



Land Tax Act 2000

An Act to provide for taxation on land

[Royal Assent 13 December 2000]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title

This Act may be cited as the *Land Tax Act 2000*.

2. Commencement

This Act commences on 1 January 2001.

3. Interpretation

In this Act, unless the contrary intention appears –

agent includes a person who –

(a) for or on behalf of any other person –

(i) has the control, receipt or disposal of any real property, personal property, income or money belonging to that other person; or

(ii) directly or indirectly remits income or money belonging to that other person to that person; or

(iii) directly or indirectly sells or otherwise disposes of any real property or personal property belonging to that other person; or

(b) directly or indirectly sells or otherwise disposes of any real property belonging to another person;

assessed land value means the value as calculated under section 23;

assessment means assessment as defined in the Taxation Administration Act 1997;

business includes any profession, trade, employment, vocation or calling, other than the occupation as an employee;

certified forest practices plan has the same meaning as in the Forest Practices Act 1985;

charitable institution is an institution that, in the opinion of the Commissioner, is established solely for charitable purposes and not for profit or gain;

Commissioner means the Commissioner of State Revenue appointed under the Taxation Administration Act 1997;

community service organisation means an organisation, association, society or club that, in the opinion of the Commissioner, is established for community service purposes;

cooperative housing society means a registered society within the meaning of the Co-operative Housing Societies Act 1963;

day-procedure centre means premises at which a person is admitted for medical treatment and discharged on the same day, but does not include –

(a) such premises conducted by or on behalf of the State or the Commonwealth; or

(b) a hospital or other health service conducted by or on behalf of the State or the Commonwealth; or

(c) a private hospital; or

(d) a residential care service;

dwelling includes a flat or structure used as a residence;

educational institution means –

(a) the University of Tasmania; or

(b) the Australian Maritime College; or

(c) an institution, conducted by or on behalf of the State government, that provides post-secondary vocational and educational training; or

(d) a school within the meaning of the Education Act 1994;

exempt land means land exempted under Division 2 of Part 2;

flat means –

(a) a room or suite of rooms designed or adapted for separate occupation; and

(b) any separate car parking accommodation or other separate facility located on or within the same parcel of land as that on which the building containing the room or suite of rooms is constructed;

Forest Practices Authority means the body continued by section 4AA of the Forest Practices Act 1985 under the name "Forest Practices Authority";

general land is land referred to in section 8;

Government Business Enterprise has the same meaning as in the Government Business Enterprises Act 1995;

home-unit company means a company in which all the issued shares are owned by persons each of whom has an exclusive right to occupy a flat which forms part of a building on land owned by a home-unit company;

interest means interest as defined in the Taxation Administration Act 1997;

land includes a stratum flat;

land tax means tax imposed by this or any other land tax rating Act;

land tax rating Act means an Act any or all of the provisions of which fix a scale of land tax;

land value means the value of land as assessed under the Valuation of Land Act 2001;

medical establishment means –

(a) a day-procedure centre; or

(b) a private hospital; or

(c) a residential care service;

owner has the meaning given by section 3A;

penalty tax means a penalty tax as defined in the Taxation Administration Act 1997;

prescribed dwelling means a permanent building of predominantly residential character affixed to land for which human occupation or habitation is not forbidden by a closure order made by a council under section 87 of the Public Health Act 1997;

primary production land means land referred to in section 7;

principal residence means a dwelling used as the main place of residence;

principal residence land means land referred to in section 6;

private hospital means premises at which a person is provided for fee, gain or reward with medical, surgical or other treatment, or accommodation for the purposes of such treatment, and with ancillary nursing care but does not include –

- (a) such premises conducted by or on behalf of the State or the Commonwealth; or
- (b) a day-procedure centre; or
- (c) a residential care service;

qualifying home business means a business –

- (a) operated from land on which a prescribed dwelling is located; and
- (b) operated from that prescribed dwelling or a building ordinarily found on residential land that is not of a solely commercial character; and
- (c) operated by a person who is the owner of the land or spouse, sibling, child or parent of the owner of the land; and
- (d) for which the land is the sole permanent business premises of that person; and
- (e) for the operation of which no more than 50% of the floor area of the prescribed dwelling is ordinarily used;

reassessment means reassessment as defined in the *Taxation Administration Act 1997*;

registered trustee company means –

- (a) a trustee company as defined in the *Trustee Companies Act 1953* or in a similar law of another State or a Territory of the Commonwealth; or
- (b) the Public Trustee as defined in the *Public Trustee Act 1930*;

related companies means companies that are related as provided by section 31;

related person, in relation to an owner, means –

- (a) the spouse or former spouse of the owner; or
- (b) if the owner is deceased, the beneficiary of the estate of the owner; or
- (c) a beneficiary of a trust appointed by a court; or
- (d) a shareholder of a home-unit company or a spouse or former spouse of the shareholder; or

(e) a person with an exclusive right to occupy a flat owned by a retirement village or a spouse or former spouse of that person; or

(f) the person with whom the owner is in a caring relationship which is the subject of a deed of relationship registered under Part 2 of the Relationships Act 2003;

residential care service means premises where accommodation and personal care or nursing are provided to an elderly person who is not a member of the immediate family of the proprietor of the service, but does not include a service providing accommodation for persons otherwise living independently, even though the provision of accommodation may or may not include domestic services such as the preparation of meals, cleaning services and laundry services;

retirement village means a complex of residential premises, including adjacent land, established for retired persons and their spouses, or predominantly for retired persons and their spouses –

(a) if before or on becoming a resident of the complex a retired person or spouse, or both, is required to pay a contribution to the operator of the complex; and

(b) if any one or more of the following situations apply:

(i) a residential premises in the complex is occupied by a retired person and spouse by reason of a contract, lease or licence for the residency of the premises to which the retired person or spouse, or both, is a party;

(ii) a residential premises in the complex is occupied by a retired person and spouse by a right of occupation conferred by the ownership of shares by the retired person or spouse, or both;

(iii) a residential premises in the complex is purchased from the operator of the complex by a retired person or spouse, or both, subject to a right or option of the operator to buy back those premises;

(iv) a residential premises in the complex is purchased from the operator of the complex by a retired person or spouse, or both, subject to conditions restricting the right of the retired person or spouse, or both, to dispose of those premises;

(v) other prescribed circumstances exist;

retirement village company means a company that operates a retirement village;

shareholder includes member or stockholder;

special disability trust has the meaning it has in section 1209L of the *Social Security Act 1991* of the Commonwealth;

spouse, in relation to a person, includes the person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with that person;

State Permanent Forest Estate Policy means the policy of that name referred to in section 4C(fb) of the *Forest Practices Act 1985*;

stratum flat means a flat in respect of which a separate valuation made under the *Valuation of Land Act 2001* is in force;

taxpayer means a person who is liable to pay land tax;

transfer, in relation to land, means the passage of an estate or interest in land from one person to another person –

(a) by an act done by any means by the transferor with that intention, regardless of whether or not consideration is given; or

(b) by operation of law, including but not limited to a transfer on forfeiture of the land under an Act, on inheritance or descent on the death of the person, on the bankruptcy or administration of the person and on the order of a court;

trustee includes –

(a) a person appointed or constituted trustee by any act of parties, order, declaration of a court or operation of law; and

(b) an executor or administrator, guardian, committee, receiver or liquidator; and

(c) a person who –

(i) has the administration or control of income affected by any express or implied trust; or

(ii) is acting in any fiduciary capacity; or

(iii) has the possession, control or management of the income of a person under any legal or other disability.

3A. Owner of land

(1) In respect of land –

owner means –

(a) the person in whom the estate in fee simple is vested; or

(b) a person, or a person of a class, prescribed by the regulations for the purposes of this definition.

(1A) For the purposes of subsection (1), the person in whom the estate in fee simple is vested is, unless the Commissioner on reasonable grounds determines otherwise, the person who appears, from a folio of the Register kept under section 33 of the *Land Titles Act 1980*, to be the owner of that estate.

(2) If a person appears by a folio of the Register kept under section 33 of the *Land Titles Act 1980* to be entitled, in respect of any land, to an estate of freehold for his or her life, that person is taken to be the owner of the land instead of the person entitled to the estate in fee simple in remainder.

3B. Joint tenants to be treated as tenants in common

For the purposes of this Act, joint tenants in relation to land are to be taken to be tenants in common in equal shares in relation to the land.

4. Defined terms in land tax rating Act

Any term defined in this Act when used in a land tax rating Act has the same meaning as so defined unless the context otherwise indicates.

5. Exclusive right of occupation

A person has an exclusive right to occupy a flat even if the person –

- (a) lets the flat or part of the flat to another person; or
- (b) shares the occupation of the flat with one or more persons.

6. Principal residence land

(1) Principal residence land is land on which the principal residence of an owner of at least a 50% interest in the land or a related person of such an owner is situated.

(2) The Commissioner is to determine that adjoining land is principal residence land if satisfied that –

- (a) the land is on a separate title held by the owner of the principal residence land; and
- (ab) there is no dwelling on the land that is used as a place of residence; and
- (b) the land is used by that owner solely in conjunction with the principal residence land; and
- (c) the owner does not receive any income from the use of that land; and

(d) the owner of at least a 50% interest in the principal residence land is also the owner of at least a 50% interest in the adjoining land.

(3) The Commissioner, on application by a trustee of a trust, is to determine that land is principal residence land for a financial year if –

(a) the land is held by –

(i) a registered trustee company; or

(ii) an executor, administrator, guardian, committee, receiver or liquidator; or

(iia) the trustee of a special disability trust; or

(iii) a trustee appointed by a court; or

(iv) the trustee of a fixed trust in which all of the beneficiaries are individually named or are descendants of individually named beneficiaries; and

(b) the principal residence of a beneficiary of the trust is situated on the land as at 1 July in that financial year; and

(c) the Commissioner is satisfied that the beneficiary does not own any other principal residence land.

(3A) For the purposes of subsection (3)(b), a person is taken to be a beneficiary of a fixed trust referred to in subsection (3)(a)(iv) only if the person would be entitled, on the winding up of the trust, to 50% or more of the value of the income and capital of the trust.

(4) The Commissioner, on application by a company, is to determine that land is principal residence land for a financial year, if –

(a) the land is beneficially owned by the company; and

(b) the principal residence of a person who owns 50% or more of shares in the company is situated on the land as at 1 July in that financial year; and

(c) the Commissioner is satisfied that the person does not own any other principal residence land; and

(d) the Commissioner is satisfied that the person, by reason of his or her ownership of 50% or more shares in another company, does not have another principal residence situated on other land which –

(i) is beneficially owned by that other company; and

(ii) has been determined under this subsection to be principal residence land.

(5) The Commissioner is to determine that land owned by a home-unit company is principal residence land if any flat on that land is the principal residence of a person owning shares in the home-unit company.

(6)

(7) The Commissioner is to determine that a part of land owned by a cooperative housing society is principal residence land if that part is used for residential purposes.

(8) If a person occupies residential premises in a retirement village as his or her principal place of residence, any other land owned by the person is not that person's principal place of residence.

6A.

7. Primary production land

(1) Land is primary production land if it is –

(a) used substantially for the business of primary production; or

(b) declared a private timber reserve under the *Forest Practices Act 1985*; or

(c) permanent timber production zone land within the meaning of the *Forest Management Act 2013*; or

(d) land in respect of which there is in effect a certified forest practices plan, being a plan certified by the Forest Practices Authority under section 19 of the *Forest Practices Act 1985* in accordance with the State Permanent Forest Estate Policy.

(1A)

(2) The business of primary production means any one or more of the following carried out in a business-like manner with a reasonable expectation of profit:

(a) cultivating land to sell the produce of the cultivation;

(b) maintaining animals or poultry for sale or selling their natural increase or bodily produce;

(c) keeping bees to sell their honey;

(d) commercial fishing and cultivating aquatic plants or animals, including the preparation for fishing and the storage and preservation of fish and fishing gear;

(e) cultivating or propagating for sale plants, seedlings, mushrooms or orchids.

8. General land

General land is land that is not –

- (a) principal residence land; or
- (b) primary production land.
- (c)

9. Application of other Act

The *Taxation Administration Act 1997* applies to land tax.

PART 2 - Land tax

Division 1 - Liability

10. Liability for land tax

- (1) Land tax is payable in respect of land that is not exempt land by the person who is the owner of the land as at the commencement of the financial year.
- (2) Land tax is payable in respect of each financial year and is due on a date the Commissioner determines or, if there is a sale, or transfer, of land by an owner of land by whom land tax is payable, is due on the relevant day, within the meaning of section 39, in relation to the sale or transfer, whichever date occurs first.
- (3) Except as provided by Division 11 of Part 9 of the *Local Government Act 1993*, land tax is a first charge on the land in priority to all mortgages, rates, charges, liens and encumbrances.

11. List of owners

- (1) The Commissioner is to maintain a list containing –
 - (a) details of all land in the State; and
 - (b) details of the owners of the land.
- (2) The Recorder of Titles is to provide the Commissioner with details of change of ownership of land notified under the *Valuation of Land Act 2001*.
- (3) If there is a change in ownership of land, that change takes effect on the date on which the contract for the sale of the land is completed.
- (4) The Valuer-General is to provide the Commissioner details of the valuation of land –

(a) at 1 July in each year; and

(b) whenever the valuation is changed during that year.

(5) If it appears to the Commissioner that a person has become the owner of the land and the Commissioner has not received any details or advice, the Commissioner, by notice served on the person, may require the person to state any interest in the land.

(6) The statement is to be –

(a) by statutory declaration; and

(b) lodged with the Commissioner within 14 days after service of the notice.

12. Assessment of land tax

(1) The Commissioner is to assess land tax payable in respect of land.

(1A) If land tax is payable by an owner of land, the Commissioner is to issue to the owner –

(a) an assessment of land tax payable; and

(b) a demand for the payment of the land tax.

(2) A person who receives an assessment of land tax and considers that he or she was not the owner of the land as at the commencement of the financial year may apply to the Commissioner for reassessment of the liability for that land tax.

(3) If the Commissioner is satisfied that a person was not the owner of the land at the commencement of the financial year, the Commissioner is to issue –

(a) an amended assessment to that person; and

(b) an assessment to the person who was the owner of the land at the commencement of the financial year.

13. Payment by instalments

(1) If the amount of land tax payable in any financial year exceeds \$1 000, the Commissioner may accept payment of land tax for that financial year in 3 instalments.

(2) If a taxpayer fails to pay the first or second instalment, the Commissioner may require the taxpayer to pay the full amount within a specified period.

14. Joint owners

(1) Land tax is payable by joint owners of land.

(2) Joint owners are –

(a) taken to be a single taxpayer; and

(b) jointly and severally liable for the full payment of the tax without regard to the relative shares or interests in the land.

15. Trustees and agents

(1) A trustee of land is –

(a) to be assessed for land tax in respect of that land in a representative capacity; and

(b) liable for any land tax in respect of the land as if the land were the trustee's.

(2) An assessment of land tax payable as a trustee is separate from an individual assessment of land tax payable by the trustee.

(3) If an owner of land is represented by an agent, the agent is liable for any land tax in respect of that land.

(4) Any agent or trustee is –

(a) to do anything required to be done by the owner under this Act; and

(b) subject to the same penalty or liability for any neglect, refusal or default in respect of any obligation or requirement of this Act as the person whom the agent or trustee represents would be subject to.

16. Notice of change in use of land

An owner of land must, within 30 days, notify the Commissioner in writing, if –

(a) the land ceases to be principal residence land, ceases to be primary production land, ceases to be exempt land or ceases to be land to which section 30A applies; or

(b) a factor that is relevant to determining whether or not, or the extent to which, the land, or a part of the land, is principal residence land, primary production land or exempt land, has altered; or

(c) all or part of the land has ceased to be, or has become, land that the Commissioner is required to apportion under section 19A, 19B or 19C or section 30A.

Penalty:

Fine not exceeding 10 penalty units.

Division 2 - Exempt land

17. Exempt Crown and public lands

(1) Land tax is not payable in respect of the following:

(a) Crown land;

(b) public roads and public cemeteries that are not the property of any joint stock or public company;

(c) public recreation grounds and reserves held by a State Government body;

(d) land on which is built a public library or public museum;

(e)

(f) land owned by any association or society used solely by it for holding public exhibitions and not for profit or gain.

(2) For the purpose of subsection (1) –

(a) land owned by or vested in a Government Business Enterprise is not –

(i) Crown land; or

(ii) land the property of and occupied by or on behalf of the Crown; or

(iii) land vested in trust for public purposes; and

(b)

(3)

(4) In this section –

State Government body means a State Service Agency, a statutory authority, a State-owned company or a Government Business Enterprise;

State-owned company means a company incorporated under the Corporations Act that is controlled by the Crown, a Government Business Enterprise or a statutory authority or another company that is so controlled;

statutory authority means a body or authority, whether incorporated or not, that is established or constituted by or under an Act or under the Royal Prerogative, being

a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority but does not include a State Service Agency.

18. Exempt trust land

Land tax is not payable in respect of the following:

(a) land used for purposes related to a medical establishment or convalescent home and owned by, or in trust for or vested in, any person or body having the management or control of the medical establishment or convalescent home;

(b) land owned by, or in trust for or vested in, a religious denomination or religious society and used solely –

(i) for religious, charitable or educational purposes; or

(ii) for the support of aged or infirm clergy or ministers of the religious denomination or religious society or their spouses, widows, widowers or dependent children; or

(iii) as a place of worship for members of the religious denomination, religious society or a religious order; or

(iv) as a place of residence for clergy or ministers of the religious denomination or religious society or for members of a religious order;

(c) land owned by, or in trust for or vested in, a religious denomination or religious society, the proceeds of which are applied for a purpose specified in paragraph (b);

(d) land owned by, or in trust for or vested in, a charitable institution and that is –

(i) exempt from the payment of income tax under the *Income Tax Assessment Act 1997* of the Commonwealth; and

(ii) used solely for charitable purposes;

(e) land vested in trust for public purposes;

(f) land used solely for non-profit educational purposes and owned by, or in trust for or vested in, a person or body having the ownership, management or control of an educational institution;

(g) land owned by, or in trust for or vested in, an association of ex-servicemen or of dependents of ex-servicemen and used for the purposes of the association;

(h) land owned by, or in trust for, or vested in, a community service organisation if –

(i) the organisation is exempt from payment of income tax under the *Income Tax Assessment Act 1997* of the Commonwealth; and

(ii) the land is not primarily used to raise income for the organisation.

19. Other exempt land

Land tax is not payable in respect of the following:

(a) principal residence land or primary production land owned 50% or more by a person in receipt of –

(i) a current Pensioner Concession Card issued under a relevant Act of the Commonwealth; or

(ii) a card that is prescribed to be equivalent to the card referred to in subparagraph (i);

(b) principal residence land or primary production land, 50% or more of which is owned by a person who is –

(i) in receipt of a special rate pension under the *Veterans' Entitlements Act 1986* of the Commonwealth; and

(ii) totally and permanently incapacitated;

(ba) land used for the purposes of a retirement village;

(bb) land used for purposes which are ancillary to the purposes of a retirement village;

(c) Aboriginal land within the meaning of the *Aboriginal Lands Act 1995* used principally for Aboriginal cultural purposes;

(d)

(e) land in respect of which land tax was not levied pursuant to section 10(1)(q)(ix) of the *Land and Income Taxation Act 1910*.

19A. Partially exempt land: conservation covenants

(1) Land tax is not payable in respect of land –

(a) that is subject to a conservation covenant; or

(b) in respect of which a conservation covenant has been entered into, where the conservation covenant has not been registered under the Land Titles Act 1980.

(2) However, for the purposes of subsection (1), if the conservation covenant applies only to a part of the land, the Commissioner is to apportion the land value of the land between exempt land and general land, for which purpose –

(a) the apportioned assessed land value in respect of exempt land is to be determined by multiplying the assessed land value of the land by the proportion of the land to which the conservation covenant applies; and

(b) the apportioned assessed land value in respect of general land is to be the assessed land value of the land less the apportioned assessed land value in respect of exempt land as calculated under paragraph (a).

(3) In this section –
conservation covenant means –

(a) a conservation covenant under Part 5 of the Nature Conservation Act 2002; or

(b) a conservation covenant under a prescribed instrument.

19B. Partially exempt land: public parks and gardens

(1) Land tax is not payable in respect of land that is a park or garden, where the park or garden is –

(a) held or owned by a local authority or other local governing or statutory public body (other than an applicable authority as defined in section 39A of the Local Government Act 1993); and

(b) in public recreational use.

(2) However, for the purposes of subsection (1), if any part of land is not a park or garden in public recreational use, the Commissioner is to apportion the land value of the land between exempt land and general land, for which purpose –

(a) the apportioned assessed land value in respect of exempt land is to be determined by multiplying the assessed land value of the land by the proportion of the land that is a park or garden in public recreational use; and

(b) the apportioned assessed land value in respect of general land is to be the assessed land value of the land less the apportioned assessed land value in respect of exempt land calculated under paragraph (a).

(3) For the purposes of this section –

(a) a park or garden held or owned as provided in subsection (1) is taken to be in public recreational use if –

(i) the park or garden is used for recreational purposes; and

(ii) the relevant local authority or other local governing or statutory public body normally provides the public with free access to the park or garden; and

(b) a park or garden held or owned by a local authority or other local governing or statutory public body is taken not to include any premises that are built, and used, for the specific purpose of conducting sporting activities; and

(c) a Government Business Enterprise is taken not to be a statutory public body.

(4) In this section –

park or garden includes part of a park or garden.

19C. Partially exempt land: flood prevention structure

(1) Land tax is not payable in respect of land that contains a flood prevention structure, where the land is held or owned by a local authority or other local governing body or statutory public body (other than an applicable authority as defined in section 39A of the *Local Government Act 1993*).

(2) However, for the purposes of subsection (1), if any part of land is not used for the purposes of a flood prevention structure, the Commissioner is to apportion the land value of the land between exempt land and general land, for which purpose –

(a) the apportioned assessed land value in respect of exempt land is to be determined by multiplying the assessed land value of the land by the proportion of the land on which the flood prevention structure is situated; and

(b) the apportioned assessed land value in respect of general land is to be the assessed land value of the land less the apportioned assessed land value in respect of exempt land calculated under paragraph (a).

(3) In this section –

flood prevention structure means any of the following things:

(a) a flood levee, a stormwater basin or a subterranean stormwater drain, whether the levee, basin or drain is a naturally occurring phenomenon or a man-made structure;

(b) an improvement of any type that is designed and used to regulate water levels for the purposes of flood protection;

(c) a naturally occurring ridge or wall that regulates water levels –

but does not include such a thing if an unrelated capital improvement is situated on, above or below the thing;

unrelated capital improvement means a capital improvement that is not –

(a) a capital improvement related to providing protection against floods; or

(b) a pipeline, drain, cable or wire.

Division 3 - Amount of tax

20. Amount of land tax

(1) The amount of land tax is to be –

(a) determined on the assessed land value or the apportioned assessed land value of the land as at 1 July in each financial year; and

(b) set at a rate specified in a land tax rating Act.

(2) Land tax may be set in respect of –

(a) principal residence land; and

(b) primary production land; and

(ba)

(c) general land.

21.

22.

23. Assessed land value

(1) The assessed land value of land is the land value as determined under the *Valuation of Land Act 2001* on applying any relevant adjustment factor determined under Part 9A of that Act.

(2) If a parcel of land is subdivided from land which has a land value determined under the *Valuation of Land Act 2001* and the value of that subdivided parcel of land has not been so determined –

(a) the value of the subdivided parcel of land is to be determined by multiplying the assessed land value of the total area of land before the subdivision (inclusive of any relevant adjustment factor determined by the Valuer-General under Part 9A of that Act) by the proportion that the subdivided parcel of land bears to the total area of land before the subdivision; and

(b) the value of the remaining land from which the parcel was subdivided is the assessed land value of the total area of land before the subdivision less the value calculated under paragraph (a).

24. Aggregate land value

(1) In the case of an owner of more than one parcel of land of the same class, land tax is to be levied on the aggregate assessed land value of those parcels of land as if they were a single parcel of land.

(1A) For subsection (1), there are 3 classes of land: principal residence land, primary production land and general land.

(2) If a company or related companies own more than one parcel of land, land tax is to be levied on the aggregate assessed land value of those parcels of land as if they were a single parcel owned by a single company.

(3) For the purpose of subsection (1), if a company co-owns land with a natural person, a trustee or another company, the company is the owner of the land if it owns more than 50% of the land.

(4) If land is held by a trustee on behalf of more than one trust, land held on behalf of one trust is not to be aggregated with land held on behalf of another trust if the trustee is –

(a) a registered trustee company; or

(b) an executor, an administrator, a guardian, a committee, a receiver or a liquidator; or

(c) appointed by a court.

25. Subdivisions

If land is subdivided within the meaning of Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*, the land value of that land is –

(a) before any block in that subdivision is sold or transferred, the land value determined as if it were a single parcel of land; and

(b) after a block in that subdivision is sold or transferred, the aggregate land value of the remaining blocks not sold nor transferred.

Division 4 - Apportioned assessed land value

26. Apportioned assessed land value for principal residence land

(1) If principal residence land is used for other purposes, not including a qualifying home business, in addition to the principal residence of an owner or a related person of the owner, the Commissioner is to apportion the land value of the land between principal residence land and general land.

(2) The apportioned assessed land value in respect of principal residence land used as the principal residence is determined –

(a) if the principal residence is used for principal residence purposes and other purposes but no part of the principal residence is used in common for both principal residence purposes and other purposes (in this subsection called the "common floor area"), by multiplying the assessed land value by the proportion of the floor area of the principal residence used as a principal residence; or

(b) if the principal residence is used for principal residence purposes and other purposes and part of the principal residence is common floor area, by multiplying the assessed land value by the proportion of the principal residence used for principal residence purposes calculated in accordance with the following formula:

$$FAP = FP + \left\{ \left[\frac{FP}{FP + FNP} \right] \times C \right\}$$

where –

FAP is the floor area apportioned as used for principal residence purposes;

FP is the floor area used for principal residence purposes;

FNP is the floor area used for purposes other than principal residence purposes;

C is the common floor area; or

(c) if principal residence land is used for principal residence purposes and other purposes, by multiplying the assessed land value by the proportion of land used for principal residence purposes.

(3) The apportioned assessed land value in respect of general land is the assessed land value less the apportioned assessed land value in respect of principal residence land.

27. Apportioned assessed land value for primary production land

(1) If primary production land is used for other purposes in addition to being used for primary production purposes, the Commissioner is to apportion the land value of the land between primary production land and general land.

(2) The apportioned assessed land value in respect of primary production land used for primary production purposes is determined by multiplying the assessed land value of the land by the proportion of the land so used.

(3) The apportioned assessed land value in respect of general land is the assessed land value less the apportioned assessed land value in respect of primary production land.

(4) In this section, primary production land is used for primary production purposes if the land is –

(a) used for the business of primary production within the meaning of section 7(2);
or

(b) declared a private timber reserve under the *Forest Practices Act 1985*; or

(c) permanent timber production zone land within the meaning of the *Forest Management Act 2013*; or

(d) land in respect of which there is in effect a certified forest practices plan, being a plan certified by the Forest Practices Authority under section 19 of the *Forest Practices Act 1985* in accordance with the State Permanent Forest Estate Policy.

28. Home-unit companies

(1) The Commissioner is to apportion the land value of land owned by a home-unit company between the flats located on that land.

(2) The apportioned assessed land value in respect of a flat in a home-unit company is determined by multiplying the assessed land value by the ratio of the floor area of the flat to the total area of all flats in the home-unit company.

(3) If part of principal residence land owned by a home-unit company is not used as the principal residence of a person owning shares in the home unit company, the Commissioner is to apportion the land value of the land between principal residence land and general land.

(4) The apportioned assessed land value in respect of principal residence land owned by a home-unit company is the sum of the apportioned assessed land value in respect of the flats in the home-unit company used as principal residences of persons owning shares in the home-unit company.

(5) The apportioned assessed land value in respect of general land is the assessed land value less the apportioned assessed land value in respect of principal residence land.

29. Retirement villages

If a part of land owned by a retirement village company is exempt land, the Commissioner is to apportion the land value of the land between exempt land and general land.

30. Cooperative housing societies

(1) If land owned by a cooperative housing society is used partly for residential purposes and partly for other purposes, the Commissioner is to request the Valuer-General to supply separate valuations in respect of each part.

(2) The apportioned assessed land value in respect of land owned by a cooperative housing society is determined by multiplying the assessed land value by the ratio of the area of the land to the total land used for residential purposes.

(3) If part of principal residence land owned by a cooperative housing society is not used as a principal residence, the Commissioner is to apportion the land value of the land between principal residence land and general land.

(4) The apportioned assessed land value in respect of principal residence land owned by a cooperative housing society is the sum of the apportioned assessed land value in respect of the land owned by the cooperative housing society used as principal residences.

(5) The apportioned assessed land value in respect of general land is the assessed land value less the apportioned assessed land value in respect of principal residence land.

30A. Apportionment where multiple partial exemptions apply

(1) This section applies in relation to land if the land is land to which, but for subsection (2), more than one of section 19A, 19B or 19C may apply.

(2) If this section applies in relation to land –

(a) sections 19A, 19B and 19C do not apply in relation to the land; and

(b) the Commissioner is to apportion the land value of the land between exempt land and general land.

(3) For the purpose of the Commissioner apportioning under subsection (2)(b) the land value of the land between exempt land and general land –

(a) the apportioned assessed land value in respect of exempt land is to be determined by multiplying the assessed land value of the land by the relevant exempt proportion of the land; and

(b) the apportioned assessed land value in respect of general land is to be the assessed land value of the land less the apportioned assessed land value in respect of exempt land calculated under paragraph (a).

(4) For the purposes of subsection (3), the relevant exempt proportion of the land is the proportion of the land determined by adding together all the parts of the land to which the apportioned assessed land value in respect of exempt land may, but for this section, be applied under section 19A(2)(a), section 19B(2)(a) or section 19C(2)(a), respectively.

(5) Land tax is not payable in respect of so much of the land as is land to which the apportioned assessed land value in respect of exempt land is assigned under subsection (3)(a).

Division 5 - Companies

31. Related companies

(1) Two companies are related to each other if –

(a) the same person or same persons together have a controlling interest in both companies; or

(b) one of those companies is related to a company to which the other is related; or

(c) the companies are related bodies corporate for the purposes of the Corporations Act.

(2) Two companies are also related to each other if –

(a) more than one-half of the issued share capital of one of those companies is held by the other company or its shareholders or by both the other company and its shareholders together; and

(b) the proportion of the issued share capital of that other company held by shareholders of the first company is more than the difference between one-half and the proportion of the issued share capital of the first company held by the other company.

(3) Companies may be related to each other notwithstanding that they do not own land in Tasmania.

(4) A reference in subsection (2) to the issued share capital of a company does not include a reference to any part of that issued share capital that confers no right to participate beyond a specified amount in a distribution of either profits or capital.

32. Controlling interest

(1) A person or several persons together have a controlling interest in a company if –

(a) the person or persons acting together may control the composition of the board of directors of the company; or

(b) the person or the persons acting together may cast or control the casting of more than half of the maximum number of votes that might be cast at a general meeting of the company; or

(c) the person or the persons acting together hold more than one-half of the issued share capital of the company.

(2) The composition of a company's board of directors is taken to be controlled by a person if that person, by the exercise of a power with or without the consent or concurrence of any other person, may appoint or remove all or a majority of the directors.

33. Shares

(1) Any shares held or power exercisable by a person as a trustee or nominee for any other person are to be treated as also held or exercisable by that other person.

(2) Any shares held or power exercisable by a person under the provisions of any debentures of another company or of a trust deed for securing any issue of any debentures are to be disregarded.

(3) Any shares held or power exercisable by, or by a nominee for, any person otherwise than as mentioned in subsection (2) are to be taken as not held or exercisable by that person if –

(a) the ordinary business of that person includes the lending of money; and

(b) the shares are held or the power is exercisable only by way of security given for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money, unless the transaction is entered into with a person associated with that person within the meaning of the Corporations Act.

34. Liability of companies

If 2 or more companies related to each other are liable for land tax –

(a) those companies are jointly and severally liable for the full payment of that land tax; and

(b) this section does not affect any right of contribution or indemnity between the companies.

35. Nominee company

(1) If 2 or more companies related to each other are liable for land tax, they may nominate one of their number to be the one from whom the Commissioner may seek payment of land tax.

(2) A nomination is valid even though one or more of the related companies did not join in making the nomination.

(3) The Commissioner is to nominate one of the companies referred to in subsection (1) to be the company from whom the Commissioner may seek payment of the land tax payable by those companies if –

(a) a nomination is not made; or

(b) a nomination is made but the company fails to pay the land tax when required to do so.

PART 3 - Miscellaneous

36. Onus of establishing facts

(1) The onus is on the owner of land to establish to the satisfaction of the Commissioner any of the following facts:

(a) that land or any part of land is principal residence land;

(b) that land or any part of land is primary production land;

(c) that a dwelling is a principal residence;

(d) that a business operated from principal residence land is a qualifying home business.

(e)

(2) Until the owner establishes a fact under subsection (1), the Commissioner is to determine land to be general land.

37. Land tax rebate

(1) The owner of land may apply to the Commissioner for a rebate of land tax in relation to a financial year if –

(a) the owner was the owner at the start of the financial year; and

(b) during that financial year a dwelling was constructed on the land and occupied as principal residence –

- (i) by the owner or a related person of the owner; or
- (ii) by a person who owns 50 per cent or more of the shares in the company that owns the land; and
- (c) the owner during the financial year did not own –
 - (i) in Tasmania any other land classified as principal residence land; or
 - (ii) in another State or a Territory any land which in that State or Territory is treated for the purposes of an Act or other law that substantially corresponds to this Act as the principal residence of the owner.

(1A)

- (2) An application is to be in a form approved by the Commissioner.
- (3) On receipt of an application, the Commissioner, if satisfied that a rebate is payable, is to grant a rebate equal to the amount of land tax paid.
- (4) If land tax has been assessed but has not been paid, the Commissioner may waive the requirement to pay the land tax if a rebate would have been granted under this section if the land tax had been paid.

37A. Land tax rebate (Transitional circumstances)

- (1) The owner of land may apply to the Commissioner for a rebate of land tax paid if at the commencement of a financial year the owner was –
 - (a) the owner of principal residence land; and
 - (b) the owner of other land –
 - (i) that was purchased with the intention that it become the principal residence land of the owner; or
 - (ii) that was the principal residence land of the owner in the period of 3 months preceding the commencement of the financial year.
- (2) A rebate is payable in respect of the land tax paid on the other land.
- (3) The Commissioner is to grant a rebate of land tax under this section if the Commissioner is satisfied that –
 - (a) the owner became the owner of the principal residence land or the other land during the period of 3 months preceding the commencement of the financial year; and
 - (b) the principal residence land of the owner was –

(i) the principal residence land of the owner in the period of 3 months preceding the commencement of the financial year; or

(ii) the other land became the principal residence land of the owner in the financial year; and

(c) before 1 October of the financial year the owner entered into a contract to sell or otherwise disposed of –

(i) the principal residence land; or

(ii) the other land –

and the new owner took possession of the land in the financial year; and

(d) no rent or other income was derived from the principal residence land or the other land during the period in which the owner owned both the principal residence land and the other land; and

(e) the owner did not recover a proper proportion of any land tax paid or payable in accordance with section 40(1); and

(f) an application for a rebate has been lodged by the owner in a form approved by the Commissioner –

(i) after the sale or other disposition of the land and the new owner has taken possession of the land referred to in paragraph (c); and

(ii) not later than 3 months after the end of the financial year.

(4) In this section, a person is an owner of land if the person is the owner of 50% or more of the principal residence land and 50% or more of the other land.

37B. Extension of classification in case of natural disasters, &c.

(1) Where land that is classified as principal residence land is affected by flood, fire or other similar disaster so that the land is not suitable to be occupied as principal residence land, the owner of the land may apply to the Commissioner of State Revenue to extend the classification of that land as principal residence land for a period of up to 2 years, notwithstanding that the land is unsuitable for use as principal residence land.

(2) If an extension is granted under subsection (1), the owner of the principal residence land is not entitled to have any other land classified as principal residence land during the period of the extension.

(3) Where land that is classified as primary production land is affected by flood, fire or other similar disaster so that the land is not suitable to be used as primary production land, the owner of the land may apply to the Commissioner of State Revenue to extend the classification of that land as primary production land for a period of up to 2 years, notwithstanding that the land is unsuitable for use as primary production land.

(4) The Commissioner of State Revenue is not to extend the classification of land under this section unless satisfied that the flood, fire or other similar disaster was outside the control of the owner of the land.

38. Special rate of land tax

(1) The Commissioner, on application, may determine that land tax in respect of land owned by a club or body of persons be at a special rate if satisfied that –

(a) the land is used principally for the purpose of cricket, football, golf, tennis, bowls or other athletic sports or exercises and not for the pecuniary profit of the members of that club or body; or

(b) the club or body of persons is formed for the purpose of promoting or controlling horseracing, trotting-racing, dog-racing or the racing of motor vehicles and the land is used principally for those purposes.

(2) The special rate of land tax is –

(a) four-tenths of a cent for every dollar of the assessed land value of the land; or

(b) any greater proportion the Commissioner determines.

(3) If a club or body of persons mentioned in subsection (1) sells or otherwise disposes of, or otherwise uses, any part of any land in respect of which a special rate of land tax applies for any purpose other than for the purpose of public recreation or amusement –

(a) the Commissioner may determine that the special rate no longer applies; and

(b) the club or body of persons is liable, on demand, to pay to the Commissioner an amount equal to the difference between –

(i) the total amount of land tax paid during the period during which the special rate was in force; and

(ii) the total amount of land tax that, but for this section, would have been payable in respect of that land during that period.

(4) Land tax is payable under subsection (3) –

(a) only for a period up to 3 years; and

(b) as if it were an amount due by way of land tax.

(5) A special rate applies until the Commissioner revokes the determination made under subsection (1).

(6) If the Commissioner determines a special rate or revokes the determination, the Commissioner is to give notice in writing to the affected club or body of persons.

(7) A club or body of persons mentioned in subsection (1) must advise the Commissioner by notice in writing if –

(a) it sells or otherwise disposes of land in respect of which a special rate applies; or

(b) it changes the use of the land from that mentioned in that subsection.

Penalty:

Fine not exceeding 10 penalty units.

39. Recovery of unpaid land tax

(1) The Commissioner may recover –

(a) from an agent any unpaid land tax in respect of land of which the agent is, or was at the time the land tax was imposed or payable, the representative of the owner; or

(b) from a mortgagee in possession of land any unpaid land tax in respect of that land.

(2) The owner of land, on the sale or transfer of that land, if there is a land value assessed in respect of that land, must, before the end of the relevant day, pay –

(a) if the owner owns only that land, any amount of land tax owing and any penalty tax and interest payable; or

(b)

(c) if the owner owns additional land –

(i) the total amount of land tax owing in respect of the land that was sold or transferred plus any penalty tax and interest payable; and

(ii) if a tax default, within the meaning of the *Taxation Administration Act 1997*, has occurred in respect of the additional land, the total amount of land tax to which the default relates plus any penalty tax and interest payable.

Penalty:

Fine not exceeding 10 penalty units.

(3) The owner of land, on the sale or transfer of that land, if there is no land value assessed in respect of that land, must, before the end of the relevant day, pay –

(a) if the owner owns only that land, the total of the following amounts:

(i) any amount of land tax owing and any penalty tax and interest payable;

(ii) an amount equivalent to the amount of land tax that would be payable had that land had an assessed land value equal to the determined value of that land; or

(b) if the owner owns additional land –

(i) the amount of land tax that would be payable had the land that was sold or transferred had an assessed land value equal to the determined value of that land plus any penalty tax and interest payable; and

(ii) if a tax default, within the meaning of the *Taxation Administration Act 1997*, has occurred in respect of the additional land, the total amount of land tax to which the default relates plus any penalty tax and interest payable.

Penalty:

Fine not exceeding 10 penalty units.

(4) For the purpose of calculating any amount under subsection (2)(c)(ii) or (3)(b)(ii), any land in respect of which no land tax is payable is to be excluded.

(5) For the purposes of subsection (3), the determined value of land is –

(a) if the Commissioner is satisfied that the contract price of the land is a true reflection of its value, the contract price of the land; or

(b) if the Commissioner is not satisfied that the contract price of the land is a true reflection of its value, the value of the land determined by a competent valuer and accepted by the Commissioner as a true reflection of the value of the land.

(6) In subsection (5) –

contract price means the purchase price of the land as –

- (a) specified in a written agreement for the sale or transfer of the land; or
- (b) if there is no such written agreement, the purchase price for the sale or transfer of the land as agreed between the vendor and purchaser.

(7) For the purpose of determining the determined value of land, the Commissioner –

- (a) may require the owner of the land to provide a declaration by a competent valuer as to the value of the land; and
- (b) if not satisfied that the value of the land as stated in a declaration provided under paragraph (a) is a true reflection of the value of the land, may have the land valued by another competent valuer.

(8) The Commissioner may recover the cost of obtaining a valuation of land under subsection (7)(b) from the owner of the land.

(9) The Commissioner, if satisfied that special circumstances exist, may, by notice in writing to a person who is, before the sale or transfer of land, the owner of the land, determine that the relevant day in relation to the sale or transfer of land is a day specified in the notice or determined in accordance with the notice.

(10) In this section –

relevant day, in relation to a sale or transfer of land, means –

- (a) the day on which the sale or transfer of land is completed; or
- (b) if a day is specified in, or determined in accordance with, a notice issued under subsection (9) in relation to the sale or transfer of land, that day.

40. Recovery of paid land tax

(1) A person who pays land tax in respect of land of which the person has ceased to be the owner before the end of the financial year for which the land tax is imposed may recover a proper proportion of the tax from any other person who became owner before that end as money paid for that other person at his or her request.

(2) A taxpayer who pays any land tax may recover from every other taxpayer in respect of the same land a proper proportion of the amount paid.

(3) An agent or trustee may –

- (a) recover from any person for whom, or on whose behalf, he or she is liable to pay and has paid land tax the amount of land tax so paid; or

- (b) retain out of any money coming in his or her representative capacity sufficient money to pay the land tax.

41. Keeping of accounts by Commissioner

- (1) The account of a taxpayer relating to land tax payable in a representative capacity is to be kept separate and distinct from the account of land tax payable by that taxpayer as an individual.
- (2) The account of taxpayers jointly entitled to, or interested in, the same land relating to land tax payable is to be kept jointly and separate from their sole accounts.

42. Searches

- (1) The Commissioner, on application and payment of a prescribed fee, is to arrange for a search to be carried out in relation to any land tax paid or owing in respect of any specified land.
- (2) The Commissioner, on payment of a prescribed fee, is to issue a certificate stating any or all of the following:
 - (a) the amount of land tax paid in respect of any specified land;
 - (b) the amount of land tax owing in respect of that land if the land is the only land owned by the owner;
 - (c) the amount of land tax owing determined in accordance with section 39(2) or (3);
 - (d) the date and time at which the search was carried out;
 - (e) any other information the Commissioner determines.
- (3) A certificate is a statement of facts as at the time and date specified in the certificate.

43. Regulations

- (1) The Governor may make regulations for the purpose of this Act.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (3) A provision referred to in subsection (2) may take effect on and from the day on which this Act commences or a later day.

44. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Treasurer; and

(b) the department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.

45. Savings and transitional

The provisions of Schedule 1 have effect.

46. Miscellaneous amendments

(1) The *Income Tax Collection Arrangement Act 1948* is repealed.

(2) The *Land and Income Taxation Act 1910* is repealed.

SCHEDULE 1 - Savings and transitional

Section 45

1. Interpretation

In this Schedule,

repealed Act means the *Land and Income Taxation Act 1910*.

2. Land tax payable for financial year 1 July 2000

Any land tax due and payable under the repealed Act for the financial year beginning 1 July 2000 is payable at the date or dates determined by the Commissioner under section 170 of the repealed Act.

3. Amendment of assessment

Any amendment of an assessment under the repealed Act for the financial year beginning on 1 July 2000 is to be made under the repealed Act.

4. Proceedings

Any proceedings instituted but not determined before the commencement of this Act for the recovery of land tax payable under the repealed Act are, on and after that commencement, to be determined under the repealed Act.

Table Of Amendments

| Act | Number and year | Date of commencement |
|-------------------|------------------------|-----------------------------|
| Land Tax Act 2000 | No. 74 of 2000 | 1.1.2001 |

| | | |
|--|-----------------|----------------------------------|
| Taxation Law (Miscellaneous Amendments) Act 2002 | No. 6 of 2002 | 1.7.2001 (s. 3 and Sched. 1) |
| Corporations (Consequential Amendments) Act 2001 | No. 42 of 2001 | 15.7.2001 |
| Valuation of Land Act 2001 | No. 102 of 2001 | 28.6.2002 (remaining provisions) |
| Taxation Legislation (Miscellaneous Amendments and Repeal) Act 2002 | No. 60 of 2002 | 1.7.2002 |
| Revenue Legislation (Miscellaneous Amendments) Act 2002 | No. 24 of 2002 | 1.7.2002 |
| National Parks and Wildlife Separation (Consequential Amendments) Act 2002 | No. 64 of 2002 | 31.12.2002 |
| Relationships (Consequential Amendments) Act 2003 | No. 45 of 2003 | 1.1.2004 |
| State and Local Government Financial Reform Act 2003 | No. 65 of 2003 | 1.7.2004 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2004 | No. 36 of 2004 | 1.7.2005 |
| Valuation of Land Amendment Act 2006 | No. 39 of 2006 | 1.1.2007 |
| Taxation Legislation (Miscellaneous Amendments) Act 2006 | No. 40 of 2006 | 1.7.2007 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2008 | No. 8 of 2008 | 1.7.2008 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act (No. 2) 2008 | No. 46 of 2008 | 18.11.2008 |
| Taxation Legislation (Miscellaneous Amendments) Act 2009 | No. 82 of 2009 | 11.12.2009 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2011 | No. 14 of 2011 | 1.7.2010 |
| Land Tax Amendment Act 2010 | No. 5 of 2010 | 1.7.2010 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2010 | No. 6 of 2010 | 9.7.2010 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2011 | No. 14 of 2011 | 28.6.2011 |
| Taxation Concessions and Rebates Act 2011 | No. 21 of 2011 | 1.7.2011 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act (No. 2) 2011 | No. 47 of 2011 | 7.12.2011 |
| Taxation Legislation (Miscellaneous Amendments) Act 2012 | No. 40 of 2012 | 1.7.2012 |
| | | 22.11.2012 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2013 | No. 41 of 2013 | 1.7.2013 |

| | | |
|--|----------------|------------|
| Taxation Legislation (Miscellaneous Amendments) Act 2014 | No. 21 of 2014 | 1.7.2013 |
| Taxation and Related Legislation (Miscellaneous Amendments) Act 2013 | No. 41 of 2013 | 21.10.2013 |
| Forest Management (Consequential Amendments) Act 2013 | No. 50 of 2013 | 11.12.2013 |
| Taxation Legislation (Miscellaneous Amendments) Act 2014 | No. 21 of 2014 | 9.12.2014 |