

South Australia



ANNO QUINQUAGESIMO  
ELIZABETHAE II REGINAE  
A.D. 2001

**STATUTES AMENDMENT (TAXATION MEASURES) ACT 2001**

No. 27 of 2001

[Assented to 26 July 2001]

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An Act to amend the Land Tax Act 1936, the Pay-roll Tax Act 1971 and the Stamp Duties Act 1923.

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The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Statutes Amendment (Taxation Measures) Act 2001*.

**Commencement**

2. (1) Subject to subsection (2), this Act will come into operation on assent.

(2) Section 14 will come into operation on 1 January 2002.

**Interpretation**

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2  
AMENDMENT OF LAND TAX ACT 1936**

**Insertion of s. 5A**

4. The following section is inserted after section 5 of the principal Act:

**Waiver or refund of land tax for residential land in certain cases**

5A. (1) The Commissioner may, on application under this section, grant—

- (a) a waiver or refund of land tax paid or payable by the applicant on land for a particular financial year; or
- (b) a refund of an amount paid by the applicant as a purchaser of land to the vendor of the land as an adjustment of land tax paid or payable on the land for the financial year in which settlement takes place (an amount representing land tax),

if the following criteria are satisfied:

- (c) the land became the applicant's principal place of residence during the course of the financial year; and
- (d) proper grounds for exempting the land from land tax under section 5 came into existence when the land became the applicant's principal place of residence; and
- (e) the applicant must have divested himself or herself, before the end of the financial year, of any other land in respect of which the applicant has had the benefit of a relevant concession for the financial year; and
- (f) unless the Commissioner allows otherwise in a particular case, no rent or other consideration has been paid or is payable for occupation, during the financial year, of the land or any other land in respect of which the applicant has had the benefit of a relevant concession for the financial year, while the applicant owned both the land and other such land; and

(g) the criteria for the time being determined by regulation.

(2) For the purposes of subsection (1), an applicant has had the benefit of a relevant concession in respect of land for a financial year if the applicant has, for the financial year—

(a) had the benefit of an exemption from land tax under section 5 in respect of the land as the applicant's principal place of residence; or

(b) had the benefit of a waiver or refund of land tax, or an amount representing land tax, under this section in respect of the land.

(3) The amount of the waiver or refund is to be determined as follows:

(a) in the case of a waiver or refund of land tax—the amount of the waiver or refund is the amount by which the assessment of the taxpayer would have been reduced if the land had been exempt from land tax under section 5;

(b) in the case of a refund of an amount representing land tax paid by a purchaser of the land, the amount of the refund is—

(i) the actual amount paid to the vendor by the purchaser as an adjustment of land tax; or

(ii) a proportion of the land tax that would be payable on the land for the financial year concerned if the taxpayer owned only that land, being the proportion that the number of days from the date of settlement to the end of that financial year bears to 365,

whichever is the lesser.

(4) An application for a waiver or refund of land tax or an amount representing land tax under this section—

(a) will be taken to be an application for a refund of land tax for the purposes of the *Taxation Administration Act 1996*; and

(b) must be accompanied by evidence supporting the application as required by the Commissioner; and

(c) must be made on or before 30 September following the end of the financial year in respect of which the waiver or refund is sought.

(5) A person must not make a false or misleading statement or representation in an application made, or purporting to be made, under this section.

Maximum penalty: \$10 000.

(6) If the Commissioner—

(a) has made a determination that land tax, or an amount representing land tax, in respect of land for a financial year be waived or refunded under this section; and

- (b) subsequently determines that proper grounds for the determination did not exist,

the Commissioner may revoke the earlier determination and, in that event, the amount waived or refunded becomes payable as land tax in respect of the land for the financial year by the person who had the benefit of the waiver or refund.

(7) This section applies in relation to land tax for a financial year commencing on or after 1 July 2001.

### PART 3 AMENDMENT OF PAY-ROLL TAX ACT 1971

#### Amendment of s. 3—Interpretation

5. Section 3 of the principal Act is amended—

- (a) by inserting in subsection (1) after the definition of "**designated group employer**" the following definition:

**"eligible termination payment"** has the meaning given by Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936* of the Commonwealth;;

- (b) by inserting after subsection (1a) the following subsection:

(1ab) On and after 1 July 2002 wages include an eligible termination payment (but until that date wages do not include an eligible termination payment).;

- (c) by striking out subsection (1c) and substituting the following subsection:

(1c) For the purposes of this Act, the value of taxable wages comprising a fringe benefit is—

- (a) until 1 July 2002—the value that would be the taxable value of the benefit as a fringe benefit;
- (b) on and after 1 July 2002—the value that would be the fringe benefits taxable amount,

for the purposes of the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth.

#### Amendment of s. 9—Imposition of pay-roll tax on taxable wages

6. Section 9 of the principal Act is amended by striking out paragraph (b) of subsection (1) and substituting the following paragraphs:

- (b) in relation to wages paid or payable on or after 1 December 1994 and before 1 July 2001—6 per cent of those wages;
- (c) in relation to wages paid or payable on or after 1 July 2001 and before 1 July 2002—5.75 per cent of those wages;
- (d) in relation to wages paid or payable on or after 1 July 2002—5.67 per cent of those wages.

**Amendment of s. 11A—Deduction from taxable wages**

7. Section 11A of the principal Act is amended by striking out subparagraph (iii) of paragraph (a) of the definition of "prescribed amount" in subsection (1) and substituting the following subparagraphs:

- (iii) commencing on or after 1 July 1992 and ending before 1 July 2002, means \$38 000;
- (iv) commencing on or after 1 July 2002, means \$42 000;.

**Amendment of s. 13A—Meaning of prescribed amount**

8. Section 13A of the principal Act is amended by striking out from subsection (2)(c) "A is \$456 000" and substituting the following:

- A is—
- in relation to a financial year commencing before 1 July 2002—\$456 000
  - in relation to a financial year commencing on or after 1 July 2002—\$504 000.

**Amendment of s. 18K—Interpretation**

9. Section 18K of the principal Act is amended by striking out from subsection (2)(c) "A is \$456 000" and substituting the following:

- A is—
- in relation to a financial year commencing before 1 July 2002—\$456 000
  - in relation to a financial year commencing on or after 1 July 2002—\$504 000.

**PART 4  
AMENDMENT OF STAMP DUTIES ACT 1923**

**Amendment of s. 62—Land use entitlements**

10. Section 62 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:

(2) Subject to the following exceptions, if a person acquires a notional interest in land as a result of a transaction to which this section applies, the transaction is dutiable under this section.

*Exceptions—*

1. The acquisition of a share in a company or an interest under a trust that confers a right to occupy a dwelling is not dutiable under this section if the dwelling is part of a scheme consisting of two or more dwellings owned and administered by the company or the trustees of the trust.

2. The acquisition of a share in a company or an interest under a trust that confers a right to occupy a dwelling is not dutiable under this section if the dwelling is part of a retirement village scheme under the *Retirement Villages Act 1987*.
3. A transaction exempted by the regulations from this section is not dutiable under this section.

(3) An instrument that gives effect to, or acknowledges, evidences or records a transaction that is dutiable under this section is dutiable as a conveyance of a notional interest in the land.

#### **Amendment of s. 67—Computation of duty where instruments are interrelated**

11. Section 67 of the principal Act is amended by striking out subsection (8).

#### **Amendment of s. 90A—Interpretation**

12. Section 90A of the principal Act is amended by striking out the definition of "exempt transaction" and substituting the following definition:

"exempt transaction" means a conveyance (including a sale or purchase) of a quoted marketable security made after 30 June 2001;

#### **Amendment of s. 101—Exempt transactions**

13. Section 101 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The following transactions are exempt from duty under this Part:

- (a) an acquisition of an interest in a land rich entity that takes place under a compromise or arrangement approved by a court under Part 5.1 of the *Corporations Law*;
- (b) a transaction exempted by regulation from duty under this Part.

#### **Amendment of Sched. 2**

14. Schedule 2 of the principal Act is amended by striking out item 1 of the exemptions related to the item commencing "LEASE or AGREEMENT FOR a LEASE or any other document for the tenancy or occupancy of land or a tenement" and substituting the following item:

1. Lease or agreement for a lease or any written document for the tenancy or occupancy of land or a tenement where—
  - (a) the term of the lease, proposed lease, tenancy or occupancy commences on or after 1 January 2002; and
  - (b) the rent reserved, averaged over the term of the lease, proposed lease, tenancy or occupancy, does not exceed the rate of \$50 000 per annum.