

Land Tax Assessment Amendment Bill 2017

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Western Australia

LEGISLATIVE ASSEMBLY

Land Tax Assessment Amendment Bill 2017

A Bill for

An Act to amend the *Land Tax Assessment Act 2002*.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Land Tax Assessment Amendment Act 2017*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 2 is deemed to have come into operation immediately after the *Land Tax Assessment Act 2002* came into operation;
- (b) the rest of the Act comes into operation on the day on which this Act receives the Royal Assent.

3. Act amended

This Act amends the *Land Tax Assessment Act 2002*.

Part 2 — Amendments about liability for land tax

4. Section 7 amended

Delete section 7(3).

5. Section 8 amended

After section 8(1) insert:

- (1A) Subsection (1)(b) does not apply if the agreement or arrangement under which the person is entitled to use the land is with a taxable authority.

6. Section 31 amended

In section 31(1):

- (a) delete “(except a taxable authority)”;
- (b) delete “year, there is a person or a taxable authority who or which is taken under section 8(1) or (2) respectively to be the owner of the land for the purposes of section 7.” and insert:

year —

- (a) the land is owned by a taxable authority; or
- (b) a person or taxable authority is taken under section 8(1) or (2) respectively to be the owner of the land for the purposes of section 7.

s. 7

1 **7. Glossary amended**

2 In the Glossary clause 1 delete the definition of *public statutory*
3 *authority* and insert:

4
5 *public statutory authority* means —

6 (a) a body, whether incorporated or not, that —

7 (i) is established or continued for a public
8 purpose under a written law; and

9 (ii) under the authority of a written law,
10 performs a statutory function on behalf of
11 the State;

12 or

13 (b) the holder of an office, if —

14 (i) the office is established or continued for a
15 public purpose under a written law; and

16 (ii) under the authority of a written law, the
17 holder of the office performs a statutory
18 function on behalf of the State;
19

Part 3 — Transitional and validation provisions

8. Schedule 1 Division 5 inserted

At the end of Schedule 1 insert:

**Division 5 — Provisions for *Land Tax Assessment
Amendment Act 2017***

16. Terms used

In this Division —

amended Act means this Act as amended by the *Land Tax Assessment Amendment Act 2017* Part 2;

commencement means the day on which the *Land Tax Assessment Amendment Act 2017* Part 3 comes into operation;

former Act means this Act as in force immediately before the provisions of the *Land Tax Assessment Amendment Act 2017* came into operation, or were deemed to come into operation, under section 2 of that Act;

non-public authority means a body that —

(a) was a public statutory authority under the former Act; but

(b) is not a public statutory authority under the amended Act;

previous assessment means an assessment for an assessment year during the validation period made on the basis that —

(a) land owned by, or vested in, a non-public authority was not exempt under section 31(1) of the former Act; or

(b) section 8(1)(b) of the former Act did not apply in respect of land that a person was entitled to use for business, commercial, professional or trade purposes under an agreement or arrangement with a taxable authority;

s. 8

- 1 *validation period* means the period —
- 2 (a) beginning on the coming into operation of the *Land*
- 3 *Tax Assessment Act 2002*; and
- 4 (b) ending immediately before commencement.
- 5 **17. Validation of previous assessments**
- 6 (1) A previous assessment made, or purported to be made,
- 7 during the validation period is, and is to be taken to have
- 8 always been, as valid and effective as it would have been if
- 9 the amended Act had been in force when the assessment was
- 10 made.
- 11 (2) The rights, obligations and liabilities of all persons are taken
- 12 to be, and to have always been, the same as if a previous
- 13 assessment had been validly made.
- 14 (3) Anything done, or purportedly done, during the validation
- 15 period is as valid and effective, and is to be taken to have
- 16 always been as valid and effective, as it would have been if
- 17 a previous assessment had been validly made.
- 18 (4) In this clause, a reference to the doing of anything includes a
- 19 reference to an omission to do anything.
- 20 (5) This clause is subject to clause 18.
- 21 **18. Land tax decisions made or pending**
- 22 (1) In this clause —
- 23 *decision* means —
- 24 (a) a decision of a court or tribunal made under a land
- 25 tax Act before commencement; or
- 26 (b) an objection determined by the Commissioner
- 27 before commencement.
- 28 (2) To the extent of any conflict or inconsistency between
- 29 clause 17 and a decision, the decision prevails.
- 30 (3) Despite the *Land Tax Assessment Amendment Act 2017*
- 31 section 2(a), the validity of a decision is not to be called into

1 question on the grounds that it conflicts with or is
2 inconsistent with the amended Act.

3 (4) Clause 17 does not apply to, or in respect of, a previous
4 assessment to which paragraph (a) of the definition of
5 *previous assessment* in clause 16 applies if —

6 (a) an objection in respect of the assessment was
7 lodged, but not finally determined by the
8 Commissioner, under a land tax Act before
9 15 July 2015; or

10 (b) review proceedings in respect of the assessment
11 were commenced, but not finally determined, under
12 a land tax Act before 15 July 2015.

13 (5) Despite the amendments made by the *Land Tax Assessment*
14 *Amendment Act 2017* Part 2, the former Act continues to
15 apply in respect of the determination of an objection or
16 proceedings to which subclause (4) applies.

17 **19. Reassessment**

18 Subject to the *Taxation Administration Act 2003* section 17,
19 the Commissioner may make any reassessment necessary to
20 give effect to this Division and the amendments made by the
21 *Land Tax Assessment Amendment Act 2017* Part 2.
22

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