

LAND TAX ASSESSMENT AMENDMENT BILL 2022

Second Reading

Resumed from 21 September.

Minister for Finance — Personal Explanation

DR A.D. BUTI (Armadale — Minister for Finance) [1.34 pm]: I rise under standing order 148 to clarify a statement I made in my second reading speech for the Land Tax Assessment Amendment Bill 2022 on 21 September 2022. I stated that the proposed land tax exemption for home owners in full-time care would apply from 1 July 2020 to provide an exemption for people who have moved into care since that date. This was correct, but I would like to clarify that from 1 July 2020, eligible home owners in full-time care will be able to receive the proposed land tax exemption regardless of the date they moved into care. The exemption is more favourable to taxpayers than was originally stated.

Second Reading Resumed

MS M.J. DAVIES (Central Wheatbelt — Leader of the Opposition) [1.34 pm]: Noting the time before question time begins, I rise to speak to the Land Tax Assessment Amendment Bill. I understand that the government has a number of speakers on this bill. From the outset, I indicate that the opposition alliance is supportive of the amendments to the land tax bill, in particular, what it seeks to do to rectify the situation that has come about as a result of a decision made by the State Administrative Tribunal that impacted the definition of a park home.

I would like to start by saying thank you to the minister for the briefing, the materials and also the follow-up on this legislation that was provided to our office. It is relatively straightforward legislation in terms of its intent. I would not like to be the department that will try to calculate the exemption. I guess that is part of the question that I have for the minister. When going through what the exemption will apply to as a result of these changes, I understand that is largely reliant on self-reporting. It does seem to be a little complex, but I am sure there are some people who are very experienced in dealing with complexities in RevenueWA.

The current act includes an exemption from paying land tax for caravan parks and camping grounds. That applies to parks with sites for camping, caravans and park homes. As I understand it, under the current legislation, a park home has to be a vehicle. This issue arose in 2008 as a result of a SAT determination. The exemption that applies needs to be amended, hence we have this bill. The bill also then extends into another area by providing an exemption for people who move out of their own home and into full-time residential care. That is to reduce the cost impost on someone at a particularly difficult time in their life. A couple of issues have been raised.

I understand that the exemption relating to the transition to full-time aged care was first put on the agenda by former Treasurer Ben Wyatt. We are now seeing the outcome of that work. The amendment removes the reliance in a number of acts feeding into this one on the term park home. It supports the providers of these low-cost holiday accommodations—caravans, camp sites and long-stay residential accommodation sites—to provide that much-needed variety and options in our community. I would not have thought that there would be any member who does not have access to a residential park home—there might be some in inner metropolitan areas. I have a number of caravan parks in my electorate. There has been an attempt to start a residential long-stay facility. As a side note on that front—although it was not the only reason that it did not progress—unfortunately, when funds were being provided through the stimulus packages from the state and federal governments as a result of COVID, the owners of those residential long-stay park homes were exempt from allowing people to apply for funding to support the purchase of a home within those facilities. As a result, they were left out of the opportunity to get into affordable accommodation. One that tried to get off its feet in my electorate could have provided some wonderful opportunities for people to live on the outskirts of Northam, but it was not to be. Regardless, I think everyone has experienced this type of accommodation, either from having visited a caravan park themselves or knowing a long-term resident of one. These places provide a very cost-effective way for people on fixed or low incomes to remain close to the communities in which they have resided for some time. That is important to consider when we look at some of the cost-of-living pressures in Western Australia and, more broadly, across the nation.

The bill will provide an exemption for caravan parks and residential parks that contain either low-cost holiday accommodation—that is, caravan and camp site accommodation—or owner-occupier sites and short-stay accommodation. Short-stay parks—that is, caravan parks—will be fully exempt if at least 75 per cent of their accommodation sites are caravan or camping sites. The bill also includes a calculation to enable a proportional exemption to be applied. The example provided by the minister's office was of a caravan and camping ground with 100 sites. If it had 80 caravan and camping sites and 20 cabins or chalets, it would be exempt.

A long-stay park, or residential park, that contains accommodation that is used as a person's primary residence—I have at least one of those right on the border of my electorate in Wundowie and Wooroloo—will be fully exempt if at least 75 per cent of its sites are owner occupied. Otherwise, again, there will be a proportional exemption. We have to take into consideration the other land within the envelope of a park. Within these residential facilities or

caravan parks are common areas, recreation facilities, park facilities and, potentially, shops or restaurants; it will depend on where it is located. Anything that has been developed to provide an income will be excluded from the exemption. The example provided by the minister and the department for a long-stay park was that of a residential park containing 120 sites. If 60 of those sites were owner-occupied sites and 60 were for long-term tenants, and if 10 per cent of its area were used for shops, cafes and restaurants, it would be exempt. For a different permutation, there could be a proportional exemption.

A third permutation is mixed-use sites—that is, short-stay holiday accommodation combined with long-stay accommodation. Again, these will be fully exempt if 75 per cent of the long-stay sites are owner occupied and the short-stay sites are caravan and camping sites. A formula for other scenarios has been provided to the opposition. I have to say that if I were to be tested on it, I do not know that I would be able to explain it fully, but I am sure the minister could do that very well. As I mentioned earlier, park home owners will be required to report this calculation to the department, which will require them to have a handle on the number of owner-occupied sites. A number of potential complexities could arise, such as subletting. Perhaps the minister could talk about how that will be dealt with. If a tenancy changes within the course of a 12-month period, how will that be dealt with? What will the reporting period be and what penalties will be applied if someone misrepresents something or is perhaps not as accurate as they should be? I cannot imagine why they would not be accurate, but we can imagine that they will be looking to exempt themselves as much as possible. Of course, things do change throughout the course of a year and tenancies do alter, and whether that will have an impact on this calculation is worth exploring a little.

There is an element of retrospectivity to the bill. I did not catch all that the minister said, but I think it was in relation to the aged-care component.

Dr A.D. Buti: To clarify, if it is a care facility, it will be backdated to 1 July 2020. A person will qualify; it does not matter when they went there.

Ms M.J. DAVIES: Okay. There is an element of retrospectivity in the legislation, which is unusual. I understand that this arose as a result of a decision of the State Administrative Tribunal.

Dr A.D. Buti: The general rule is that as long as the retrospectivity is favourable to the taxpayer, it is okay. Obviously, if it were not favourable, it would be more of an issue.

Ms M.J. DAVIES: The taxpayer will be better off. I guess that park home owners and those who will be impacted by this may have questions around what that will look like for them, but I note that either the second reading speech or one of the briefing notes said that park owners would not be disadvantaged by the transition period. If the minister could provide some clarification around that, it would be appreciated.

I understand that consultation was undertaken with a number of government departments. I am suffering from what the Minister for State Development, Jobs and Trade was suffering from a moment ago, when he was looking for a piece of paper! The opposition contacted the Caravan Industry Association of Australia, the Park Home Owners Association Western Australia and the Caravan Industry Association Western Australia, and reached out to the Council on the Ageing about the percentage of its membership that might overlap with some of the people who will be impacted by these decisions. I understand that there was also internal consultation, as we would expect, between the Department of Treasury, the Department of Mines, Industry Regulation and Safety and the Department of Local Government, Sport and Cultural Industries. From a local government perspective, there would definitely be a requirement to have an understanding of exactly how many of these facilities exist. I guess that would be relevant for the Department of Planning, Lands and Heritage as well. I would be interested to know the impact of this on revenue and how many entities or people will be impacted by the changes, being not only the park home owners, but also, under the other amendment, those who transition from being permanent residents to being permanently in aged care. Will a significant number of people be impacted? What calculations and modelling was done by the Department of Treasury? I just want to get a better understanding from the minister of the impact this bill could have. Notwithstanding that, this is a sensible amendment to the legislation. However, the opposition would welcome some advice on what the modelling looked like, how many people these changes will impact, how much better off taxpayers will be and who will fall into that category.

My last point may overlap a little. When we talked to the Park Home Owners Association, it raised questions that are relevant to this debate. Does Treasury know the number and location of caravan parks in WA? I imagine that would need to be known in terms of the modelling for the business case. Do owners know the size and location of caravan sites in their parks, and does that matter? I have already raised this, but one of the issues for the Park Home Owners Association is that there will be a mix of short and long-term residents, which will change from time to time. How will that be accommodated in the calculation to make sure that it is an accurate charge and will it be regulated appropriately? We expect that most people will endeavour to report accurately, but will there be audits, how will those audits be conducted, who will control and report on the accuracy of the funds that are being collected and how will the revenue be collected? They are the questions that we had and, because the minister has indicated that consultation has been undertaken with the Park Home Owners Association, I am sure that they will be able to be answered.

From our perspective, it is good to exempt park homes and people who are moving or transitioning from their own home to aged care, because, as we know, people are not taxed on that land. If they will not benefit financially from leaving that home to move to aged care—that is, they are not renting it out—they will remain eligible for the exemption. These are sensible amendments and the opposition has no issue with supporting the legislation.

They were the questions raised by stakeholders. This is a small step towards increasing affordability, and that is important. I do not want to belabour the point, but it would be interesting to know exactly how much of an impact there will be on the people who will be caught by these amendments and what the impact will be on taxpayers and those in the caravan park industry.

I understand that there are some other speakers on the bill, so I will allow them to make a contribution. Depending on the clarity from the minister in his response to the second reading debate, we may or may not go into consideration in detail.

MR C.J. TALLENTIRE (Thornlie) [1.52 pm]: I am very pleased to rise to speak on the Land Tax Assessment Amendment Bill 2022. I recall that during the second term of the Barnett government, a succession of land tax-related legislation was brought to this place. Various finance ministers in the Barnett government, from Minister Nahan to Minister Nalder to Minister Marmion, brought in legislation that increased land tax, which was very curious because several of those people had been elected on platforms that suggested that they opposed things like increasing land tax. Land tax is often a topical point of discussion amongst those in the community who pay land tax, noting of course that people do not pay land tax on their principal residence. Land tax is paid on investment properties, businesses and the like. An increase in land tax is always of concern to business owners and those who have investment properties and other things.

I recall when we were debating with then Minister Nahan that there was discussion about the Henry George Foundation. Henry George was an American nineteenth century political philosopher who had the idea that a single tax on the rental value of land could replace all the other inefficient taxes. The Henry George Foundation continues to this day and promotes different views on how tax can be imposed on the community to gather much-needed revenue in a way that leads to the overall prosperity of the community.

There is an often forgotten way in Western Australia for people to avoid paying land tax, especially property owners who have bushland on their property. The best way to avoid paying land tax is to put a conservation covenant on that land. A conservation covenant can be put in place with the National Trust of Western Australia. I believe there is a program under the Conservation and Land Management Act and another one under the Soil and Land Conservation Act. Those recognised covenant programs enable the landholder to avoid paying land tax on the portion of the property that is covered by the conservation covenant. There is a restrictive covenant on the land. It is a beautiful way of recognising that the state of Western Australia has many great areas of conservation significance, but they cannot all be in the conservation estate of government crown land. Many areas of high significance can be found on privately owned land. Given the rigorous situation with land clearing and the destruction of natural values, it makes sense for landholders to look at putting a conservation covenant on areas and avoid paying land tax. I think it is a much-undersold virtue of our land tax system. This is not directly applicable to the legislation we are debating today, but, in general terms, there is beauty in a land tax system that provides an incentive for people to put a covenant on their land. It merits much greater discussion and airing so that landholders are aware of it.

I have in recent times become aware of a growing number of property lawyers, settlement agents and professionals in the area of land administration who are unaware of the existence of this land tax exemption opportunity. That is something that we will have to work on. It needs demystifying to let people know that they would not lose the opportunity to enjoy that land; they would simply be doing something that is positive for the state in contributing towards the overall conservation estate, while also avoiding paying land tax on that land. That is their recompense. This is an important thing. We need to be sure that organisations like the National Trust are promoting this very legitimate land tax avoidance measure and letting people know that it really is a sensible and good thing to do.

Having said that about the opportunities for people to avoid paying land tax, I now turn to the specifics of this legislation and how it will apply to park home residents. I first encountered park homes through a long-stay tenancy property known as Riverside Gardens that was in my electorate prior to a boundary change but is now in the Southern River electorate. It was owned by former Swan Districts footballer Billy Walker. Billy Walker was a very enthusiastic and much-loved owner of the overall park home property. All the residents on the property loved to come out and see Billy. Billy was a very ruthless businessman and would certainly pass on any additional costs that he had. At that time, Billy thought that as long as the movable property had some sort of token wheels on it, he was exempt from paying land tax. He thought that it would meet the definition of a movable home if it had a wheel stationed on either side of the building. It was amusing, I suppose, that Billy Walker thought that that was all that was necessary to meet the definition of a movable home. I believe the term used in the legislation is “non-vehicle relocatable home”. This legislation seeks to clarify the situation for people who own properties in these parks.

Debate interrupted, pursuant to standing orders.

[Continued on page 4600.]