by deleting "(other than the list for the 1st January, 1978)";

(c) in subsection (3), by deleting "Subject to subsection (4), the provisions of this Act governing a draft valuation list as respects preparation, deposit, publication, objections, proposals by the Director, appeals, confirmation or any other matter incidental to any such matter or thing shall apply mutatis mutandis in relation to every quinquennial draft valuation list as they apply in relation to a draft valuation list; and, on" and substituting "On"; and

(d) by repealing subsection (4).

Amends section 27

20 Section 27(2)(b) of the principal Act is amended by, after "on the", inserting "day after the".

Amends section 72

21 Section 72 of the principal Act is amended—

(a) by repealing subsection (1)(a) and substituting—

"(a) by hand-delivering it to the person on whom it is to be served and, in the case of a body corporate, to an officer or employee of the body at its registered office or other place of business; or";

(b) by repealing subsection (1)(c) and substituting—

"(c) by sending it by prepaid post addressed—

(i) to that person at his usual or last known place of abode or, in the case of a body corporate, to an officer or employee of the body at its registered office or other place of business; or

(ii) to that person (or, in the case of a body corporate, to an officer or employee of the body) at the valuation unit of which that person is the owner; or

(iii) to that person (or, in the case of a body corporate, to an officer or employee of the body) at a street address or post office box address provided by that person, in writing, to either the Director or the Tax Commissioner; or";

(c) by, after subsection (1)(c), inserting—

"(ca) by sending it by email addressed to that person (or, in the case of a body corporate, to an officer or employee of the body) at an email address provided by that person, in writing, to either the Director or the Tax Commissioner; or";

(d) by repealing subsection (1)(d);

(e) in subsection (2), by deleting "delivery pursuant to subsection (1)(a) or (d) or section 71" and substituting "hand-delivery pursuant to subsection (1)(a) or section 71, or by email under subsection (1)(ca),";

(f) in subsection (3), by deleting "by delivery" and substituting "in a manner referred to in subsection (2)"; and

(g) by, after subsection (3), inserting—

"(4) Where the Director is required by this Act to deposit with, transmit to, or in any other manner serve on (regardless of the expression used) the Tribunal any objection, proposal or other document, he shall do so in such manner as the Chairman of the Tribunal may from time to time in writing direct, and such service shall have effect as from the time it is so served.".

Transitional

22 The amendments made by this Act shall not affect any proposal by the Director, or any objection thereto, that has already been made before this Act comes into operation.

[Assent Date: 04 July 2015]

[Operative Date: 04 July 2015]