

Version No. 103
Land Tax Act 1958

Act No. 6289/1958

Version incorporating amendments as at 27 June 2001

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Version No. 103
Land Tax Act 1958

Act No. 6289/1958

Version incorporating amendments as at 27 June 2001

An Act to consolidate the Law providing for a Tax on the
Unimproved Value of Land and for the Assessment of Land.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

S. 1
amended by
Nos 9427
s. 6(1)(Sch. 5
item 78),
65/1987
s. 57(a).

1. *Short title and commencement*

This Act may be cited as the **Land Tax Act 1958**,
and shall come into operation on a day to be fixed
by proclamation of the Governor in Council
published in the Government Gazette.

S. 2
repealed by
No. 30/1993
s. 9(a).

* * * * *

Nos 3713 s. 3,
4905 s. 2.

3. *Definitions*

S. 3
amended by
No. 8527
s. 3(a).

(1) In this Act, unless inconsistent with the context or
subject-matter—

"Act" includes regulations thereunder;

S. 3(1) def. of
"assessment"
repealed by
No. 7773
s. 2(a)(i).

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s. 3

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S. 3(1) def. of
"assessment
Court"
repealed by
No. 7332
s. 2(Sch. 1
item 56).

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S. 3(1) def. of
"average rate"
inserted by
No. 6827
s. 2(a),
repealed by
No. 7773
s. 2(a)(i).

"business of primary production" means the
business of—

- (a) cultivating land for the purpose of
selling the produce of such cultivation;
or
- (b) maintaining animals or poultry for the
purpose of selling them or their natural
increase or bodily produce; or
- (c) keeping bees for the purpose of selling
their honey; or
- (d) commercial fishing, including the
preparation for such fishing and the
storage and preservation of fish and
fishing gear; or
- (e) cultivating or propagating for sale
plants seedlings mushrooms or orchids;

S. 3(1) def. of
"business of
primary
production"
inserted by
No. 8527
s. 3(b),
amended by
No. 9842
s. 2(a).

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

S. 3(1) def. of
"Commis-
sioner"
inserted by
No. 40/1997
s. 138(Sch. 2
item 10.1).

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S. 3(1) defs of
"capital
value",
"capital
improved
value",
"improved
value"
repealed by
No. 7773
s. 2(a)(i).

* * * *

S. 3(1) defs of
"district",
"municipal
district",
"subdivision",
"improve-
ments"
repealed by
No. 7773
s. 2(a)(i).

* * * *

S. 3(1) def. of
"ex-
servicemen"
inserted by
No. 31/1997
s. 5(1).

"**ex-servicemen**" has the meaning given in
section 9(3);

S. 3(1) def. of
"joint owners"
inserted by
No. 41/1998
s. 4(1).

"**joint owners**" means persons—

- (a) who own land jointly or in common,
whether as partners or otherwise; or
- (b) who are deemed by this Act to be joint
owners;

"**land**" includes all land and tenements and all
interests therein;

S. 3(1) def. of
"land used for
industrial
purposes"
inserted by
No. 6929 s. 2.

"**land used for industrial purposes**" means land
upon which is erected a factory or workshop
which is primarily used for industrial
purposes and includes any land which is
used in conjunction with and for purposes
ancillary to the industrial purposes for which
such factory or workshop is being used, but
does not include any land upon which is

erected a factory or workshop which is primarily being used—

- (a) as a dwelling house;
- (b) as a retail shop or store;
- (c) for a distributive wholesale business;
- (d) for storage;
- (e) for any business or commercial purpose which is not directly related to the manufacture or processing of goods or materials; or
- (f) for any two or more of the foregoing purposes;

"land or lands used for primary production"

means land or lands used primarily for—

- (a) the cultivation thereof for the purpose of selling the produce of such cultivation; or
- (b) the maintenance of animals or poultry thereon for the purpose of selling them or their natural increase or bodily produce; or
- (c) the keeping of bees thereon for the purpose of selling their honey; or
- (d) commercial fishing, including the preparation for such fishing or the storage or preservation of fish or fishing gear; or
- (e) the cultivation or propagation for sale of plants seedlings mushrooms or orchids;

S. 3(1) def. of "land or lands used for primary production" amended by Nos 8527 s. 3(c), 9842 s. 2(b).

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s. 3

S. 3(1) def. of
"land or lands
used for other
purposes"
inserted by
No. 6827
s. 2(b),
repealed by
No. 7773
s. 2(a)(i).

* * * *

S. 3(1) def. of
"local
authority"
repealed by
No. 7773
s. 2(a)(i).

* * * *

S. 3(1) def. of
"mine"
inserted by
No. 31/1997
s. 5(1).

"mine" has the meaning given in section 9(3);

"mortgage" includes every charge whatsoever upon land howsoever created if such charge is registered under any Act relating to the registration of deeds or instruments affecting title to land, and includes a transfer or conveyance to a registered building society subject to a deed of defeasance in favour of a borrower;

"mortgagee" includes every person entitled at law or in equity to a mortgage or any part thereof, and includes a registered building society in favour of which a transfer or conveyance has been executed subject to a deed of defeasance;

"notice" means a notice in writing given by causing the same to be personally served on any person or by leaving the same at his usual or last-known place of abode or business in Victoria or by affixing the same or a sealed copy thereof on a conspicuous

part of the land to which the notice relates or by sending the same by post addressed to such usual or last-known place of abode or business; and in the case of a company means a notice given by being served upon or sent by post or delivered to the secretary or manager of such company at or to any place where the company carries on business in Victoria, or by affixing the same or a sealed copy thereof upon a conspicuous part of the land to which such notice relates;

"occupier" in respect of land means the person by whom or on whose behalf the land is actually occupied, and in the case of unoccupied property means the owner thereof; and as to lands of the Crown means any lessee or licensee thereof who has any right either absolute or conditional of acquiring the fee-simple;

"owner" in respect of land means , except in Part IIA,¹—

S. 3(1) def. of "owner" amended by No. 41/1998 s. 4(2)(a).

- (a) every person entitled to any land for any estate of freehold in possession;
- (b) every person entitled to any land under any lease or licence from the Crown as to which he has any right either absolute or conditional of acquiring the fee-simple;
- (c) every settler grantor assignor or transferor of land comprised in any settlement grant assignment transfer or conveyance not made bona fide for valuable consideration;
- (d) every person entitled as aforesaid to any land subject to any mortgage;

(e) every person entitled to any land partly in one and partly in another or others of the foregoing ways—

and includes every person who by virtue of this Act is deemed to be an owner;

S. 3(1) def. of "parcel" inserted by No. 8527 s. 3(d).

"parcel" in relation to land means lands which are contiguous or which are separated only by a road or railway or other similar area across or around which movement is reasonably possible and which are owned by the same person;

"person" includes a body of persons, whether corporate or unincorporate;

"prescribed" means prescribed by this Act or any regulations thereunder;

S. 3(1) def. of "principal place of residence" inserted by No. 41/1998 s. 4(1).

"principal place of residence" includes sole place of residence;

"publicly notified" or **"public notice"** means notice published in the Government Gazette or in some newspaper circulating in the locality where anything is required to be so notified or notice thereof is required to be given;

S. 3(1) def. of "public sector superannuation authority" inserted by No. 74/1991 s. 4, substituted by No. 101/1995 s. 26.

"public sector superannuation authority" means a public body within the meaning of the **Financial Management Act 1994** that is required to submit an annual report under Part 7 of that Act in relation to a public sector superannuation fund;

"public statutory authority" means a public statutory body constituted under an Act but does not include—

- (a) a public sector superannuation authority;

* * * * *

S. 3(1) def. of "public statutory authority" inserted by No. 74/1991 ss 4, 5, amended by Nos 101/1993 s. 4(1), 31/1997 s. 5(2).

"retirement village" means a complex containing residential premises (whether or not including hostel units) predominantly or exclusively occupied by retired persons in pursuance of—

- (a) a residential tenancy agreement or any other lease or licence; or
- (b) a right conferred by shares; or
- (c) the ownership of residential premises subject to a right or option of repurchase on conditions restricting the subsequent disposal of the premises;

S. 3(1) def. of "retirement village" inserted by No. 74/1991 s. 4.

"special trust" means—

- (a) a trust under which the vesting of the whole or any part of the capital of the trust estate, or the whole or any part of the income from that capital, or both—
 - (i) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest to be taken, or both; or
 - (ii) will occur in the event that a discretion conferred under the trust is not exercised; or

S. 3(1) def. of "special trust" inserted by No. 74/1991 s. 4.

(iii) has occurred but under which the whole or any part of that capital or the whole or any part of that income, or both, will be divested from the person or persons in whom it is vested in the event that a discretion conferred under the trust is exercised; or

(b) a trust—

(i) under which the trustee has active management duties;

(ii) the whole or any part of the trust property of which comprises land; and

(iii) the interests of the beneficiaries under which in relation to that trust property which comprises land are not such as to constitute those beneficiaries owners of that land for the purposes of this Act; or

(c) a trust which is, by or under the regulations, declared to be a special trust for the purposes of this Act;

but does not include—

(d) a trust which is solely a charitable trust;

(e) a trust established by a will, but only during the period being—

(i) where the testator died on or before 31 December 1991—the period ending on 31 December 1992; or

- (ii) where the testator dies after 31 December 1991—the period ending on the expiration of 12 months after the date of death of the testator; or
- (f) a trust declared in writing by the Commissioner not to be a special trust for the purposes of this Act because the trustee has satisfied the Commissioner that the purpose of altering or reducing the incidence of land tax on land is not, to a material extent, a reason for the acquisition of land by the trust;

"tax" or **"taxation"** means the duty upon land, and includes any super tax or any additional charge in respect thereof to be assessed, collected, or enforced under this Act;

"taxable value" in respect of land or lands means the total unimproved value of land or lands of any owner less the amount of any exemption to which the owner is entitled under section 7;

S. 3(1) def. of "taxable value" inserted by No. 6827 s. 2(c), substituted by No. 7773 s. 2(a)(ii), amended by Nos 8621 s. 3, 9190 s. 2(1)(a).

"taxpayer" means any person who is the owner of land; and includes every person who, whether liable to taxation or not, is by or under this Act required to make any return relating to land or to the valuation or assessment thereof;

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s. 3

S. 3(1) def. of
"trustee"
amended by
Nos 55/1987
s. 57(3)(Sch. 5
item 35),
45/1994
s. 42(Sch.
item 6),
41/1998
s. 4(2)(b).

"trustee", except in Part IIA, includes trustee,
executor, administrator, guardian, liquidator
and any person having or taking upon
himself the possession, administration, or
control of land, income, or other property of
any description affected by any express or
implied trust, or having the possession,
control, or management of land of a person
under any legal or other disability;

S. 3(1) def. of
"unimproved
value"
substituted by
No. 7773
s. 2(a)(iii),
repealed by
No. 8527
s. 3(e).

* * * *

S. 3(1) def. of
"value of
improve-
ments"
repealed by
No. 7773
s. 2(a)(i).

* * * *

"year" means year ending thirty-first day of
December.

(2) For the purposes of assessing the tax to be charged, levied or collected under this Act in any year, including special land tax under section 10—

- (a) the unimproved value of any land shall be an amount equal to the site value (as defined in the **Valuation of Land Act 1960**) of the land as at the relevant date adjusted in accordance with sub-section (4);
- (b) the net annual value of any land or of any portion of any land shall be an amount equal to the net annual value (as defined in the **Valuation of Land Act 1960**) of the land as at the relevant date.

S. 3(2) inserted by No. 8527 s. 3(f), amended by Nos 8770 s. 3(1), 8946 s. 3(1), 9842 s. 3(1)(3), 9969 s. 4(1), 12/1989 s. 4(1)(Sch. 2 items 66.1–66.3, 66.4 (as amended by No. 13/1990 s. 38(1)(z)) 66.5, 66.6), substituted by No. 113/1994 s. 4(1), amended by Nos 42/1996 s. 18(a)(i), 31/1997 s. 5(3)(a). S. 3(2A) inserted by No. 113/1994 s. 4(1).

(2A) In sub-section (2) "the relevant date" is—

- (a) where the land is within the municipal district of a municipal council—
 - (i) subject to sub-paragraph (ii) the date as at which rateable properties within the municipal district were valued for the purposes of the last general valuation returned to the municipal council before 1 January in the year immediately preceding the year for or in which the land tax is being assessed;
 - (ii) where the land has been valued for the purposes of a supplementary valuation after the return date of the last general valuation referred to in sub-paragraph (i) but before 1 January of the year for or in which land tax is being assessed, the return date of that supplementary valuation; or

S. 3(2A)(i) amended by No. 31/1997 s. 5(3)(b).

S. 3(2A)(ii) amended by No. 31/1997 s. 5(3)(b).

-
- (b) where the land is not within a municipal district of a municipal council, 31 December in the year immediately preceding the year for which the land tax is being assessed.

S. 3(3)
inserted by
No. 9842
s. 3(2),
repealed by
No. 42/1996
s. 18(a)(ii).

* * * * *

S. 3(4)
inserted by
No. 9969
s. 4(2),
amended by
No. 31/1997
s. 5(3)(c)(i)(ii).

- (4) For the purpose of assessing the tax to be charged, levied and collected for the year commencing on 1 January 1984 or for or in any subsequent year, the unimproved value of any land within an area shall be deemed to be an amount equal to the amount of the site value of the land determined as set out in sub-section (2) multiplied by the prescribed equalization factor, if any, applying to land within that area in respect of the year for or in which land tax is being assessed.

S. 3(5)
inserted by
No. 9969
s. 4(2),
amended by
No. 40/1997
s. 138(Sch. 2
item 10.2).

- (5) A reference in sub-section (4) to a prescribed equalization factor applying in respect of a year to land within an area is a reference to a factor determined by the Valuer-General and prescribed by the regulations being a factor by which, in the opinion of the Valuer-General, the site value of land within that area determined as set out in sub-section (2) ought to be multiplied if the value of the land is to accord with levels of value generally prevailing in that area as at a date determined by the Treasurer of Victoria after consultation with the Commissioner.
-

(5A) Despite anything to the contrary in sub-section (5) or the Land Tax (Equalization Factors) Regulations 2000, the prescribed equalization factor that applies for the year 2001 in respect of land within the area of the City of Melbourne is, and must be taken always to have been, 1·06.

S. 3(5A)
inserted by
No. 46/2001
s. 32.

(6) In sub-section (2A)—

S. 3(6)
inserted by
No. 113/1994
s. 4(2).

"supplementary valuation" means a valuation which is made under section 13DF of the **Valuation of Land Act 1960** and is supplementary to the last general valuation returned to the municipal council before 1 January in the year immediately preceding the year for or in which land tax is being assessed;

S. 3(6) def. of
"supplementary valuation"
amended by
No. 31/1997
s. 5(3)(d).

"return date", in relation to a valuation, is the date on which that valuation is returned to the municipal council by the person who carried out that valuation.

3A. Unimproved value of certain land

S. 3A
inserted by
No. 86/1997
s. 8.

If—

- (a) it is necessary to ascertain an unimproved value of land ("**the lot**") for the purposes of assessing land tax for or in a particular year; and
- (b) the lot was not valued separately as at the relevant date (within the meaning of section 3(2A)); and

(c) the lot was part of an area of land ("**the whole**") that was valued separately as at the relevant date—

then, for the purposes of assessing land tax for or in that year, the unimproved value of the lot is deemed to be the same proportion of the unimproved value of the whole as the area of the lot bears to the area of the whole.

PART I—ADMINISTRATION

4. *Appointment of Commissioner and other officers and oath of secrecy etc.*Nos 3713
s. 4, 3701 s. 6.

- (1) The Commissioner has the general administration of this Act and the regulations.

S. 4(1)
substituted by
No. 40/1997
s. 138(Sch. 2
item 10.3).

* * * * *

S. 4(2)
amended by
Nos 7773
s. 2(b),
65/1987
s. 53(a),
repealed by
No. 40/1997
s. 138(Sch. 2
item 10.4(a)).

* * * * *

S. 4(3)
amended by
No. 65/1987
s. 53(b),
repealed by
No. 40/1997
s. 138(Sch. 2
item 10.4(a)).

- (4) The Commissioner may communicate any information respecting the affairs of any person disclosed or obtained under the provisions of this Act to—

S. 4(4)
substituted by
Nos 9455 s. 2,
9766 s. 5.

- (a) a member of the police force of or above the rank of Inspector; or

S. 4(4)(a)
repealed by
No. 37/1987
s. 10(1)(a),
new s. 4(4)(a)
inserted by
No. 103/1998
s. 9.

* * * * *

S. 4(4)(b)
repealed by
No. 40/1997
s. 138(Sch. 2
item 10.4(b)).

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s. 4

S. 4(4)(c)
repealed by
No. 37/1987
s. 10(1)(a).

* * * *

S. 4(4)(d)
substituted by
No. 65/1987
s. 57(b),
amended by
No. 46/1998
s. 7(Sch. 1).

(d) the Secretary to the Department of State
Development; or

(e) any special commission (within the meaning
of the **Evidence (Commissions) Act 1982**)
where—

(i) the Commissioner has received a
request in writing for information from
the special commission; and

(ii) the Treasurer has given written
approval to the Commissioner of the
communication of that information.

S. 4(5)
substituted by
No. 9455 s. 2,
amended by
No. 9733 s. 12,
substituted by
No. 9766 s. 5,
amended by
No. 37/1987
s. 10(1)(b)(i).

(5) Except as provided in sub-section (4) or in the
Taxation (Reciprocal Powers) Act 1987 a
person shall not—

S. 4(5)(a)
amended by
No. 37/1987
s. 10(1)(b)(ii).

(a) make a record of, divulge or communicate to
any person or publish any information or any
document or part of a document obtained by
him in connexion with the administration or
execution of this Act; or

(b) be required to produce in court any
document connected with the administration
or execution of this Act in his custody in the
course of his employment or to divulge or
communicate to any court any matter or

thing coming under his notice in the course
of his employment—

unless the production, divulgence, communication
or publication is made—

(c) with the consent of the person from whom
the information or document was obtained;

(ca) in connexion with—

S. 4(5)(ca)
inserted by
No. 10058 s. 2,
amended by
No. 8/1988
s. 4(1).

(i) the establishment of; or

S. 4(5)(ca)(i)
inserted by
No. 8/1988
s. 4(1).

(ii) the operation of; or

S. 4(5)(ca)(ii)
inserted by
No. 8/1988
s. 4(1).

(iii) the satisfaction of enquiries to—

S. 4(5)(ca)(iii)
inserted by
No. 8/1988
s. 4(1).

the integrated computerized information
retrieval project relating to information in
respect of Victorian land its ownership and
use known as Landata;

(d) in connexion with the administration or
execution of this Act or the regulations; or

(e) for the purpose of any legal proceedings
arising out of this Act or the regulations or of
any report of any such proceedings.

Penalty: 10 penalty units.

* * * * *

S. 4(6)
repealed by
No. 9455 s. 2.

Land Tax Act 1958
Act No. 6289/1958

s. 4

	*	*	*	*	*
S. 4(7) amended by Nos 8474 s. 10, 9126 s. 3(1), repealed by No. 9455 s. 2.					
S. 4A inserted by No. 23/1986 s. 7, repealed by No. 40/1997 s. 138(Sch. 2 item 10.5).	*	*	*	*	*
S. 5 repealed by No. 7773 s. 2(c), new s. 5 inserted by No. 9648 s. 2, amended by No. 101/1995 s. 27, repealed by No. 40/1997 s. 138(Sch. 2 item 10.5).	*	*	*	*	*

PART II—NATURE OF TAXATION

6. Rate of land tax

Subject to this Act there shall in the case of each owner of land be charged levied and collected by the Commissioner and paid for the use of Her Majesty in aid of the Consolidated Fund for each and every year a duty of land tax upon land for every dollar of the unimproved value thereof in accordance with the provisions of the Second Schedule.

No. 3713 s. 6.
S. 6
amended by
Nos 7315
s. 3(Sch. 1
Pt B), 7773
s. 2(d), 9071
s. 2(1),
65/1987
s. 57(c).

6A. Owner of home unit deemed to be owner of land for purposes of this Act

S. 6A
inserted by
No. 8527
s. 4(1).

- (1) In this section unless inconsistent with the context or subject-matter—

"home unit" means a building or part of a building which—

- (a) is designed for use as a self-contained unit for living purposes; and
- (b) is situated on land owned—
 - (i) by two or more persons as tenants in common, each of whom is the registered proprietor under the **Transfer of Land Act 1958** of one or more undivided shares in the whole of the land and is lawfully entitled, by virtue of an agreement entered into between him or his predecessor in title and all other owners of undivided shares in the land or their predecessors in title, to the exclusive right to occupy a specified building or part of a building on the land; or

-
- (ii) by a body corporate in which all issued shares are owned by two or more persons, each of whom is lawfully entitled, by virtue of his ownership of shares in the body corporate, to the exclusive right to occupy a specified building or part of a building on the land and who is not required to make any payments of a rental nature for that right;

"land" in relation to a home unit means the land upon which the building or buildings of which the home unit is part is or are situated;

S. 6A(1) def. of
"net annual
value"
repealed by
No. 8946
s. 3(2).

* * * * *

"owner" in relation to a home unit, means the person who—

- (a) is the owner of an undivided share in the land whereon the building is situated; or
- (b) is a shareholder in the body corporate which owns the land upon which the building is situated—

as the case may be, and who is thereby entitled to the exclusive right to occupy the home unit.

- (2) This section shall not apply to a home unit unless there is more than one home unit situated on the land.
- (3) For the purposes of this Act an owner of a home unit shall be deemed to be the owner of land
-

having an unimproved value determined in accordance with the formula—

$$\frac{A}{B} \times C —$$

where A equals the net annual value of the home unit;

where B equals the net annual value of all home units on the land;

where C equals the unimproved value of the land.

- (4) Where there are home units on any land in assessing the amount of land tax (if any) payable by the tenants in common of the land or the body corporate (as the case may be) in respect of that land the amount of the unimproved value of the units shall be deducted from the amount of the unimproved value of the land.

* * * * *

S. 7
amended by
Nos 6447 s. 2
(as amended
by No. 6489
s. 4(Sch. item
12)), 6827 s. 3,
6929 s. 3,
7194 ss 3, 4,
7315 s. 3(Sch.
1 Pt B),
substituted by
No. 7773
s. 2(e),
amended by
Nos 8055 s. 5,
9842 s. 4(a)(b),
9969 s. 5(1),
10121
s. 4(1)(a)–(c),
10210
s. 4(1)(a)(i)(ii),
81/1986
s. 4(1)(a)(i)(ii),
repealed by
No. 65/1987
s. 56(1)(a).

S. 7A

inserted by
No. 8527 s. 5,
amended by
No. 9071 s. 3,
substituted by
No. 9190
s. 2(1)(b),
amended by
Nos 9300 ss
2, 3, 9455 ss 3,
4, 9648 ss 3, 4,
repealed by
No. 9842 s. 5,
new s. 7A
inserted by
No. 10210
s. 5(1),
amended by
Nos 60/1988
s. 4, 62/1990
s. 4(a),
101/1997
s. 3(a)(b),
48/2001
s. 9(1)(a)(b).

S. 7B

inserted by
No. 9071
s. 4,
repealed by
No. 9190
s. 2(1)(b).

No. 3713 s. 8.

S. 8(1)

amended by
Nos 6827
s. 4(1), 8527
s. 6(1)(a)(b),
9842 s. 6(a),
74/1991
ss 6(a), 7(1).

7A. Minimum assessment

Where the total amount of land tax payable under this Act for a year after 2001 by a taxpayer would, but for this section, be less than \$125, no land tax is payable for that year by that taxpayer.

* * * * *

8. Land tax, on what land to be assessed

- (1) Subject to sub-section (2) tax on land shall in the case of each owner thereof be assessed charged levied and collected by the Commissioner for each year on the total unimproved value of all land of which he is the owner at midnight on the thirty-first day of December immediately preceding the year for which such tax is assessed charged levied and collected.

Land Tax Act 1958

Act No. 6289/1958

(2) Tax on land referred to in section 9(1)(c) that is subject to tax because of section 9(2) and tax on land owned by a charitable institution that is not exempt from tax under section 9(1)(d) (whether because of section 9(2AAA) or otherwise) shall be separately assessed charged levied and collected by the Commissioner from the owner thereof for each year on the unimproved value of each parcel of land of which he is the owner at midnight on the 31st day of December immediately preceding the year for which such taxation is assessed charged levied and collected as if it were the only land owned by the owner.

S. 8(2)
inserted by
No. 8527
s. 6(1)(c),
amended by
Nos 9071 s. 5,
74/1991
ss 7(1), 8(1),
10/2001
s. 5(1)(a).

(2A) Sub-section (2) does not apply in respect of land referred to in section 9(1)(c) vested in a public statutory authority².

S. 8(2A)
inserted by
No. 74/1991
s. 8(2).

(3) Where portion of a parcel of land (not being a portion of a building) is occupied separately from, or is obviously adapted to being occupied separately from other land in the parcel such portion shall for the purposes of sub-section (2) be regarded as a separate parcel of land.

S. 8(3)
inserted by
No. 8527
s. 6(1)(c).

* * * * *

S. 8(4)(5)
inserted by
No. 9842
s. 6(b),
repealed by
No. 74/1991
s. 6(b).

Nos 3713 s. 9,
5602 s. 2,
5764 s. 3.

S. 9
amended by
Nos 6522 s. 3,
6929 s. 4,
7228 s. 7(Sch.
4 Pt 21), 7698
s. 67, 7773
s. 2(f), 8044
s. 29,
substituted by
No. 8055 s. 3
(as amended
by No. 8527
ss 6(4)(a), 8).

S. 9(1)(a)
amended by
No. 9842 s. 7.

S. 9(1)(b)
amended by
Nos 74/1991
s. 9(1),
31/1997 s.
6(1).

S. 9(1)(d)
substituted by
No. 113/1994
s. 5,
amended by
No. 10/1996
s. 19.

9. *Lands exempted from land tax*

(1) Subject to this Act—

- (a) land which is the property of the Crown in right of the State of Victoria or which is vested in any Minister of the Crown in right of the State of Victoria (excluding land of which a person is deemed by section 43 to be the owner);
- (b) land which is vested in any public statutory authority, other than land vested in a declared public statutory authority (within the meaning of sub-section (1AD) that is not used exclusively as public open space or a park;
- (c) land which is vested in trustees appointed pursuant to an Act of the Parliament of Victoria and which is held in trust for public or municipal purposes or which is vested in any municipality;
- (d) land which is used by a charitable institution exclusively for charitable purposes;

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- | | |
|---|---|
| (da) land which is vested in any person or body and which is leased to be used for out-door sporting recreation or cultural purposes or similar out-door activities where the proceeds from the leasing are applied exclusively by that person or body for charitable purposes; | S. 9(1)(da) inserted by No. 9648 s. 5. |
| (e) land which is vested in or held in trust for an association of ex-servicemen or of dependants of ex-servicemen and which is used by the members for the purposes of the association; | |
| (f) land which is vested in or held in trust for any friendly society; | S. 9(1)(f) amended by No. 101/1993 s. 4(2). |
| (g) land which is vested in any body corporate or unincorporate (not being a body that promotes or controls horse racing, pony racing or harness racing in Victoria) that exists for the purpose of providing or promoting cultural or sporting recreation or similar facilities or objectives and that applies its profits in promoting its objectives and prohibits the payment of any dividends to members and which is used for out-door sporting recreation or cultural purposes or similar out-door activities; | S. 9(1)(g) amended by Nos 8527 s. 6(3), 65/1987 s. 57(d). |
| (ga) land outside the metropolitan area (within the meaning of section 201 of the Melbourne and Metropolitan Board of Works Act 1958) which is land used for primary production; | S. 9(1)(ga) inserted by No. 8770 s. 4(1), amended by No. 45/1987 s. 205(Sch. item 43(a)). |
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S. 9(1)(h)
substituted by
No. 8770
s. 4(1),
amended by
No. 45/1987
s. 205(Sch.
item 43(a)).

(h) land comprising one parcel which is wholly or partly within the metropolitan area (within the meaning of section 201 of the **Melbourne and Metropolitan Board of Works Act 1958**) none of which is within an urban zone and which is land used for primary production;

S. 9(1)(ha)
amended by
Nos 45/1987
s. 205(Sch.
item 43(b)),
65/1987
s. 54(1) (as
amended by
No. 65/1988
s. 24(1)(c)).

(ha) land comprised in one parcel which is wholly or partly within the metropolitan area (within the meaning of section 201 of the **Melbourne and Metropolitan Board of Works Act 1958**) and which is wholly or partly within an urban zone under a planning scheme in force under the **Planning and Environment Act 1987** and which is used solely or primarily for the business of primary production if—

S. 9(1)(ha)(i)
amended by
Nos 9699
s. 23 (as
amended by
No. 10087 s.
3(1)(Sch. 1
item 16)),
119/1994
s. 33(6).

(i) the owner of the land is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land or in the case of a proprietary company within the meaning of the Corporations Law the principal business of the company is primary production of a type carried on on the land; and

S. 9(1)(ha)(ii)
amended by
Nos 9699
s. 23 (as
amended by
No. 10087 s.
3(1)(Sch. 1
item 16)),
119/1994
s. 33(6).

(ii) the owner is a natural person or a proprietary company within the meaning of the Corporations Law in which all the shares are beneficially owned by natural persons;

(i) land which is used exclusively as a mine;

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- | | |
|--|---|
| <p>(j) land which is used and occupied as a retirement village and for no other purpose—</p> <p>is exempt from land tax.</p> | <p>S. 9(1)(j) inserted by No. 74/1991 s. 11(1).</p> |
| <p>(1AA) Sub-section (1)(a) and (b) does not apply to—</p> <p>(a) land vested in or occupied by the Transport Accident Commission; or</p> <p>(b) land vested in or occupied by the Urban Land Corporation, other than land to which a declaration in force under sub-section (2C) applies.</p> | <p>S. 9(1AA) inserted by No. 74/1991 s. 9(2).</p> <p>S. 9(1AA)(b) amended by No. 71/1997 s. 32(a).</p> |
| <p>(1AB) Sub-section (1)(c) does not apply in respect of land vested in a public sector superannuation authority or land vested in or held in trust for, or for the purposes of, or for purposes which include the purposes of, a trade union, trades hall or council of trade unions.</p> | <p>S. 9(1AB) inserted by No. 74/1991 s. 9(2), amended by No. 101/1993 s. 4(3).</p> |
| <p style="text-align: center;">* * * * *</p> | <p>S. 9(1AC) inserted by No. 74/1991 s. 10(1), repealed by No. 31/1997 s. 6(2).</p> |
| <p>(1AD) The Governor in Council, by Order published in the Government Gazette, may declare a public statutory authority to be a declared public statutory authority for the purposes of sub-section (1)(b).</p> | <p>S. 9(1AD) inserted by No. 74/1991 s. 10(1), amended by No. 101/1993 s. 4(4), substituted by No. 31/1997 s. 6(3).</p> |
| <p>(1A) In this section "urban zone" means a zone under a planning scheme in force under the Planning and Environment Act 1987 of a type declared by</p> | <p>S. 9(1A) amended by No. 60/1988 s. 5.</p> |
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the Governor in Council to be an urban zone for the purposes of this Act.

(1B) The Governor in Council may by Order published in the Government Gazette declare specified types of zones under planning schemes to be urban zones for the purposes of this Act.

S. 9(1C)
amended by
Nos 9699
s. 23 (as
amended by
No. 10087 s.
3(1)(Sch. 1
item 16)),
119/1994
s. 33(6).

(1C) For the purposes of paragraph (ha) of sub-section (1) the principal business of a proprietary company within the meaning of the Corporations Law is not primary production of the type carried on on the land unless—

(a) the main undertaking of the company is primary production of that type; and

S. 9(1C)(b)
amended by
No. 9902
s. 2(1)(Sch.
item 134).

(b) dividends distributed during the previous three years or since the commencement of the **Land Tax Act 1973** or since the incorporation of the company were made to all the holders of the issued ordinary share capital (within the meaning of section 44) of the company in proportion to their respective paid up shareholdings and 60 per centum of those dividends were paid to persons normally engaged in a substantially full time capacity in the business of primary production or where no dividends have been declared during the previous three years or since the commencement of the **Land Tax Act 1973** or since the incorporation of the company ordinary shares representing more than sixty per cent of the paid up capital of the company (excluding shares entitled to a fixed rate of dividend) have been beneficially owned for the previous three years or since the commencement of the **Land Tax Act 1973** or since the incorporation of the company by persons normally engaged in a substantially full-time

capacity in the business of primary production.

- (1D) Where a portion of any land outside the metropolitan area is used for primary production that portion shall be exempt from land tax notwithstanding that a business other than the business of primary production is carried on on any other portion of the land.

S. 9(1D)
inserted by
No. 8770
s. 4(2).

- (1E) Where the owner of a parcel of land is—

S. 9(1E)
inserted by
No. 9648 s. 6.

- (a) normally engaged in a substantially full time capacity in the business of primary production of the type carried on on the land or in the case of a proprietary company the principal business of the company is primary production of a type carried on on the land; and

- (b) a natural person or a proprietary company within the meaning of the Corporations Law in which all the shares are beneficially owned by natural persons—

S. 9(1E)(b)
amended by
Nos 9761 s. 3,
119/1994
s. 33(6).

and portion of the parcel of land is occupied separately from or is obviously adapted to being occupied separately from other land in the parcel such portion shall for the purposes of paragraph (h) or (ha) of sub-section (1) be regarded as a separate parcel of land.

- (1F) If two or more persons are the owner of a parcel of land and—

S. 9(1F)
inserted by
No. 65/1987
s. 54(2).

- (a) at least one of those persons is normally engaged in a substantially full-time capacity in the business of primary production of the type carried on on the land; and
- (b) the other or others of those persons are relatives of a person normally so engaged; and
-

- (c) no other person is normally so engaged on that land—

the owner shall be deemed, for the purposes of sub-section (1)(ha) to be normally so engaged.

S. 9(1G)
inserted by
No. 65/1987
s. 54(2).

(1G) If—

- (a) a person is, or two or more persons are, the owner of a parcel of land on which the business of primary production is carried on; and
- (b) a relative of the person, or of each of the persons, is normally engaged in a substantially full-time capacity in that business (whether or not the person, or any of those persons, is also normally so engaged); and
- (c) no other person is normally so engaged on that land—

the owner, shall be deemed, for the purposes of sub-section (1)(ha), to be normally so engaged.

S. 9(1H)
inserted by
No. 65/1987
s. 54(2),
amended by
No. 60/1988
s. 6.

(1H) In sub-sections (1F) and (1G), "**relative**" in relation to a person means—

- (a) a spouse or de facto spouse of the person;
- (b) a lineal ancestor or lineal descendant of the person or of the spouse or de facto spouse of the person;
- (c) a brother or sister, or child of a brother or sister, of the person or of the spouse or de facto spouse of the person;
- (d) a spouse or de facto spouse of a child of the person;
- (e) a spouse or de facto spouse of a brother or sister of the person.

- (2) Sub-section (1) does not apply to land or to a portion of land referred to in paragraphs (b), (c), (e), (f) or (g) if the land or the portion—

- (a) is used for banking or insurance purposes; or
- (b) is leased or occupied for any business purposes by any person or corporation not being a person or corporation referred to in any of the said paragraphs—

unless the land or portion is leased or occupied under or pursuant to an arrangement made by the Victorian Development Corporation or by a municipal council for the purpose of promoting or assisting a decentralized industry.

Provided that where the land tax payable by the operation of this sub-section is payable in respect of land referred to in paragraph (c) of sub-section (1) that is leased or occupied under a lease or tenancy—

- (a) which was entered into before the commencement of this section; and
- (b) which does not make provision for the land tax payable under this Act to be paid by one of the parties to the lease or tenancy or for the lessee or tenant to reimburse the owner for the amount of land tax payable or repaid by the lessee or tenant to the owner—

the land tax shall be reduced by the tax attributable to the land or portion leased or occupied under such a lease or tenancy until such date as the rental payable under the lease or tenancy is or could be reviewed or the lease or tenancy could be determined by the owner or the 30th day of December, 1978, whichever first occurs:

S. 9(2)
amended by
Nos 9071 s. 6,
12/1989
s. 4(1)(Sch. 2
item 66.7) (as
amended by
No. 13/1990
s. 38(2)(a)) (as
amended by
No. 78/1991
s. 28(2)(a)) (as
amended by
No. 22/1992
s. 21(1)),
10/2001
s. 5(1)(b)(i)(ii).

Provided further that as on or from the day upon which the rental payable under a lease or tenancy referred to in the last preceding proviso is or could be reviewed the lessee or tenant under that lease or tenancy shall be liable to pay to the owner an amount equal to the land tax attributable to the land or portion occupied under that lease or tenancy:

Provided further that where any such land or portion referred to in paragraph (c) is on or after the 30th day of December, 1978 subject to a lease or tenancy which has been in force since before the commencement of this section and under which the rent payable has not been increased since that commencement the lessee or tenant under the lease or tenancy shall be liable to pay to the owner an amount equal to the land tax attributable to the land or portion occupied under that lease or tenancy:

Provided further that for the purposes of this subsection the land tax attributable to a portion of land which is subject to land tax shall be that proportion of the land tax which the net annual value of that portion bears to the net annual value of the whole of the land which is so subject to land tax.

(2A) Land or a portion of land which is vested in any person or body for charitable purposes shall be deemed to be used exclusively for charitable purposes if the land is vacant and is declared by the person or body in whom it is vested to be held for future use for charitable purposes.

(2AAA) If the Commissioner is satisfied that part only of land is used by a charitable institution exclusively for charitable purposes—

S. 9(2AAA)
inserted by
No. 10/2001
s. 5(2).

(a) land tax is assessable on the remaining part of the land, unless an exemption (other than sub-section (1)(d)) applies to the remaining part; and

(b) section 3A applies, if necessary, for that purpose.

(2AA) Land does not cease to be used and occupied for the purpose of a retirement village merely because any building or improvement on the land is used or occupied for a purpose ancillary to that purpose.

S. 9(2AA)
inserted by
No. 74/1991
s. 11(2).

(2AB) If the Commissioner is satisfied that part only of land is used and occupied as a retirement village and for no other purpose, the unimproved value of the land must be reduced for the purposes of land tax by an amount calculated in accordance with the formula $R = A \times \frac{B}{C}$ where—

S. 9(2AB)
inserted by
No. 74/1991
s. 11(2).

R is the reduction in the unimproved value

A is the unimproved value before reduction

B is the area of the land used and occupied as a retirement village and for no other purpose

C is the total area of the land.

(2B) Land—

S. 9(2B)
substituted by
No. 8993
s. 47(3).

(a) referred to in paragraph (b) or (c) of sub-section (1) which is used or occupied by persons carrying on business in movable stalls in a market during some but not all of the ordinary business hours in a week; or

(b) referred to in paragraph (c) of sub-section (1) which is used exclusively for or in connexion with a business the primary purpose of which is to provide outdoor sporting or recreational facilities—

shall be deemed not to be used for business purposes.

S. 9(2C)
 inserted by
 No. 74/1991
 s. 9(3),
 amended by
 No. 71/1997
 s. 32(a)(b).

- (2C) The Treasurer, on the recommendation of the Minister administering the **Urban Land Corporation Act 1997**, may by instrument in writing declare land vested in or occupied by the Urban Land Corporation to be exempt from land tax if the Treasurer is satisfied that the land is used or is to be used for the provision of rental housing in accordance with a housing agreement in force between the Commonwealth and the State.

S. 9(2D)
 inserted by
 No. 74/1991
 s. 10(2),
 repealed by
 No. 31/1997
 s. 6(4).

* * * * *

- (3) In this section—

"ex-servicemen" means members or former members of the naval military or air forces of the Commonwealth or of any part of the Queen's Dominions or of any ally of Great Britain who served in—

- (a) the war which commenced in the year 1914 or the war which commenced in the year 1939;
- (b) the hostilities which commenced in Korea in the year 1950; or
- (c) any other war or hostilities in which Her Majesty is engaged and which is proclaimed to be a war or hostility for the purposes of this section by Order of the Governor in Council published in the Government Gazette;

"mine" means—

- (a) any part of the land covered by a mining licence under the **Mineral Resources Development Act 1990**; or
- (b) any part of the land in the Latrobe area within the meaning of the **Electricity Industry (Residual Provisions) Act 1993** where a generation company or any other body authorised under that Act mines coal used in the generation of electricity—

S. 9(3) def. of "mine" amended by No. 92/1990 s. 128(Sch. 1 item 15(a)(b)), substituted by No. 53/1994 s. 32(1), amended by Nos 53/1994 s. 32(2), 110/1994 s. 37, 31/1997 s. 5(4), 69/2000 s. 56.

except the surface of any such land that for the time being is not actually occupied by or used for, or for buildings enclosing or covering, shafts or approaches to shafts or for the storage of debris or mining machinery.

10. *Special land tax*

- (1) Where any land which is exempt from land tax by the operation of paragraphs (b), (g), (h), (ha) or (i) of sub-section (1) of section 9 ceases to be exempt from land tax (otherwise than by reason of the coming into operation of section 9) a special land tax at the rate of five cents for each dollar of the unimproved value of the land or that portion of the land which has so ceased to be exempt, as the case may be, shall be payable to Her Majesty—
 - (a) in the case of land which ceases to be exempt immediately or within 60 days after a change of ownership, by the person who was the owner thereof immediately before such change of ownership; and

S. 10 substituted by No. 8055 s. 3 (as amended by No. 8527 s. 6(4)(b)).

S. 10(1) amended by Nos 8946 s. 5(1), 9071 s. 7(1).

Land Tax Act 1958

Act No. 6289/1958

(b) in any other case, by the person who is the owner immediately after it ceases to be so exempt.

S. 10(1A)
inserted by
No. 9071
s. 7(2).

(1A) Special land tax payable in accordance with paragraph (a) of sub-section (1) shall be payable immediately after the land ceases to be exempt.

S. 10(1B)
inserted by
No. 9071
s. 7(2).

(1B) Special land tax payable in accordance with paragraph (b) of sub-section (1) shall be payable immediately after the land ceases to be exempt but the person liable to pay the tax may elect to defer the date of payment until such time as there is a change of ownership of the land or any part thereof or for three years from the date on which the land ceases to be exempt, whichever is the sooner.

S. 10(1C)
inserted by
No. 9071
s. 7(2).

(1C) This section shall not apply to a parcel of land which is exempt from land tax under section 9(1)(b) and which ceases to be so exempt if—

S. 10(1C)(a)
repealed by
No. 9190
s. 2(1)(c)(i).

* * * * *

(b) the unimproved value of the parcel does not exceed \$199 999; and

S. 10(1C)(b) amended by Nos 9190 s. 2(1)(c)(ii), 9300 s. 4, 9455 s. 5(a), 9648 s. 7, 9842 s. 8, 9969 s. 5(2), 10121 s. 4(2), 10210 s. 4(1)(b), 81/1986 s. 4(1)(b), 65/1987 s. 56(1)(b), 60/1988 s. 7, 62/1990 s. 4(b), 74/1991 s. 12, 30/1993 S. 40(1C)(c) amended by No. 9190 s. 2(1)(c)(iii).

(c) it is used or proposed to be used exclusively by the owner or by any one or more of any persons who are owners of the parcel jointly or in common as his or their principal place of residence.

(1D) This section does not apply to land that ceases to be exempt from land tax under section 9 because of the amendment of that section by an Act.

S. 10(1D) inserted by No. 74/1991 s. 13.

(2) The special land tax shall be charged levied and collected by the Commissioner in accordance with the provisions of this section.

(3) The special land tax shall be due and payable on a date stated in the notice of assessment to be the due date which date shall not be less than fourteen days after the service of such notice.

(4) The provisions of sections 3, 3A, 9, 16, 19, 20, 21, 24A, 25, 38, 39, 58, 59, 60, 61, 62, 65, 66, 67, 91A, 91B, 91C and 97 apply to the special land tax as though it were land tax but save as aforesaid no other provisions of this Act shall apply.

S. 10(4) amended by Nos 8946 s. 5(2), 9071 s. 8, 9455 s. 5(b) (as amended by No. 9549 s. 2(1)(Sch. item 91)), 86/1997 s. 9(1).

- (5) In the application of the sections referred to in sub-section (4) for the purposes of this section any reference to land tax or to tax shall be read as a reference to special land tax.

S. 10(6)
inserted by
No. 113/1994
s. 6,
repealed by
No. 101/1995
s. 28.

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S. 10A
inserted by
No. 8055 s. 3,
amended by
No. 8946
s. 5(1).

10A. *As to unimproved capital value of parts of buildings*

Where sub-section (2) of section 9 or sub-section (1) of section 10 applies to a portion of land, being a portion of a building erected upon the land, the unimproved value of that portion of the building shall be as nearly as practicable the sum which bears the same proportion to the unimproved value of the whole of the land upon which the building is erected as the net annual value of the portion bears to the net annual value of the whole.

S. 11
amended by
Nos 7315
s. 3(Sch. 1
Pt B), 7332
s. 2(Sch. 1
item 57),
repealed by
No. 7773
s. 2(g).

* * * *

S. 12
amended by
No. 7315
s. 3(Sch. 1
Pt B),
repealed by
No. 7773
s. 2(g).

* * * *

13. *Partial exemption from land tax of land owned and occupied by clubs*

No. 5764 s. 6.

- (1) Any land or portion of any land which is owned and solely occupied by any club shall not be liable to a duty of land tax greater than 0·357 cents for every dollar of the unimproved value of the land or portion.

S. 13(1) amended by Nos 7315 s. 3(Sch. 1 Pt B), 7773 s. 3(a), 8527 s. 6(2)(a), substituted by No. 9071 s. 9, amended by No. 9190 s. 2(1)(d).

- (1A) For the purposes of sub-section (1) and for assessing the land tax on any portion of such land which is not solely occupied by a club the land tax which is or which would but for the operation of sub-section (1) be attributable to a portion of land shall be the proportion of the land tax which would but for the operation of sub-section (1) be payable on the whole of the land owned by a club which the net annual value of that portion bears to the net annual value of the whole of the land.

S. 13(1A) inserted by No. 9071 s. 9.

- (1B) For the purposes of sub-section (1) the unimproved value of any portion of land solely occupied by a club shall be determined in accordance with the formula—

S. 13(1B) inserted by No. 9071 s. 9.

$$\frac{A}{B} \times C —$$

where A equals the net annual value of that portion;

where B equals the net annual value of the whole property;

where C equals the unimproved value of the whole of the land.

S. 13(1C)
inserted by
No. 101/1993
s. 6.

- (1C) If land or a portion of land is owned and solely occupied by a club as at 31 December 1993, the duty of land tax for 1994 assessed in accordance with this section must not exceed 0·357 cents for every dollar of—
- (a) the unimproved value of that land or portion for the purposes of determining land tax for 1994 ("the paragraph (a) amount"); or
 - (b) if the paragraph (a) amount differs by more than 20 per centum from the unimproved value of that land or portion for the purposes of determining land tax for 1993 ("the paragraph (b) amount")—
 - (i) where the paragraph (a) amount is less than the paragraph (b) amount, 80 per centum of the paragraph (b) amount; or
 - (ii) where the paragraph (a) amount is more than the paragraph (b) amount, 120 per centum of the paragraph (b) amount.

S. 13(2)
substituted by
No. 8527
s. 6(2)(b).

- (2) "**Club**" means any society club or association not carried on for the purposes of the profit or gain to its individual members and which is carried on exclusively for one or more of the following purposes—

S. 13(2)(b)
amended by
No. 65/1987
s. 57(e).

- (a) providing for the social sporting cultural recreational literary or educational interests of its members;
 - (b) promoting or controlling horse racing, pony racing or harness racing in Victoria.
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**PART IIA—PRINCIPAL PLACE OF RESIDENCE
EXEMPTION**

Pt 2A
(Heading and
ss 13AA–13L)
inserted by
No. 41/1998
s. 5.

13AA. Definitions

S. 13AA
inserted by
No. 41/1998
s. 5.

(1) In this Part—

"discretionary trust" means a trust under which the vesting of the whole or any part of the trust property—

- (a) is required to be determined by a person either in respect of the identity of the beneficiaries or the quantum of interest to be taken, or both; or
- (b) will occur in the event that a discretion conferred under the trust is not exercised;

"owner", in relation to land, means a person—

- (a) entitled to the land for an estate of freehold in possession; or
- (b) if the land is under a lease from the Crown, entitled to a leasehold interest as referred to in section 43—

and includes the owner of a life estate in the land as referred to in section 41;

"trustee" means trustee within the meaning of section 3(1) but does not include—

- (a) a trustee of a discretionary trust; or
- (b) a trustee of a trust to which a unit trust scheme relates; or
- (c) a liquidator;

"unit trust scheme" means an arrangement made for the purpose, or having the effect, of providing facilities for participation by a person, as a beneficiary under a trust, in any profit or income arising from the acquisition, holding, management or disposal of property under the trust.

- (2) For the purposes of this Part, a person is not a trustee of a trust relating to land by reason only that the land is subject to an implied or a constructive trust.

S. 13A
inserted by
No. 41/1998
s. 5.

13A. *Principal place of residence exemption*

- (1) Subject to this Part, the following land is exempt from taxation—
- (a) land owned by a natural person that is used and occupied as the principal place of residence of that person;
 - (b) land owned by a trustee of a trust that is used and occupied as the principal place of residence of a natural person who is a beneficiary of the trust.
- (2) Subject to section 13B, the exemption in sub-section (1) applies only to land used and occupied as the principal place of residence of the owner or beneficiary—
- (a) since 1 July in the year preceding the year for which the exemption is claimed; or
 - (b) if the owner or trustee became the owner of the land on or after 1 July in the year preceding the year for which the exemption is claimed, since a later date during that year.
- (3) The exemption in sub-section (1) applies, in addition to land of an owner that is used and occupied as a person's principal place of residence
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("the PPR land"), to land owned by that owner—

- (a) that is contiguous with the PPR land or that is separated from the PPR land only by a road or railway or other similar area across or around which movement is reasonably possible; and
- (b) that enhances the PPR land; and
- (c) that is used solely for the private benefit and enjoyment of the person who uses and occupies the PPR land and has been so used—
 - (i) since 1 July in the year preceding the year for which the exemption is claimed; or
 - (ii) if the owner or trustee became the owner of the land on or after 1 July in the year preceding the year for which the exemption is claimed, so used and occupied since a later date during that year.
- (4) This section applies to land whether owned by a sole owner or joint owners.
- (5) In determining whether land is used or occupied as the principal place of residence of a person, account must be taken of every place of residence of the person, whether in Victoria or elsewhere.

13B. *Deferral of tax on certain residential land for 6 months*

- (1) If—
 - (a) land would be exempt from taxation in respect of a year under section 13A but for section 13A(2); and

**S. 13B
inserted by
No. 41/1998
s. 5.**

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- (b) the owner satisfies the Commissioner that the land is intended to be continuously used and occupied as the principal place of residence of the owner or, in the case of a trustee, as the principal place of residence of a beneficiary, for a period of at least 6 months from the date that the land was first so used and occupied—

the Commissioner may determine that land tax in respect of the land for that year is not payable until the expiry of that 6 month period.

- (2) If land that would be exempt from taxation in respect of a year but for section 13A(2) has been continuously used and occupied as the person's principal place of residence for the period of 6 months, the land becomes exempt from taxation in respect of that year at the end of that period.

S. 13C
inserted by
No. 41/1998
s. 5.

13C. *Temporary absence from principal place of residence*

- (1) For the purposes of this Part, land is taken to be used and occupied as the principal place of residence of a person despite the person's absence from the land if the Commissioner is satisfied—
- (a) that the absence is temporary in nature; and
 - (b) that the person intends to resume use or occupation of the land as his or her principal place of residence after the absence; and
 - (c) that, in respect of the period of absence, no other land is exempt from taxation under this Part as the principal place of residence of the owner or, in the case of a trustee, as the principal place of residence of a beneficiary; and
 - (d) that the owner has not made any claim for exemption for land tax under a law of another jurisdiction (whether in or outside
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Australia) in respect of the period of absence for his or her principal place of residence or, in the case of a trustee, as the principal place of residence of a beneficiary.

- (2) For the purposes of section 13I, land to which sub-section (1) applies is not to be taken to be land used by a person to carry on a substantial business activity only because the owner lets the land for residential purposes during the absence.
- (3) Sub-section (1) does not apply in the case of a temporary absence that continues for more than 2 years or such longer period as the Commissioner determines in a particular case.

13D. *Exemption continues on death of resident*

S. 13D
inserted by
No. 41/1998
s. 5.

- (1) If land is used and occupied as the principal place of residence of a person and the person dies, liability for tax is to be assessed as if the person had not died but had continued to use and occupy the land as his or her principal place of residence.
- (2) Sub-section (1) operates only until the earlier of—
 - (a) the first anniversary of the person's death; or
 - (b) the day on which the person's interest in the land vests in another person under a trust; or
 - (c) the day on which the person's interest in the land vests in a person (other than the person's personal representative) under the administration of the person's estate.

13E. *Exemption continues if land becomes unfit for occupation*

S. 13E
inserted by
No. 41/1998
s. 5.

- (1) If land that is exempt from taxation under section 13A(1) becomes unfit for occupation as the principal place of residence of a person because of damage or destruction caused by an event such as fire, earthquake, storm, accident or

malicious damage, liability for tax is to be assessed while the owner continues to own the land as if it had continued to be used and occupied as the person's principal place of residence.

- (2) Sub-section (1) operates until the second anniversary of the day on which the land became unfit for occupation as the person's principal place of residence.
- (3) Sub-section (1) does not apply if, at any time during which it would otherwise apply, any other land is exempt from taxation under section 13A(1) as the principal place of residence of the owner or, in the case of a trustee, as the principal place of residence of a beneficiary.

S. 13F
inserted by
No. 41/1998
s. 5.

13F. *Purchase of new principal residence*

- (1) If a person—
 - (a) becomes the owner of land in a year for use and occupation as his or her principal place of residence; and
 - (b) as at 31 December in that year uses and occupies other land as his or her principal place of residence—

the land referred to in paragraph (a) is exempt from taxation for the following year³.

- (2) If a trustee—
 - (a) becomes the owner of land in a year for use and occupation as the principal place of residence of a beneficiary under the trust; and
 - (b) as at 31 December in that year the beneficiary uses and occupies other land as his or her principal place of residence—

the land referred to in paragraph (a) is exempt from taxation for the following year⁴.

- (3) An exemption under sub-section (1) or (2) is revoked if the owner or beneficiary does not continuously use and occupy the land as his or her principal place of residence for at least 6 months, commencing within 12 months after the date on which the owner or trustee became the owner of the land.
- (4) The Commissioner may assess the tax payable by the owner or trustee in the circumstances referred to in sub-section (3).

13G. *Sale of old principal residence*

**S. 13G
inserted by
No. 41/1998
s. 5.**

- (1) If an owner—
 - (a) as at 31 December in a year uses and occupies land as his or her principal place of residence; and
 - (b) as at that date is the owner of other land that, for a period of at least 6 months during that year, was continuously used and occupied as the principal place of residence of the owner—

the land referred to in paragraph (b) is exempt from taxation in respect of the following⁵.

- (2) If—
 - (a) as at 31 December in a year, land is used and occupied as the principal place of residence of a beneficiary under a trust; and
 - (b) as at that date the trustee is the owner of other land that, for a period of at least 6 months during that year, was continuously used and occupied as the principal place of residence of the beneficiary—

the land referred to in paragraph (b) is exempt from taxation in respect of the following⁶.

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- (3) An exemption under sub-section (1) or (2) is revoked if the owner or trustee is still the sole or joint owner of the land referred to in sub-section (1)(b) or (2)(b) at the end of the year in respect of which the land is exempt.
- (4) The Commissioner may assess the tax payable by the owner or trustee in the circumstances referred to in sub-section (3).

S. 13H
inserted by
No. 41/1998
s. 5.

13H. *Unoccupied land subsequently used as principal residence*

S. 13H(1)
amended by
No. 103/1998
s. 10(1).

- (1) An owner who was assessed for and paid tax in respect of a year in respect of land that is not occupied is entitled to a refund of that tax if—
- (a) for at least 6 months commencing in that year, the land is continuously used and occupied as the principal place of residence of the owner; and
- (b) an application for a refund is made before the end of the next following year.

S. 13H(2)
amended by
No. 103/1998
s. 10(1).

- (2) A trustee who was assessed for and paid tax in respect of a year in respect of land that is not occupied is entitled to a refund of that tax if—
- (a) for at least 6 months commencing in that year, the land is continuously used and occupied as the principal place of residence of a beneficiary under the trust; and
- (b) an application for a refund is made before the end of the next following year.

S. 13H(3)
substituted by
No. 103/1998
s. 10(2).

- (3) If—
- (a) an owner or trustee is entitled under sub-section (1) or (2) to a refund of tax in respect of 1999 or any subsequent year ("the tax year") in respect of land; and

- (b) the owner or trustee was assessed for and paid tax in respect of that land in respect of the year preceding the tax year; and
- (c) the owner or trustee was not entitled to an exemption under this Part in respect of any other land in respect of the year preceding the tax year—

the owner or trustee is entitled to a refund of the tax referred to in paragraph (b).

- (4) Sub-sections (1), (2) and (3) do not apply if the owner or trustee derived any income from the land at any time during which it was not occupied as a principal place of residence.

13I. *Partial exemption if land used for business activities*

**S. 13I
inserted by
No. 41/1998
s. 5.**

- (1) Despite anything to the contrary in this Part, if land that would be exempt from taxation under another provision of this Part, but for this section, is used by any person to carry on a substantial business activity, the exemption applies only to the extent that the land is used and occupied for residential purposes.
- (2) In determining whether land is used by a person to carry on a substantial business activity, account must be taken of—
 - (a) whether paid employees or contractors (other than employees or contractors who are relatives of, and who ordinarily reside with, the person who uses and occupies the land as his or her principal place of residence) work on the land; and
 - (b) whether any part of the land is used or allocated solely for business purposes; and
 - (c) if part of the land is used or allocated (whether solely or partly) for business purposes, the proportion of the area of the

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- land, or of the floor space of buildings on the land, that is so used or allocated; and
- (d) the amount of income (if any), and the proportion of the person's total income, that is derived from business activities carried on on the land; and
- (e) such other matters (if any) as are prescribed for the purposes of this section.
- (3) If sub-section (1) applies, the Commissioner must apportion the value of the land as between use and occupation for residential purposes and use for business purposes, having regard to the proportion of the land used for each purpose and the extent to which each proportion is so used.
- (4) The Commissioner may consult the Valuer-General in relation to an apportionment under this section.

S. 13J
inserted by
No. 41/1998
s. 5.

13J. *Partial exemption or refund for trustees*

- (1) Despite anything to the contrary in this Part, if—
- (a) an exemption from taxation or a refund of tax is provided for in this Part as a consequence of the continuous use and occupation of land as the principal place of residence of one or more beneficiaries under a trust; and
- (b) other beneficiaries under the trust who do not use and occupy the land as their principal place of residence have a beneficial interest in the land—

the amount of the exemption or refund is determined as if the value of the land for the purposes of the exemption or refund were such proportion of the value of the land as is equal to the proportion that the interest in the land held by

the beneficiary bears to the total interests of all beneficiaries in the land.

- (2) Nothing in sub-section (1) applies in the case of a beneficiary entitled to a life estate in possession.

13K. *Prohibition on passing on land tax*

S. 13K
inserted by
No. 41/1998
s. 5.

- (1) A provision in a residential tenancy agreement entered into on or after 1 January 1998 to the effect that the tenant is liable to pay, or to reimburse the landlord in respect of, any land tax payable by the landlord in respect of the rented premises is void.
- (2) This section applies despite anything to the contrary in section 71(3).
- (3) In this section—

"residential tenancy agreement" means an agreement, whether or not in writing and whether express or implied, under which a person lets premises as a residence.

13L. *Application of Part*

S. 13L
inserted by
No. 41/1998
s. 5.

The exemptions and refunds contained in this Part apply with respect to land tax for 1998 and each subsequent year.

PART III—RETURNS BY TAXPAYERS, VALUATIONS AND ASSESSMENTS***Returns by Taxpayers***

No. 3713 s. 11.

14. *Taxpayers to furnish returns*

For the purposes of the assessment and levy of taxation every taxpayer shall as hereinafter provided furnish to the Commissioner returns setting forth a full and complete statement of his land with such other particulars as are prescribed.

No. 3713 s. 12.

15. *Form and time of making of returns of land*

S. 15
amended by
No. 6929
s. 5(a).

- (1) Subject to the provisions of this Act, every taxpayer shall be liable for the making of returns of land and for the payment of the whole amount of tax (if any) assessed thereon respectively; and for the purposes of this section the following provision shall apply—

S. 15(1)(a)
amended by
No. 74/1991
s. 7(2).

- (a) returns shall be in the prescribed form, and shall be made to the Commissioner by every taxpayer on or before a date or dates to be publicly notified by the Commissioner, and shall be made annually or at such other period or periods as may be prescribed, and shall contain full and complete statements of all land owned by the taxpayer at midnight on the thirty-first day of December immediately preceding the year in and for which the tax is to be charged, and of the taxpayer's interest therein;
- (b) every taxpayer shall also make such returns or such new or additional returns as and when the Commissioner from time to time so requires him;

- (c) no person shall be released from his liability to make returns and otherwise comply with the provisions of this Act by reason merely that, in consequence of exemptions or deductions or otherwise, he is not liable to pay tax;
- (d) any return made or purporting to be made or signed by or on behalf of any taxpayer shall for all purposes be taken and deemed to be duly signed by such taxpayer until the contrary is proved.
- (2) A prescribed person must, in relation to the acquisition of any land, give notice—
- (a) in a prescribed form containing prescribed particulars; and
- (b) to prescribed persons; and
- (c) within a prescribed period.

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S. 15(2)
inserted by
No. 6929
s. 5(b),
amended by
No. 9078
s. 2(a),
substituted by
No. 8/1988
s. 4(2).

S. 15(3)
inserted by
No. 6929
s. 5(b),
amended by
No. 9078
s. 2(b),
substituted by
No. 8/1988
s. 4(2),
repealed by
No. 41/1998
s. 6.

- (4) As from a date to be notified to the Commissioner by the Valuer-General the Commissioner shall at such times as he thinks fit but not less frequently than once in every week send to the Valuer-General such part of any return or notice lodged with the Commissioner as is prescribed.

S. 15(4)
inserted by
No. 6929
s. 5(b).

Assessments

Heading
preceding
s. 16
substituted by
No. 7773
s. 3(b).
S. 16
substituted by
No. 7773
s. 3(b).

16. *As to use of valuations by Commissioner*

For the purpose of the assessment and levy of
taxation the Commissioner may use—

- (a) valuations made by a rating authority within
the meaning of the **Valuation of Land Act
1960**;
- (b) valuations made by the Valuer-General or a
valuer nominated by the Valuer-General;

S. 16(b)
amended by
No. 42/1996
s. 18(b)(i).

S. 16(c)
repealed by
No. 42/1996
s. 18(b)(ii).

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S. 17
substituted by
No. 7773
s. 3(b).

17. *Assessments to be made by Commissioner*

The Commissioner shall from the returns and
from any other information in his possession or
from one of those sources and whether any return
has been furnished or not cause an assessment to
be made of the taxable value of the land owned by
any taxpayer and of the land tax payable thereon.

S. 18
substituted by
No. 7773
s. 3(b).

18. *Default assessments*

If—

- (a) a taxpayer makes default in furnishing a
return;
- (b) the Commissioner is not satisfied with the
return made by any taxpayer; or
- (c) the Commissioner has reason to believe that
any person (though he may not have
furnished a return) is a taxpayer—

the Commissioner may make an assessment of the amount which, in his judgment, is the taxable value of the land owned by the taxpayer and of the land tax payable thereon, and the land tax so assessed shall be the land tax payable by that taxpayer unless the assessment is varied in accordance with the provisions of this Act.

19. *Amended assessments*

The Commissioner may from time to time amend an assessment by making such alterations or additions to it as he thinks necessary to ensure its completeness and accuracy, and shall notify to the taxpayer affected every alteration or addition which has the effect of imposing any fresh liability or increasing any existing liability and unless made with the consent of the taxpayer every such alteration or addition shall be subject to objection in the same manner and to the same extent as the original assessment but the validity of an assessment shall not be affected by reason only that any of the provisions of this Act have not been complied with.

S. 19
amended by
No. 7466
s. 4(a),
substituted by
No. 7773
s. 3(b).

* * * * *

Heading
preceding
s. 20
repealed by
No. 7773
s. 3(b).

20. *Evidentiary provisions*

- (1) The production of an assessment or of a document under the hand of the Commissioner purporting to be a copy of an assessment shall—
 - (a) be conclusive evidence of the due making of the assessment; and
 - (b) be conclusive evidence that the amount and all the particulars of the assessment are correct, except in proceedings on review or

S. 20
amended by
No. 7194 s. 5,
substituted by
No. 7773
s. 3(b).

S. 20(1)(b)
amended by
No. 9455 s. 6.

appeal against the assessment, when it shall be prima facie evidence only.

- (2) The production of any document under the hand of the Commissioner purporting to be an extract from any return or assessment shall in relation to any matter other than a matter referred to in sub-section (1) be prima facie evidence of the matter therein set forth.

S. 21
amended by
No. 6929
s. 5(d),
substituted by
No. 7773
s. 3(b).

21. *Service of assessment*

- (1) As soon as conveniently may be after a taxpayer's assessment is made, the Commissioner shall cause notice in writing of the assessment to be served on him.
- (2) The omission to serve any such notice shall not invalidate the assessment.
- (3) If, under section 44 or 45, the Commissioner is required to assess 2 or more persons jointly, the Commissioner must cause notice in writing of the assessment to be served by post—
- (a) on each of those persons; or
 - (b) if all the persons liable to be jointly assessed have given notice to the Commissioner in a form approved by the Commissioner nominating one of those persons as the person on whom the assessment may be served, on that person; or
 - (c) subject to sub-section (4), on one of the persons.
- (4) Service of a notice of assessment under sub-section (3)(c) is not valid unless the Commissioner causes notice of the service to be served by post on the other person, or each of the other persons, liable to be assessed jointly.

S. 21(3)
inserted by
No. 30/1993
s. 5.

S. 21(4)
inserted by
No. 30/1993
s. 5.

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Ss 22, 23
repealed by
No. 7773
s. 3(b).

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S. 24
amended by
No. 7099 s. 3,
repealed by
No. 7773
s. 3(b).

S. 24A
inserted by
No. 7099 s. 3.

24A. *Objections*

- (1) Any person who is dissatisfied with the assessment of the Commissioner may give to the Commissioner within 60 days after service of the notice of the assessment an objection in writing against the assessment stating fully and in detail the grounds on which he relies but the Commissioner must not entertain any objection relating to the unimproved value of land where the assessment is based on a valuation made under the **Valuation of Land Act 1960**.

S. 24A(1)
amended by
No. 7194 s. 6,
substituted by
No. 7773
s. 3(c).

- (1A) Nothing in sub-section (1) limits or affects the right of any person to object to a valuation in accordance with the provisions of Part III of the **Valuation of Land Act 1960**.

S. 24A(1A)
inserted by
No. 7773
s. 3(c).

- (2) The Commissioner shall consider every written objection made by a taxpayer and may make such inquiries thereon or relating thereto as he thinks fit.

- (3) If the Commissioner considers that any objection should be allowed either wholly or in part he may alter or amend the assessment accordingly.

- (3A) The Commissioner shall not make a decision upon any objection relating to the amount at which the unimproved value of any land was assessed without consulting the Valuer-General.

S. 24A(3A)
inserted by
No. 8274 s. 16.

- (4) The Commissioner shall give the taxpayer written notice of his decision on the objection.

Heading
preceding
s. 25
repealed by
No. 7099 s. 3.

* * * * *

S. 25
substituted by
No. 7099 s. 3,
amended by
Nos 7276
s. 6(a)(i)(ii),
7773 s. 3(d)(i),
substituted by
No. 8274 s. 17.

25. *Reviews*

- (1) If the taxpayer is dissatisfied with the decision of the Commissioner on the objection he may within 60 days after notice of the Commissioner's decision has been given to him (except in the case of an objection relating to the amount at which the unimproved value of any land has been assessed by a rating authority within the meaning of the **Valuation of Land Act 1960** not being the Commissioner)—

S. 25(1)(a)
amended by
Nos 10155
s. 75(1)(a),
91/1994
s. 26(a),
substituted by
No. 52/1998
s. 311(Sch. 1
item 48.1).

- (a) in writing request the Commissioner to refer the decision to the Victorian Civil and Administrative Tribunal for review; or

- (b) in writing request the Commissioner to treat his objection as an appeal and to cause it to be set down for hearing at the next sittings of the Supreme Court.

- (2) If within 30 days the Commissioner does not refer the decision or cause the objection to be set down for hearing (as the case may be) the person making the request may at any time thereafter give him notice in writing to do so, and the Commissioner shall within 30 days after receiving the notice refer the decision or cause the objection to be set down for hearing accordingly.

(3) Notwithstanding the provisions of sub-section (2), the Commissioner may within 30 days after receiving a request to refer a decision for review or treat an objection as an appeal require the taxpayer by notice in writing to give further and better particulars of his objection and if, within 30 days after the giving of the notice—

S. 25(3)
amended by
No. 10155
s. 75(1)(b).

(a) particulars are given, the Commissioner shall not be bound to refer the decision or cause the objection to be set down for hearing until 30 days after the Commissioner has received full details of the objection; or

S. 25(3)(a)
inserted by
No. 10155
s. 75(1)(b).

(b) particulars are not given, the Commissioner shall not refer the decision or cause the objection to be set down for hearing.

S. 25(3)(b)
inserted by
No. 10155
s. 75(1)(b).

* * * * *

Heading
preceding
s. 26
inserted by
No. 7099 s. 3,
repealed by
No. 7276
s. 6(b).

26. *Proceedings on references and appeals*

(1) Upon any review or appeal under this Act—

S. 26
substituted by
No. 7099 s. 3,
repealed by
No. 7276
s. 6(b),
new s. 26
inserted by
No. 8274 s. 17.

(a) unless the Court or the Tribunal otherwise orders, the taxpayer shall be limited to the grounds stated in his objection and the Commissioner shall be limited to the grounds upon which he has disallowed the objection; and

S. 26(1)(a)
amended by
Nos 10155
s. 75(1)(c),
91/1994
s. 26(b)(i)(ii),
52/1998
s. 311(Sch. 1
item 48.2).

(b) the burden of proving that the assessment is excessive shall lie upon the taxpayer.

- (2) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment to be dealt with on the review or appeal.

27. Reviews concerning the value of land

- (1) If any matter is raised in a review under this Act in relation to the value of land, the Tribunal has the same powers with respect to that matter as it has in a review under Part III of the **Valuation of Land Act 1960** and the provisions of that Part, with any necessary modifications, apply accordingly.
- (2) The powers of the Tribunal under sub-section (1) are in addition to its powers and functions under this Act and the **Victorian Civil and Administrative Tribunal Act 1998**.

S. 27
substituted by
No. 7099 s. 3,
repealed by
No. 7276
s. 6(b),
new s. 27
inserted by
No. 8274 s. 17,
amended by
Nos 10155
s. 75(1)(c),
91/1994
s. 26(c)–(e),
substituted by
No. 52/1998
s. 311(Sch. 1
item 48.3).

Heading
preceding
s. 28
inserted by
No. 7099 s. 3,
repealed by
No. 7276
s. 6(b).

S. 28
substituted by
No. 7099 s. 3,
repealed by
No. 7276
s. 6(b),
new s. 28
inserted by
No. 8274 s. 17,
amended by
Nos 10155
s. 75(1)(d),
91/1994
s. 26(f)–(h),
repealed by
No. 52/1998
s. 311(Sch. 1
item 48.4).

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29. Appeals to Court

- (1) On the hearing of an appeal by the Court, the Court may make such order as it thinks fit and may by such order confirm reduce increase or vary the assessment.
- (2) The costs of the appeal shall be in the discretion of the Court.

S. 29 substituted by No. 7099 s. 3, repealed by No. 7276 s. 6(b), new s. 29 inserted by No. 8274 s. 17.

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Ss 30, 31 substituted by No. 7099 s. 3, repealed by No. 7276 s. 6(b).

* * * * *

S. 31A inserted by No. 7099 s. 3, repealed by No. 7276 s. 6(b).

* * * * *

Heading preceding s. 31B inserted by No. 7099 s. 3, repealed by No. 7276 s. 6(b).

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Ss 31B–31H inserted by No. 7099 s. 3, repealed by No. 7276 s. 6(b).

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Heading preceding s. 32 repealed by No. 7276 s. 6(c).

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Ss 32–37 repealed by No. 7466 s. 4(b).

38. Valuation may be acted on while objection or appeal is pending subject to adjustment

No. 3713 s. 35.

Land Tax Act 1958

Act No. 6289/1958

S. 38(1)
amended by
No. 7099
s. 4(e),
substituted by
No. 7276
s. 6(d),
amended by
Nos 7773
s. 3(e)(i)(ii),
8274 s. 18,
10155
s. 75(1)(e),
91/1994
s. 26(i),
52/1998
s. 311(Sch. 1
item 48.5).

- (1) The fact that in respect of any assessment or any valuation upon which an assessment has been made an objection has been received by the Commissioner or by any rating authority or an appeal has been made to the Supreme Court or the Tribunal or that a case has been stated for the determination of the Supreme Court and is pending shall not in the meantime interfere with or affect the assessment and tax may be made, levied and recovered on the assessment in like manner as if no objection had been received and no appeal or case stated were pending.
- (2) In the event of the assessment being altered on objection or case stated or appeal, a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears.

S. 38A
inserted by
No. 10155
s. 75(1)(f),
repealed by
No. 52/1998
s. 311(Sch. 1
item 48.6).

* * * * *

PART IV—LIABILITY FOR LAND TAX

39. *Land tax a debt due to Her Majesty*

No. 3713 s. 36.

Every sum payable for tax shall when the same falls due be deemed a debt due to Her Majesty by the owner of any land who shall forthwith pay the same to the Commissioner.

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S. 40
repealed by
No. 7773
s. 3(f).

41. *Life tenant liable as if owner of fee-simple*

No. 3713 s. 38.

The owner of any life estate in possession or of any other freehold estate less than the fee-simple shall be deemed for the purposes of this Act to be the owner of the fee-simple to the exclusion of any person entitled in reversion or remainder, and shall be assessed and liable for tax accordingly.

42. *Lessee liable as if owner*

No. 3713 s. 39.

- (1) Save as hereinafter provided any person entitled to any leasehold estate in land whether legal or equitable (other than under any lease from the Crown), and who became entitled to that estate before 30 December 1978, shall be deemed for the purposes of this Act (though not to the exclusion of the liability of any other person) to be the owner of the fee-simple of the land, and shall be assessed and liable for land tax accordingly.
- (2) Whenever any person entitled to any leasehold estate is assessed under the provisions of this section there shall be deducted from the tax payable by the owner of the freehold estate in respect of the same land the amount of tax payable by the person entitled to the leasehold estate.

S. 42(1)
amended by
No. 101/1995
s. 29.

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- (3) Nothing in this section shall operate to relieve the legal owner of the fee-simple from the payment of tax except in so far as in the opinion of the Commissioner his interest in the unimproved value of the land is lessened by the covenants of any lease thereof and in every such case the Commissioner shall determine the amount of the tax payable by the owner and by the person entitled to the leasehold estate respectively.

S. 43
amended by
No. 7466
s. 4(c),
repealed by
No. 8055 s. 4,
new s. 43
inserted by
No. 9842 s. 9.

43. *Person deemed to be owner of land*

S. 43(1)
amended by
No. 35/1998
s. 16.

- (1) Any person entitled to any leasehold estate whether legal or equitable in land under lease from the Crown who has no right either absolute or conditional of acquiring the fee-simple or any person who is a licensee of vested land under Part 3A of the **Victorian Plantations Corporation Act 1993** shall be deemed for the purposes of this Act to be the owner of the land; and shall be assessed and liable for tax.
- (2) Nothing in this section shall impose any liability for tax on the Crown.
- (3) Where by sub-section (1) a person is deemed to be the owner of any land, the land shall, for the purposes of section 9, be deemed to be vested in the person.

44. *Related corporations*

(1) For the purposes of this section, 2 corporations are related to each other—

(a) if one of those corporations—

- (i) controls the composition of the board of directors of the other corporation; or
- (ii) is in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the other corporation; or
- (iii) holds more than one-half of the issued share capital of the other corporation; or

(b) if the same person has, or the same persons have, together, a controlling interest under any of the following sub-paragraphs in one of the corporations and a controlling interest under the same or another of the following sub-paragraphs in the other corporation—

- (i) a person has, or persons have together, a controlling interest in a corporation if that person or those persons acting together can control the composition of the board of directors of the corporation;
- (ii) a person has, or persons have together, a controlling interest in a corporation if that person is or those persons acting together are in a position to 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 corporation;

S. 44
substituted
by No. 7773
s. 4(1),
amended by
No. 9699 s. 23
(as amended
by No. 10087
s. 3(1)(Sch. 1
item 16)),
substituted by
No. 74/1991
s. 14.

- (iii) a person has, or persons have together, a controlling interest in a corporation if that person holds or those persons acting together hold more than half of the issued share capital of the corporation; or
 - (c) if—
 - (i) more than one-half of the issued share capital of one of those corporations (in this paragraph referred to as "the first corporation") is held by the other corporation (in this paragraph referred to as "the second corporation") together with the shareholders of the second corporation; and
 - (ii) the proportion of the issued share capital of the second corporation held by shareholders of the first corporation is more than the difference between one-half and the proportion of the issued share capital of the first corporation held by the second corporation; or
 - (d) if one of those corporations is related to a corporation to which the other of those corporations is related (including a corporation which is related to the other of those corporations by reason of another application or other applications of this paragraph).
- (2) For the purposes of sub-section (1)—
- (a) corporations may be related to each other notwithstanding that those corporations do not own land in Victoria;

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- (b) a reference in sub-section (1) to the issued share capital of the corporation does not include a reference to any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital;
 - (c) subject to paragraphs (d) and (e), any shares held or power exercisable by any person or corporation as a trustee or nominee for any other person or corporation shall be treated as also held or exercisable by that other person or corporation;
 - (d) any shares held or power exercisable by a person or corporation by virtue of the provisions of any debentures of another corporation, or of a trust deed for securing any issue of any such debentures, shall be disregarded;
 - (e) any shares held or power exercisable by, or by a nominee for, any person or corporation (not being held or exercisable as mentioned in paragraph (d)) shall be treated as not held or exercisable by that person or corporation if the ordinary business of that person or corporation includes the lending of money and 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, not being a transaction entered into with a person associated with that person or corporation within the meaning of the Corporations Law of Victoria;
 - (f) without limiting by implication the circumstances in which the composition of a corporation's board of directors is to be taken
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to be controlled by a person or another corporation, the composition of a corporation's board of directors shall be taken to be controlled by a person or another corporation if that person or other corporation, by the exercise of some power exercisable whether with or without the consent or concurrence of any other person, can appoint or remove all or a majority of the directors.

- (3) If 2 or more corporations are related within the meaning of this section, those corporations may, if the Commissioner so determines, be taken to be a single corporation for the purposes of this Act.
- (4) If 2 or more corporations are to be taken to be a single corporation for the purposes of this Act, they are jointly liable for tax and—
 - (a) the Commissioner must assess them jointly; and
 - (b) the corporations have such rights of contribution or indemnity between themselves as are just.
- (5) In this section, "**corporation**" has the same meaning as in section 9 of the Corporations Law of Victoria.

S. 44A
inserted by
No. 7773
s. 4(1),
amended by
No. 9699 s. 23
(as amended
by No. 10087
s. 3(1)(Sch. 1
item 16)),
repealed by
No. 74/1991
s. 14.

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45. Assessment and liability of joint owners

- (1) Joint owners of land are to be assessed and liable for tax in accordance with this section.
- (2) Joint owners of land are to be jointly assessed and liable for tax in respect of the land as if it were owned by a single person, without regard to—
 - (a) the separate interest of each joint owner; or
 - (b) any other land owned by any joint owner (either alone or jointly with someone else).
- (3) Each joint owner of land is also to be separately assessed and liable in respect of—
 - (a) the owner's individual interest in the land (as if the owner were the owner of a part of the land in proportion to that interest); and
 - (b) any other land owned by the owner alone; and
 - (c) the owner's individual interest in any other land.
- (4) There is to be deducted from the tax payable by a joint owner under sub-section (3) an amount (if any) necessary to avoid double taxation, being the lesser of—
 - (a) the amount determined by the formula:
$$A \times B$$
where—
 - A is the proportion of the owner's individual interest in the jointly-owned land to the total interests in that land;
 - B is the total amount of tax assessed on the jointly-owned land under sub-section (2); and

Nos 3713
s. 42, 4905
s. 4.
S. 45
amended by
Nos 6827
s. 5(a)(b), 7773
s. 4(2)(a)(b),
9190 s. 3,
81/1986 s.
6(3), 74/1991
s. 15, 30/1993
s. 7, 101/1995
s. 30,
substituted by
No. 41/1998
s. 7.

(b) the amount determined by the formula:

$$\frac{C}{D} \times E$$

where—

C is the value of the joint owner's individual interest in the jointly-owned land (as determined under sub-section (3)(a));

D is the total value of all land of the joint owner assessed under sub-section (3);

E is the amount of tax assessed under sub-section (3).

- (5) For the purposes of this section a joint owner may be separately assessed under sub-section (3) in respect of land even though no tax is jointly assessable in respect of that land under sub-section (2).
- (6) The liability of a joint owner for tax must be taken always to have been as set out in this section as substituted by section 7 of the **Land Tax (Amendment) Act 1998**.
- (7) Despite sub-section (6), section 45, as in force immediately before the commencement of section 7 of the **Land Tax (Amendment) Act 1998**, continues to apply with respect to the assessment of joint owners if proceedings were issued before 21 April 1998 in which the liability for tax of the joint owners was in issue.

S. 45A
inserted by
No. 41/1998
s. 7.

45A. *Joint assessments in the case of principal place of residence land*

- (1) For the purposes of section 45 and subject to this section, if land that is jointly owned is exempt from taxation under Part IIA as the principal place

of residence of one or more, but not all, of the joint owners—

- (a) no tax is jointly assessable in respect of that land under section 45(2);
 - (b) each joint owner who does not use and occupy the land as his or her principal place of residence is liable to pay tax and may be separately assessed in respect of that land under section 45(3).
- (2) A joint owner of land that is exempt from taxation under Part IIA in respect of a year ("the tax year") because of its use and occupation as the principal place of residence of another joint owner of the land is not, in respect of the tax year, liable to pay or be assessed under section 45(3) for tax in respect of the land—
- (a) if, at any time during the first year before the tax year, the land was used and occupied as the principal place of residence of the first mentioned joint owner and that other joint owner of the land; or
 - (b) if—
 - (i) at any time during the second year before the tax year the land was used and occupied as the principal place of residence of the first mentioned joint owner and that other joint owner of the land; and
 - (ii) there is no other land that is exempt from taxation under Part IIA in respect of the tax year because of its use and occupation as the principal place of residence of the first mentioned joint owner.

- (3) Despite anything to the contrary in this section or Part IIA, if a joint owner of land ("the PPR land") who, because of sub-section (2), is not liable to be assessed under section 45(3) for tax in respect of the PPR land in respect of a year ("the tax year"), resumes use and occupation of the PPR land during the tax year, the joint owner is liable for tax in respect of the tax year in respect of any other land that, but for this sub-section, would be exempt from tax under Part IIA in respect of the tax year.
- (4) Except to the extent set out in sub-section (3), nothing in this section takes away from or affects the operation of Part IIA.

No. 3713 s. 43.

46. *Joint occupiers to be liable as if joint owners*

- (1) When two or more persons own land in severalty but occupy it jointly, whether as partners or on joint account or otherwise, the same tax shall be payable by them and by each of them as if they owned the whole of the said land jointly, in the proportions which the unimproved values of the lands so severally owned bear to one another, and for the purposes of this Act they shall be deemed to be joint owners of the said lands accordingly.
- (2) Without limiting in any way the meaning of the term "joint occupation," two or more persons shall be deemed to occupy lands jointly within the meaning of this section if those lands are occupied, worked, or managed by any one or more of such persons on behalf of all of them or on a joint account, or if those lands are occupied, worked, or managed by any other person as trustee for or otherwise on behalf of all of those persons.

47. Purchaser of land on deferred payment liable to tax

No. 3713 s. 44.

Except as hereinafter provided every purchaser of land on credit or deferred payment and the assignee or transferee of any such purchaser shall be deemed to be the owner of such land and shall be liable to assessment and taxation in respect thereof.

48. Buyer in possession liable

No. 3713 s. 45.

Subject to the next succeeding section where any agreement has been made for the sale of land, whether before or after the commencement of this Act, the buyer shall be deemed to be the owner of the land for the purposes of this Act (though not to the exclusion of the liability of any other person) so soon as he has obtained possession of the land so purchased whether the agreement has been completed by transfer or conveyance or not.

49. Seller to remain liable until certain conditions fulfilled

No. 3713 s. 46.

- (1) When any agreement has been made for the sale of land, whether before or after the commencement of this Act, and whether the same has been completed by transfer or conveyance or not, the seller shall be deemed to remain the owner of the land for the purposes of this Act (though not to the exclusion of the liability of any other person) until possession of the land has been delivered to the purchaser and at least Fifteen per centum of the purchase money has been paid.
- (2) Where in any case in which possession has been so delivered, less than Fifteen per centum of the purchase money has been paid, the Commissioner may exempt the seller from the provisions of this section if the Commissioner is satisfied that the said agreement for sale has been made in good faith, and not for the purpose of evading the

payment of tax, and that the said agreement is still in force. In any such case the decision of the Commissioner shall be final and conclusive.

- (3) In estimating the amount of purchase money which has been so paid, all money owing by the purchaser to the seller and secured by any mortgage or other charge on the land, and all money lent to the purchaser by the seller, and all money owing by the purchaser to any other person, and directly or indirectly guaranteed by the seller, shall be deemed to be unpaid purchase money.
- (4) When by virtue of this and the last preceding section the buyer and seller of land are both liable for tax in respect thereof, there shall be deducted from the tax so payable by the seller in respect of the said land the amount of the said tax payable in respect thereof by the buyer.
- (5) Notwithstanding anything in this Act when the Commissioner is satisfied that any settlement grant assignment transfer or conveyance of land although not made for valuable consideration has been made in good faith and not for the purpose of evading the payment of tax he may for the purposes of this Act amend in accordance with such settlement grant assignment transfer or conveyance any assessment made by him.

S. 49(5)
amended by
No. 7773
s. 3(g).

No. 3713 s. 47.

50. *No disposition to be effective so long as possession retained*

No conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the commencement of this Act, shall be effective so as to exempt the person making the same, so long as he remains or is in possession or in receipt of the rents or profits of any such land, whether on his own account or on

account of any other person, from any tax which would have become payable in respect of such land had no such conveyance, transfer, declaration of trust, settlement, or other disposition taken place; and for the purposes of this Act the person so making the same shall, while he remains or is so in possession of the land or in receipt of the rents or profits thereof, be deemed (though not to the exclusion of the liability of any other person) the owner of the said land.

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S. 50A
inserted by
No. 101/1993
s. 7,
repealed by
No. 41/1998
s. 8.

**51. *Equitable owners to be liable as if legal owners
subject to deduction of any tax paid by legal owner***

No. 3713 s. 48.

Subject to the other provisions of this Act, the owner of any equitable estate or interest in land shall be assessed and liable in respect of tax as if the estate or interest so owned by him was legal, but there shall be deducted from the said tax so payable by him in respect of that estate or interest the amount of any tax paid in respect thereof by the legal owner of the land.

52. *Trustees to be liable as if beneficially entitled*

No. 3713 s. 49.

- (1) Every person in whom land is vested as a trustee, shall make returns and be assessed and liable in respect of the tax as if he were beneficially entitled to such land, save that when he is the owner of different lands in severalty in trust for different beneficial owners who are not, by reason of joint occupation or otherwise, liable to be jointly assessed for tax in respect of the same, the tax so payable by him shall be separately calculated and assessed in respect of each of those

lands; and save also that when a trustee is also the beneficial owner of other land, he shall be separately assessed in respect of that land, and of the land of which he is a trustee, unless by reason of joint occupancy or for any other reason he is liable to be jointly assessed independently of this section.

- (2) Provided that any trustee who has paid any tax under this section shall be entitled to be repaid the amount he has so paid by the owner of any equitable estate or interest in land who is also liable to pay such tax and in addition shall have a right to be recouped out of any of the trust property in his hands subject to the same or the like trusts as the land on which the tax is charged.

No. 3713 s. 50.

53. *Limitation of deduction on account of mortgage*

For the purposes of the tax, no deduction from the unimproved value of the land shall be allowed in respect of any mortgage or other charge to which the said land is subject.

No. 3713 s. 51.

S. 54

amended by
No. 113/1994
s. 7(1).

54. *Mortgagee in possession liable as owner*⁷

- (1) Any mortgagee in possession of land or any other person who is in possession of land by way of a security for money shall be deemed for the purposes of this Act, so long as such possession continues (though not to the exclusion of the liability of any other person), to be the beneficial owner of the estate or interest which is subject to such mortgage or other security, and shall be liable for land tax accordingly; but there shall be deducted from the tax so payable by him the amount of land tax (if any) paid in respect of such estate or interest by the mortgagor or other owner thereof.

(2) Land tax for the purposes of sub-section (1) is to be assessed at the rate that would have applied in respect of that land if the mortgagee or other person had not been in possession of land.

S. 54(2)
inserted by
No. 113/1994
s. 7(2).

(3) Sub-section (2) applies for the period during which possession continues or until 31 December of the third year after the mortgagee or other person took possession, whichever is the shorter period.

S. 54(3)
inserted by
No. 113/1994
s. 7(2),
amended by
No. 101/1995
s. 31.

(4) If the mortgagee or other person in possession of land continues in possession after sub-section (2) ceases to apply, land tax for the purposes of sub-section (1) is to be assessed at the rate that would apply in respect of that land if the mortgagee or other person in possession were the owner of such land.

S. 54(4)
inserted by
No. 113/1994
s. 7(2).

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Ss 55, 56
repealed by
No. 6929
s. 5(c).

PART V—PAYMENT AND ENFORCEMENT OF TAX

No. 3713 s. 54.

57. *Dates for payment of tax to be stated in notice of assessment*

Land tax for each year shall be due and payable on a date stated in the notice of assessment to be the due date which date shall not be less than fourteen days after the service of such notice.

Nos 3713
s. 55, 4068
s. 3.

58. *Where tax unpaid fourteen days after due date*

S. 58(1)
amended by
No. 9648
s. 8(1)(a).

- (1) If any tax remains unpaid at the expiration of fourteen days after the due date thereof twenty per centum per annum from the due date to the date of payment on the amount of the tax unpaid shall be and be deemed to be added thereto by way of additional tax and shall be payable accordingly.

S. 58(1)
Proviso
repealed by
No. 74/1991
s. 16.

* * * * *

S. 58(1A)
inserted by
No. 74/1991
s. 16.

- (1A) Additional tax is not payable under sub-section (1) if it is less than \$20.

S. 58(2)
substituted by
No. 9648
s. 8(1)(b).

- (2) The Commissioner may, in any particular case, remit the additional tax or part thereof.

S. 58A
inserted by
No. 74/1991
s. 17.

58A. *Additional tax where assessment amended*

S. 58A(1)
substituted by
No. 101/1995
s. 32(1).

- (1) If an assessment is amended, additional tax is payable—

-
- (a) from the due date of the original assessment to the date of payment of the amended assessment; and
- (b) if the payment of the amended assessment is not made by the due date of the amended assessment, from that due date to the date of payment of the amended assessment—
- at the rate of 20 per centum per annum of—
- (c) if the amended assessment increased the amount of tax payable, the amount of tax in the earlier assessment; or
- (d) if the amended assessment decreased the amount of tax payable, the amount of tax in the amended assessment; and
- (1A) If an amended assessment increased the amount of tax payable and is not paid by the due date of the amended assessment, additional tax (as well as additional tax under sub-section (1)) is payable from the due date of the amended assessment to the date of payment of the amended assessment at the rate of 20 per centum per annum of the amount of the amended assessment which exceeds the amount of the earlier assessment.
- (2) Additional tax payable under sub-section (1) or (1A) is added to and forms part of the tax to which it is additional and is payable accordingly.
- (3) Additional tax is not payable under sub-section (1) or (1A) if it is less than \$20.
- (4) The Commissioner may, in a particular case, remit the whole or any part of additional tax.

S. 58A(1A)
inserted by
No. 101/1995
s. 32(1).

S. 58A(2)
amended by
No. 101/1995
s. 32(2).

S. 58A(3)
amended by
No. 101/1995
s. 32(2).

No. 3713 s. 56.

59. Tax to be recovered by Commissioner

S. 59(1)
amended by
Nos 7876
s. 2(3),
19/1989 s.
16(Sch. item
32.1), 57/1989
s. 3(Sch. item
111.1).

- (1) The tax together with any additional tax, whatever may be the amount thereof, shall be recoverable in the county court or the Magistrates' Court by the Commissioner on behalf of the Crown by proceeding in his own name.

S. 59(2)
amended by
No. 19/1989
s. 16(Sch.
item 32.2(a)–
(c)).

- (2) With respect to proceedings in the county court for the recovery of any amount due in respect of tax, such proceeding shall for all purposes be deemed within the meaning of the **County Court Act 1958** to be a proceeding brought to recover a debt or liquidated demand only, and the provisions of such Act and the rules thereunder applicable to such a debt or liquidated demand only, and the provisions of such Act and the rules thereunder applicable to such a debt or demand shall apply accordingly.

S. 60
amended by
No. 7876
s. 2(3),
substituted by
No. 9455 s. 7,
amended by
No. 57/1989
s. 3(Sch. item
111.2).

60. Proceedings for the recovery of tax

Notwithstanding any Act or any rule of the court to the contrary, in any proceedings for the recovery of tax against any person it shall be sufficient to disclose a cause of action in such proceedings if the particulars of demand or statement of claim state in respect of what land the tax is payable, the amount sought to be recovered, the date on which the amount was payable and such further and other particulars as the Commissioner thinks necessary fully to inform the defendant of the nature of the demand.

No. 3713 s. 58.
S. 61
amended by
Nos 35/1996
s. 453(Sch. 1
item 46),
46/1998
s. 7(Sch. 1).

61. Appearance of Commissioner or legal practitioner or employee in proceedings

In all proceedings under this Act the Commissioner may appear either personally or by a legal practitioner or by a person employed in the

administration of this Act or in the administration and execution of another Act under the general administration of the Commissioner; and the appearance of any such legal practitioner or person and his statement that he so appears by authority of the Commissioner shall be sufficient evidence of such authority for all purposes.

62. *Mode of service*

S. 62
amended by
No. 7773
s. 3(h),
substituted by
No. 9455 s. 8.

- (1) Notwithstanding any Act or any rule of the court to the contrary, in any proceedings for the recovery of tax any process may without leave of the court be served on the defendant—
 - (a) personally;
 - (b) by leaving the same at his address for service or last known place of business or abode in Victoria;
 - (c) by sending the same or a sealed copy thereof by post addressed to the defendant at his last known place of business or abode in Australia; or
 - (d) by such other method permitted by any Act or rule of the court.
- (2) In any case to which paragraph (c) of sub-section (1) applies, unless the contrary is proved, service thereof shall be deemed to have been effected two days from the date of posting.

63. *Notices to bind future owners*

No. 3713 s. 60.

All summonses or writs and all notices or orders or demands under this Act requiring to be served on any owner shall if due service thereof has been once made on any owner be binding on every subsequent owner to the same extent as if the same had been served on such last-mentioned owner.

No. 3713 s. 61.

64. Procedure when name of owner of land cannot be ascertained

Whenever after reasonable inquiry to the satisfaction of the Commissioner the name of the owner of any land cannot be ascertained the following provisions shall apply—

S. 64(a)
amended by
No. 7773
s. 3(i)(i)(ii).

- (a) an assessment shall be made under the designation of "the owner" of such land and under that designation the owner shall be assessed and be liable to tax in respect of such land;

S. 64(b)
amended by
No. 7773
s. 3(j).

- (b) proceedings for the recovery of such tax may be taken and judgment may be given against the owner and enforced under the designation aforesaid; and

S. 64(c)
amended by
No. 7773
s. 3(k).

- (c) good service of any notice summons or writ may be effected on the owner by affixing the same or a sealed copy thereof on a conspicuous part of the land to which the tax relates any Act or rule of any court to the contrary notwithstanding.

No. 3713 s. 62.
S. 65
amended by
No. 6929
s. 5(e).

65. Provisions when full taxation not paid during life-time

For the purpose of insuring the due making of full and complete returns or notices and the full payment of taxation the following provisions shall apply in any case where (whether intentionally or not) any taxpayer escapes full taxation (under this Act or any corresponding previous enactment) in his life-time by reason of not having duly made full and complete returns or notices that is to say—

- (a) the Commissioner shall have the same powers and remedies against the executors or

- administrators of such taxpayer as he would have had against him in his life-time;
- (b) such executors or administrators shall make such returns or notices as the Commissioner requires for the purpose of the full assessment of all land in respect of which full taxation has not been duly paid as aforesaid;
 - (c) the assessment shall be made at the respective rates of tax payable in respect of the year or years for which tax ought to have been paid; and the amount payable and to be recovered shall be treble the amount of the tax so assessed and shall be a first charge on all such taxpayer's estate; and
 - (d) no time or period which has heretofore elapsed or may hereafter elapse shall be deemed to prevent the operation of this section; and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering such treble tax as in the case of ordinary assessment and taxation.

66. *Tax to be a first charge on land*

No. 3713 s. 63.

- (1) The tax (excluding tax on land of which a person is deemed by section 43 to be the owner) shall by force of this Act and whether registered or not be a first charge on the land in respect of which it is payable and may be registered as hereinafter provided and such charge shall have priority over all other incumbrances whatsoever, and notwithstanding any disposition of any land it shall continue to be liable in the hands of any purchaser or holder thereof for the payment of such tax so long as the same remains unpaid but it

**S. 66(1)
amended by
Nos 7773
s. 5(1), 9842
s. 10.**

shall not be liable in the hands of a bona fide purchaser for value for the payment of any land tax due and unpaid at the date of a certificate issued under section 97 in excess of the amount of the land tax due and unpaid on that land as certified by the Commissioner in that certificate.

S. 66(1A)
inserted by
No. 85/1998
s. 4(2).

(1A) For the purposes of this section the land tax payable by the owner of a home unit in respect of that home unit shall be deemed to be payable in respect of the land upon which the building or buildings of which the home unit is part is or are situated.

S. 66(2)
substituted by
No. 85/1998
s. 24(Sch.
item 37).

(2) If the Commissioner deems it desirable to register the charge he or she may deposit with the Registrar of Titles a certificate under the hand of the Commissioner describing the land charged and stating that there are arrears of land tax payable in respect of that land.

S. 66(3)
amended by
No. 18/1989
s. 13(Sch. 2
item 43),
substituted by
No. 85/1998
s. 24(Sch.
item 37).

(3) The Registrar of Titles must, without charge, make a recording of the certificate in the Register.

S. 66(4)
inserted by
No. 85/1998
s. 24(Sch.
item 37).

(4) When the arrears are paid the Registrar of Titles must remove or delete the charge or make a recording in the Register of the discharge of the charge if so required by the Commissioner.

No. 3713 s. 64.

67. Statute of limitations not to bar remedy

No statute of limitations now or hereafter in force shall bar or affect any action or remedy for recovery of tax.

No. 3713 s. 65.

68. Act not to limit operation of the Crown Proceedings Act

Nothing in this Act shall be construed to limit or affect the operation of the **Crown Proceedings Act 1958** and all rights and remedies conferred upon the Crown by that Act and by this Act shall co-exist and may be exercised independently of one another.

69. Remedy against lessee mortgagee or occupier if taxpayer makes default

No. 3713 s. 66.

Where a taxpayer makes default in the payment of tax then without in any way releasing him from his liability therefor the following provisions shall apply so long as such default continues—

- (a) if the tax is payable in respect of land subject to any lease or mortgage or occupied by any person then the lessee mortgagee or occupier shall be responsible for the payment of tax and the same may be recovered from him as if he were the defaulting taxpayer;
- (b) all payments made under this section by any such lessee mortgagee or occupier as aforesaid shall be deemed to be made on behalf of the defaulting taxpayer⁸.

* * * * *

S. 70
repealed by
No. 7466
s. 4(b).

71. Contracts to evade tax void⁹

No. 3713 s. 68.

- (1) In this section, "**scheme**" includes the whole or any part of—

- (a) any contract, agreement, arrangement, understanding, promise or undertaking whether made or entered into orally or in writing, whether express or implied and whether or not enforceable or intended to be enforceable by legal proceedings; or

S. 71(1)
substituted by
No. 74/1991
s. 18(1),
amended by
No. 30/1993
s. 6(1)(a)(b).

S. 71(1)(b)
amended by
No. 30/1993
s. 6(1)(b).

(b) any plan, proposal, action, course of action
or course of conduct, whether or not
unilateral; or

S. 71(1)(c)
inserted by
No. 30/1993
s. 6(1)(b).

(c) any trust.

S. 71(2)
substituted by
No. 74/1991
s. 18(1).

(2) If, by any scheme, a person obtains or contrives to
obtain a reduction in, or exemption from, tax, the
Commissioner—

(a) may determine what tax would have been
payable but for the scheme; and

(b) may make such assessment or assessments
and take such action as the Commissioner
considers necessary to give effect to the
determination.

S. 71(2A)
inserted by
No. 74/1991
s. 18(1),
amended by
No. 30/1993
s. 6(1)(c).

(2A) Sub-section (2) applies to any scheme whenever
entered into, whether the scheme has been or is
entered into or carried out in or outside Victoria or
partly in and partly outside Victoria if—

(a) a person has obtained a reduction in, or
exemption from, tax; and

(b) having regard to—

(i) the manner in which the scheme was
entered into or carried out; or

(ii) the form and substance of the scheme;
or

(iii) the time at which the scheme was
entered into and the length of the period
during which the scheme was carried
out; or

-
- (iv) the result in relation to the operation of this section that, but for sub-section (2), would have been achieved by the scheme; or
 - (v) any change in the financial position of any person that has resulted, will result or may reasonably be expected to result from the scheme; or
 - (vi) any other consequence for the person, or for any other person referred to in sub-paragraph (v), of the scheme having been entered into and carried out; or
 - (vii) the nature of any connection (whether of a business, family or other nature) between the person and any other person referred to in sub-paragraph (v)—

it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the purpose of enabling a person to obtain a reduction in, or exemption from, tax in connection with the scheme.

- (2B) A reference in sub-section (2A) to a scheme being carried out by a person for a particular purpose shall be read as including a reference to the scheme being entered into or carried out by the person for two or more purposes of which that particular purpose is the main purpose.
- (3) Notwithstanding anything in this section a covenant by the lessee in any lease entered into on or after the 31st day of December 1968 to reimburse to the lessor the whole or any part of the tax paid by the lessor in respect of the land demised to the lessee is valid and enforceable by the lessor but any such covenant shall not relieve

**S. 71(2B)
inserted by
No. 74/1991
s. 18(1).**

**S. 71(3)
inserted by
No. 7773
s. 5(2).**

the lessor from the liability to pay to the Commissioner any tax for which he is liable under this Act.

No. 3713 s. 69.

72. Administrative powers

S. 72(1)
amended by
No. 65/1987
s. 55(a),
substituted by
No. 74/1991
s. 19(1).

- (1) The Commissioner may, by notice in writing, require any person (whether a taxpayer or not)—
- (a) to furnish such information as the Commissioner requires; or
 - (b) to attend and give evidence before the Commissioner or before any other officer of the public service employed in the administration or execution of this Act and authorized by the Commissioner in that behalf—

for the purpose of—

- (c) inquiring into or ascertaining that or any other person's liability or entitlement under this Act; or
- (d) ascertaining for the purposes of this Act the identity of any person who—
 - (i) may have a liability or entitlement under any of the provisions of this Act; or
 - (ii) may, by reason of being related to another person, affect the liability or entitlement of that other person—

and may require the person to produce all relevant books documents and other papers whatsoever in the person's custody or under the person's control.

S. 72(1A)
inserted by
No. 74/1991
s. 19(1).

- (1A) The Commissioner may require the information or evidence to be given on oath, and either orally or in writing, or to be given by statutory declaration

and for that purpose the Commissioner or an officer authorized by the Commissioner may administer an oath.

- (2) A person must not fail to comply with a requirement of the Commissioner under sub-section (1).

S. 72(2)
inserted by
No. 65/1987
s. 55(b),
amended by
No. 74/1991
s. 19(2).

Penalty: 10 penalty units or imprisonment for six months or both and 1 penalty unit for each day on which the offence continues after conviction.

- (3) A person is not excused from complying with a requirement to give evidence under sub-section (1) on the ground that the evidence might tend to incriminate the person but, if the person claims, before giving the evidence, that the evidence might tend to incriminate the person, the evidence is not admissible against the person in criminal proceedings, other than proceedings under this section or other proceedings in respect of the falsity of the evidence.

S. 72(3)
inserted by
No. 65/1987
s. 55(b).

- (4) The Commissioner or any officer authorized by the Commissioner in writing for the purpose (whether generally or in any specific case) may at any reasonable hour enter premises and have full and free access to any books documents and other papers in or on those premises and may inspect and examine and make extracts from or copies of any books documents or papers for the purposes either of determining whether this Act is being contravened or of generally enforcing this Act.

S. 72(4)
inserted by
No. 74/1991
s. 19(3).

73. Regulations as to scale of expenses of persons giving evidence

No. 3713 s. 70.

Regulations may be made prescribing the scale of expenses to be allowed to persons attending to give evidence as aforesaid and whatever else may

Land Tax Act 1958

Act No. 6289/1958

be required in order to give effect to the last preceding section.

PART VI—GENERAL

*	*	*	*	*	Heading preceding s. 74 repealed by No. 7773 s. 6(a).
*	*	*	*	*	S. 74 amended by No. 7194 s. 7, repealed by No. 7773 s. 6(b).
*	*	*	*	*	Ss 75–79 repealed by No. 7773 s. 6(b).
*	*	*	*	*	S. 80 amended by No. 7352 s. 4, repealed by No. 7773 s. 6(b).
*	*	*	*	*	Ss 81, 82 repealed by No. 7773 s. 6(b).

Penalties

83. *Penalty for refusing to give evidence, making false return, evading tax etc.*

No. 3713 s. 80.

- (1) Every person whether liable to taxation or not who—
- (a) refuses or neglects to duly attend and give evidence when required by the Commissioner or any officer duly authorized by him or to truly and fully answer any question relating to such taxation put to him or to produce any book or paper relating thereto required of him;

S. 83(1) amended by Nos 6929 s. 5(d), 9078 s. 2(c).

- (b) fails or neglects to duly furnish any return or notice as and when required by this Act or by the Commissioner;
- (c) knowingly and wilfully makes or delivers any false return or notice or makes any false or evasive answer whether verbally or in writing in relation to any matter or thing affecting his own or any other person's liability to or exemption from assessment or taxation; or
- (d) by any act default wilful neglect fraud or contrivance whatsoever evades or attempts to evade full assessment or taxation or the payment of tax—

commits an offence and shall be liable to a penalty of not more than \$200, and if he is convicted of any offence under paragraphs (c) or (d) the convicting court shall also inflict on him an additional penalty of treble the amount of tax the assessment or payment whereof he has evaded or attempted to evade.

S. 83(1A)
inserted by
No. 8/1988
s. 4(3).

- (1A) If the Registrar of Titles is a prescribed person for the purposes of section 15(2) or (3), sub-section (1) does not apply to the failure or neglect by the Registrar to give a notice required to be given by that section.
- (2) The payment of such penalties shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable.
- (3) Every person who in any manner whatsoever aids or assists in the commission of any offence under this section is liable to a penalty of not less than \$4 nor more than \$100.

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- (4) The term "**person**" throughout this section includes the public officer of a company and also an agent and a trustee.
- (5) Whenever any person is convicted of an offence under paragraph (c) or (d) of sub-section (1) of this section the following special provisions shall apply—
- (a) there shall be two separate convictions, the first adjudging the defendant to pay such penalty and costs as are imposed and the second adjudging him to pay the additional penalty of treble the amount of the tax the assessment or payment whereof he has evaded or attempted to evade;
 - (b) such first conviction shall be drawn up and be enforceable forthwith, but such second conviction shall not be formally drawn up until the amount of such additional penalty has been ascertained or fixed in manner hereinafter provided;
 - (c) as soon as conveniently may be after the date of the first conviction the Commissioner shall proceed to ascertain the amount of such additional penalty and shall serve on the defendant notice of the amount so ascertained;
 - (d) within fourteen days after the service of such notice the defendant if he disputes the accuracy of such amount may appeal by way of objection as from an assessment of land tax, and the amount as ascertained by the Commissioner or in case of appeal as fixed by the court shall be the amount of such additional penalty;
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S. 83(5)(e)
amended by
No. 57/1989
s. 3(Sch. item
111.3).

- (e) the Commissioner shall by notice under his hand inform the proper officer of the convicting court of the amount so ascertained or fixed, and thereupon such second conviction shall be formally drawn up for such amount and shall be enforceable forthwith;
- (f) the payment of such additional penalty shall not in any way release any person from any assessment or taxation for which he would otherwise be liable.

No. 3713 s. 81.

84. *Double tax payable where returns not rendered*

S. 84(1)
amended by
No. 6929
s. 5(d).

- (1) Where at any time it appears to the Commissioner that any person has failed or neglected to furnish any return or notice as and when required by this Act and that in consequence any person who ought to have been charged with tax has not been charged therewith the Commissioner instead of proceeding against such person under the last preceding section may make an assessment of the land in respect to which such omission has occurred, and the taxpayer shall be chargeable with a double rate of tax thereon if such omission has been occasioned by the taxpayer.
- (2) Where the Commissioner is satisfied that the taxpayer was not guilty of any wilful default neglect or omission and had not done any act with intent to defraud the revenue he may remit the whole or any part of such double duty over and above the amount computed on the ordinary rate.

No. 3713 s. 82.

85. *Penalty for obstructing employee or breach of Act*

Every person who—

S. 85(a)
amended by
No. 46/1998
s. 7(Sch. 1).

- (a) obstructs or hinders any person employed in the public service in the administration of

this Act acting in the discharge of his duty under this Act; or

- (b) commits any breach of this Act or of any regulation thereunder for which no specific penalty is imposed elsewhere than by this section—

shall be liable to penalty of not more than \$100.

Miscellaneous Provisions

86. *Stating case for opinion of Supreme Court*

No. 3713 s. 83.

- (1) Whenever any question arises with regard to any matter under this Act or to any question of law therein arising the Commissioner may if he thinks fit state a case for the opinion of the Supreme Court and thereupon it shall be lawful for the said Court to give its judgement thereon and to make such order as to costs as to the Court seems fit.
- (2) No Judge of the Supreme Court shall be disqualified from adjudicating under this section by reason of his being an owner or occupier of land in any district.

87. *Recovery of penalties*

No. 3713 s. 84.

- (1) All penalties imposed under this Act shall be recoverable in a summary way before the Magistrates' Court upon the filing of a charge by a person or persons appointed by the Commissioner either generally or for the purpose of a particular case.
- (2) The Governor in Council may at his discretion mitigate or stay or compound proceedings for any

**S. 87(1)
amended by
Nos 9019
s. 2(1)(Sch.
item 108),
57/1989
s. 3(Sch. item
111.4(a)(b)).**

penalty, and may reward any person who informs of any offence against this Act or assists in the recovery of any penalty.

S. 87(3)
amended by
Nos 8731
s. 173,
57/1989 s.
3(Sch. item
111.5(a)-(c)).

- (3) Notwithstanding anything in the **Magistrates' Court Act 1989** or in any other Act to the contrary any charge in respect of any offences under this Act may be filed at any time within three years next after the date of the offence.

No. 3713 s. 85.

88. *Right of person paying tax to recover from person liable*

- (1) Every person who under the provisions of this Act pays any tax for or on behalf of any other person shall be entitled to recover the same from such other person as a debt, together with all costs of proceedings attending the recovery thereof, or to retain or deduct the same out of any money in his hands belonging or payable to such other person; and if he has paid the same as mortgagee then until repaid it shall be deemed to be covered by the mortgage in addition to the principal or other moneys thereby secured and shall bear interest at the same rate accordingly.
- (2) Where two or more taxpayers are jointly and severally liable for the payment of tax and one of them pays the same he shall be entitled to contribution from the others in proportion to their relative shares or interests in the land in respect whereof the tax is payable.

S. 89
repealed by
No. 9842 s. 11.

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No. 3713 s. 87.

90. *If too little tax paid deficiency to be made up*¹⁰

- (1) Where after any tax has been paid it is discovered that too little in amount has been paid the taxpayer

liable for the tax shall forthwith pay the deficiency.

* * * * *

S. 90(2)
substituted by
Nos 8538 s. 2,
76/1992 s. 16,
repealed by
No. 104/1993
s. 21.

* * * * *

S. 90(3)(4)
repealed by
No. 8538 s. 2.

90AA. Refund of tax

S. 90AA
inserted by
No. 104/1993
s. 22.

- (1) Proceedings for the refund or recovery of tax paid under, or purportedly paid under, this Act, whether before or after the commencement of section 22 of the **State Taxation (Further Amendment) Act 1993**, must not be brought, whether against the Commissioner or otherwise, except as provided in this section.
- (2) If a person claims to be entitled to receive a refund of or to recover tax paid under, or purportedly paid under, this Act, the person must lodge with the Commissioner within 3 years after the payment was made an application in the prescribed form for the refund of the payment.
- (3) If—
 - (a) a person has lodged an application for the refund of an amount in accordance with sub-section (2); and
 - (b) the Commissioner has not, within the period of 3 months after the application was lodged—
 - (i) refunded the amount; or
 - (ii) applied the amount in accordance with sub-section (6)(d); or

- (iii) refunded part of the amount and applied the remainder in accordance with sub-section (6)(d)—

or has, in writing given to the person within that period, refused to make a refund, the person may, within 3 months after the end of that period or after that refusal, whichever first occurs, bring proceedings for the recovery of the amount, or, if the Commissioner has refunded or applied part, the remainder of the amount.

- (4) Sub-section (3) applies whether or not the period for bringing proceedings for the refund or recovery of the amount prescribed by section 20A(1) of the **Limitation of Actions Act 1958** has expired.
- (5) Sub-sections (1) and (2) do not apply to a person if the person claims to be entitled to receive a refund or to recover tax paid under, or purportedly paid under, this Act by reason of the invalidity of a provision of this Act.
- (6) If—
 - (a) an application for a refund is lodged with the Commissioner in accordance with sub-section (2); and
 - (b) the Commissioner finds that an amount has been overpaid by the applicant—
the Commissioner—
 - (c) must refund the overpaid amount; or
 - (d) must—
 - (i) apply the overpaid amount against any liability of the applicant to the State, being a liability arising under, or by reason of, an Act of which the

Commissioner has the general administration; and

- (ii) refund any part of the overpayment that is not so applied.
- (7) If, under this section, the Commissioner determines to refund an amount, the amount is payable from the Consolidated Fund which is to the necessary extent appropriated accordingly.
- (8) In this section, "**proceedings**" includes—
 - (a) seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration of right or an injunction; or
 - (b) seeking any order under the **Administrative Law Act 1978**.

90A. Refunds to be paid to person entitled

S. 90A
inserted by
No. 76/1992
s. 17.

- (1) The Commissioner must not make a refund of tax unless satisfied that the taxpayer to whom the refund is payable (in this section called "the applicant")—
 - (a) has not charged to, or recovered from, and will not charge to, or recover from, any other person any amount in respect of the whole or any part of that tax; or
 - (b) if the applicant has so charged or recovered any such amount, will reimburse, or will take all reasonable steps to reimburse, each other person for the amount charged or recovered.
- (2) If a refund is made to an applicant to whom subsection (1)(b) applies—
 - (a) the applicant must—
 - (i) not later than 90 days after receiving the refund, reimburse each other person

for the amount charged to or recovered from that person; and

- (ii) notify the Commissioner in writing not later than 7 days after that period of 90 days that all amounts charged or recovered have been reimbursed; or
- (b) if any such amount is not reimbursed within that period of 90 days, the applicant must not later than 7 days after that period of 90 days—
 - (i) notify the Commissioner in writing of the amounts not reimbursed; and
 - (ii) pay those amounts to the Commissioner, together with interest at the specified rate from the date the refund was made to the date of payment.

Penalty: 50 penalty units.

- (3) An amount payable under sub-section (2)(b)(ii) is a debt due from the applicant to the Crown.
- (4) In this section, "**specified rate**" means the percentage, not exceeding 20 per centum per annum, that the Commissioner specifies when the refund is made.
- (5) In this section, "**charge**" includes pass on.

S. 90A(5)
inserted by
No. 104/1993
s. 23.

S. 90B
inserted by
No. 104/1993
s. 24.

90B. Application of section 90A to proceedings

Section 90A applies in respect of proceedings (within the meaning of section 90AA) for the refund or recovery of tax paid under, or purportedly made under, this Act as if—

- (a) a reference in section 90A to the Commissioner (except in sub-section (2)(b)(ii)) were a reference to the court; and
- (b) a reference in section 90A to the making of a refund were a reference to the making of an order or decision that a refund be made.

91. *Time to pay—extensions and instalments*

The Commissioner may, in such cases as he thinks fit—

- (a) extend the time for payment of any tax by such period as he considers the circumstances warrant; or
- (b) permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant.

Nos 3713
s. 89, 4240 s.
2.
S. 91
amended by
No. 7773
s. 6(c),
substituted by
No. 9455 s. 9.

91A. *Release or postponement of land tax in cases of taxpayers in necessitous circumstances*

S. 91A
inserted by
No. 6710 s. 2.

- (1) In any case where it is shown to the satisfaction of the Commissioner that any taxpayer liable to the payment of tax is in necessitous circumstances—
 - (a) the Commissioner with the approval of the Treasurer of Victoria may release the taxpayer from payment of the whole or any part of the tax payable, including any additional tax; or
 - (b) the Commissioner may postpone for such time as he thinks fit the payment of the whole or any part of any tax payable, including any additional tax, but so that the amount unpaid, including any further additional tax that may accrue thereon, shall subject to this Act be and remain a charge on the property in respect of which the tax is payable.

Land Tax Act 1958

Act No. 6289/1958

s. 91B

S. 91A(2)
amended by
Nos 7773
s. 7(a)(b) (as
amended by
No. 8181
s. 2(1)(Sch.
item 241)),
8621 s. 4(a)(b),
10070
s. 6(a)(b),
repealed by
No. 81/1986
s. 6(1).

S. 91A(3)
repealed by
No. 81/1986
s. 6(1).

S. 91AB
inserted by
No. 81/1986
s. 6(2),
amended by
Nos 109/1986
s. 6(Sch.
item 3),
74/1991
s. 7(3),
113/1994 s. 8,
repealed by
No. 41/1998
s. 8.

S. 91B
inserted by
No. 9455 s. 10.

*	*	*	*	*
*	*	*	*	*
*	*	*	*	*

91B. *Powers of Commissioner to provide relief in certain cases of hardship*

- (1) This section applies to cases where the land tax assessed in respect of the total unimproved value of land owned by the taxpayer does not exceed \$1000 in a year and where section 91A does not apply.
- (2) For the purposes of this section the word "**person**" does not include a body corporate.
- (3) In any case where it is shown to the satisfaction of the Commissioner that—
 - (a) a person liable to pay land tax has suffered such a loss, or is in such circumstances, that

the exaction of the full amount of land tax will entail serious hardship; or

- (b) owing to the death of a person who, if he had lived, would have been liable to pay land tax, the dependents of that person are in such circumstances that the exaction of the full amount of land tax will entail serious hardship; or
- (c) where a private company is liable to pay land tax, persons holding ordinary shares representing more than 60 per centum of the paid up capital of the company (excluding shares entitled to a fixed rate of dividend) are in such circumstances that the exaction of the full amount of land tax will entail serious hardship—

the Commissioner may on application made in that behalf by the persons claiming serious hardship and with the approval of the Treasurer of Victoria waive the payment of the land tax either wholly or in part and may make such entries or alterations in the assessment as he thinks necessary for that purpose.

- (4) The exercise of the power conferred on the Commissioner by sub-section (3) may be subject to such conditions (including the payment of interest on the amount of land tax unpaid at such rate as the Minister from time to time determines) as the Commissioner thinks fit to impose.
- (5) The Commissioner shall not exercise the power conferred on him by sub-section (3) unless he is satisfied that such exercise would operate in favour of or for the benefit of the persons claiming serious hardship.

**S. 91B(4)
amended by
No. 9648 s. 9.**

- (6) In the exercise of the power conferred on him by sub-section (3) the Commissioner shall have regard to—
- (a) whether or not the hardship was due either wholly or in part to any act or omission on the part of the taxpayer or any one acting on his behalf or, in the case of a private company, any one or more of the shareholders of that company;
 - (b) the degree or seriousness of the hardship; and
 - (c) such other information as is supplied to the Commissioner by the persons claiming serious hardship.
- (7) An application under sub-section (3) shall—
- (a) be made within one month after notice of assessment has been given by the Commissioner in accordance with this Act or within such further time as the Commissioner may allow; and
 - (b) be in writing and shall specify particulars of—
 - (i) the serious hardship which would be entailed if land tax were paid immediately and in full;
 - (ii) the names of the persons who would suffer such hardship;
 - (iii) any act or omission either by the taxpayer or any one acting on his behalf or, in the case of a private company, any one or more of the shareholders of that company by reason of which the payment of land tax immediately and in full would entail serious hardship to

any of the persons claiming such hardship; and

(iv) such other particulars as the Commissioner may require.

- (8) For the purpose of sub-section (3) a mere liability to pay land tax under this Act shall not be deemed to entail hardship to any person by reason only of the existence of that liability but that liability shall be deemed to entail such hardship where by reason of the existence of other circumstances in conjunction with that liability the payment of land tax in accordance with the provisions of this Act would entail hardship to that person.

91C. *Power of Board to provide relief in cases of hardship not covered by section 91B*

**S. 91C
inserted by
No. 9455 s. 10.**

- (1) This section applies to cases where the land tax assessed in respect of the total unimproved value of land owned by the taxpayer exceeds \$1000 in a year and where section 91A does not apply.
- (2) For the purposes of this section the word "**person**" does not include a body corporate.
- (3) In any case where it is shown to the satisfaction of a Board to be known as the "Land Tax Hardship Relief Board" constituted as hereinafter provided (in this section called "the Board") that—
- (a) a person liable to pay land tax has suffered such a loss, or is in such circumstances, that the exaction of the full amount of land tax will entail serious hardship; or
- (b) owing to the death of a person who, if he had lived, would have been liable to pay land tax, the dependants of that person are in such circumstances that the exaction of the full amount of land tax will entail serious hardship; or

- (c) where a private company is liable to pay land tax, persons holding ordinary shares representing more than 60 per centum of the paid up capital of the company (excluding shares entitled to a fixed rate of dividend) are in such circumstances that the exaction of the full amount of land tax will entail serious hardship—

the Board may, subject to sub-section (4), on application made in that behalf by the persons claiming serious hardship direct the Commissioner to—

- (d) postpone the payment of the whole or any part of the land tax payable (hereinafter referred to as "the postponed amount") in respect of any part of the land owned by the taxpayer until the date of sale of such land or until the expiration of any period specified by the Board but not exceeding five years from the date of application for relief whichever is the sooner (hereinafter referred to as "the deferred date"); or
- (e) waive the payment of the land tax either wholly or in part—

and the Board may direct the Commissioner to make such entries or alterations in the assessment as it thinks necessary for that purpose.

- (4) Where the serious hardship has resulted in whole or in part from a decrease in the unimproved value of any part of the land owned by the taxpayer the Board may not direct the Commissioner to waive the payment of the land tax either wholly or in part unless the Board has previously directed the Commissioner to postpone the payment in accordance with the provisions of sub-section (3).

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- (5) In any case where the Board has directed the Commissioner to postpone payment of land tax until the deferred date the Board shall reconsider the application for relief as soon as convenient after the deferred date and where the Board is satisfied that payment of the postponed amount would entail serious hardship in accordance with the provisions of this section the Board may direct the Commissioner to waive the payment of the postponed amount either wholly or in part and to make such entries or alterations in the assessment as it thinks necessary for that purpose.
- (6) The Board shall consist of three members of whom—
- (a) one shall be the Secretary to the Department of Treasury and Finance or his or her nominee;
 - (b) one shall be the Commissioner or his nominee; and
 - (c) one shall be a person selected by the Chairman from a panel of three persons appointed by the Governor in Council upon the recommendation of the Minister.
- (7) Before making a recommendation in relation to the persons referred to in paragraph (c) of subsection (6) the Minister shall consult with such organizations as in his opinion represent persons engaged in Victoria in the practice of law or accountancy or the valuation of real estate.
- (8) The Commissioner or his nominee shall be the Chairman of the Board and in respect of any matter the decision of the majority of the members of the Board shall prevail.
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S. 91C(6)(a)
amended by
Nos 65/1987
s. 57(f),
100/1995
s. 32(Sch. 2
item 3).

S. 91C(9)
amended by
No. 9648 s. 9.

- (9) The exercise of any power conferred on the Board by sub-sections (3) and (5) may be subject to such conditions (including the payment of interest on the amount of land tax unpaid at such rate as the Minister from time to time determines) as the Board thinks fit to impose.
- (10) The Board shall not exercise the powers conferred on the Board by sub-sections (3) and (5) unless the Board is satisfied that such exercise would operate in favour of or for the benefit of the persons claiming serious hardship.
- (11) In the exercise of any of the powers conferred on the Board by sub-sections (3) and (5) the Board shall have regard to—
 - (a) whether or not the hardship was due either wholly or in part to any act or omission on the part of the taxpayer or anyone acting on his behalf or, in the case of a private company, any one or more of the shareholders of that company;
 - (b) the degree or seriousness of the hardship; and
 - (c) such other information as is supplied to the Board by the persons claiming serious hardship.
- (12) An application under sub-section (3) shall—
 - (a) be made within one month after notice of assessment has been given by the Commissioner in accordance with this Act or within such further time as the Board may allow; and

- (b) be in writing and shall specify particulars of—
- (i) the serious hardship which would be entailed if land tax were paid immediately and in full;
 - (ii) the names of the persons who would suffer such hardship;
 - (iii) any act or omission either by the taxpayer or anyone acting on his behalf or, in the case of a private company, any one or more of the shareholders of that company by reason of which the payment of land tax immediately and in full would entail serious hardship to any of the persons claiming such hardship; and
 - (iv) such other particulars as the Board may require.
- (13) For the purposes of sub-sections (3) and (5) a mere liability to pay land tax under this Act shall not be deemed to entail hardship to any person by reason only of the existence of that liability but that liability shall be deemed to entail such hardship where by reason of the existence of other circumstances in conjunction with that liability the payment of land tax in accordance with the provisions of this Act would entail hardship to that person.

92. *Certain evidence dispensed with*

No. 3713 s. 90.

In any prosecution or other legal proceeding under the provisions of this Act no proof shall until evidence is given to the contrary be required—

- (a) of the signature or initials of the Commissioner or any Deputy Commissioner;

**S. 92(a)
amended by
No. 7466
s. 4(d)(i).**

S. 92(b)
repealed by
No. 7466
s. 4(d)(ii).

* * * * *

(c) of any order or authority to prosecute or of the particular or general appointment or authority of any officer to prosecute; or

(d) of any regulations or notices under this Act.

S. 92A
inserted by
No. 104/1993
s. 25.

92A. *Supreme Court—limitation of jurisdiction*

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court entertaining proceedings of a kind to which section 90AA(1) applies, except as provided in that section.

No. 3713 s. 92.

93. *Regulations*

(1) The Governor in Council may make regulations not inconsistent with this Act for all or any of the following purposes, namely—

(a) prescribing the duties and functions of all officers and other persons appointed or employed under this Act;

(b) prescribing the form of returns to be made, the particulars to be set forth therein, and the persons by whom and the time when or within which such returns shall be made; prescribing also the form of notices acknowledgments and other documents referred to in this Act or necessary in order to give effect thereto;

S. 93(1)(b)
amended by
No. 7773
s. 6(d).

- (c) prescribing factors to be taken into account for the purposes of section 13I;

S. 93(1)(c) amended by Nos 7099 s. 4(f), 7276 s. 6(e), repealed by No. 7773 s. 6(e), new s. 93(1)(c) inserted by No. 41/1998 s. 9.

- (d) providing, where there is no provision in this Act, or no sufficient provision, in respect of any matter or thing necessary to give effect to this Act, in what manner and form the deficiency shall be supplied;

- (e) for any purpose, whether general or to meet particular cases, that may be desirable in order to carry out the objects and purposes of this Act, or to give effect to anything for which regulations are required by this Act; and

- (f) imposing a penalty, not exceeding 20 penalty units, for the breach of any such regulations.

S. 93(1)(f) amended by No. 31/1997 s. 7.

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S. 93(2) repealed by No. 6886 s. 3.

94. Power to extend time for doing anything under Act

No. 3713 s. 93.

- (1) If anything required by or under this Act to be done at or within a fixed time cannot be or is not so done the Governor by Order in Council may from time to time appoint a further or other time for doing the same whether the time within which the same ought to have been done has or has not expired.

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- (2) Anything done within the time prescribed by such Order in Council shall be as valid as if it had been done within the time fixed by or under this Act.

S. 95
repealed by
No. 31/1994
s. 4(Sch. 2
item 44).

* * * *

S. 96
amended by
No. 7466
s. 4(e),
repealed by
No. 7773
s. 6(f).

* * * *

No. 3713 s. 96.

97. Certificate as to land tax due on any land

S. 97
amended by
Nos 6447 s. 3
(as amended
by No. 6489
s. 4(Sch. item
12)), 8527 s. 7,
9071
s. 10(a)(b).

S. 97(1)
amended by
Nos 9842
s. 12, 62/1990
s. 5(1).

- (1) The Commissioner shall on the application of the owner, purchaser or mortgagee of any land and on payment of such fee as is prescribed issue a certificate showing if there is any land tax due and unpaid on the land described in the application.

S. 97(2)
inserted by
No. 9071
s. 10(c).

- (2) The Commissioner may include such other information as he thinks fit on any certificate given under sub-section (1).

S. 97(3)
inserted by
No. 62/1990
s. 5(2).

- (3) The regulations may prescribe different fees for different classes of applications under this section, including fees for urgent applications.

98. *Tax applicable to portion of land*

For the purposes of this Act—

* * * * *

S. 98
inserted by
No. 6827 s. 7,
amended by
No. 6961 s. 2.

S. 98(a)
repealed by
No. 7773
s. 6(g)(i).

(b) the tax applicable to any portion of any land or lands shall be that proportion of the tax, assessed on the unimproved value of the land or lands, which the unimproved value of that portion bears to the total unimproved value of such land or lands.

S. 98(b)
amended by
No. 7773
s. 6(g)(ii).

Sch. 1

Land Tax Act 1958
Act No. 6289/1958

SCHEDULES

Sch. 1
amended by
No. 9071
s. 2(2),
repealed by
No. 30/1993
s. 9(b).

* * * *

SECOND SCHEDULE

1. If the total unimproved value of land of an owner as assessed under this Act for a year before 1994 is not less than the amount shown in column 1 of an item in Table A and, if an amount is shown in column 2 of that item, less than the amount shown in column 2 of that item, the duty of land tax payable on the land is the amount determined in accordance with column 3 of that item¹¹.

TABLE A

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	\$	\$	
1.	0	200 000	Nil
2.	200 000	540 000	\$60 and 0·15 cents for each \$1 of the value that exceeds \$200 000
3.	540 000	2 700 000	\$570 and 1·5 cents for each \$1 of that value that exceeds \$540 000
4.	2 700 000		\$32 970 and 3 cents for each \$1 of that value that exceeds \$2 700 000

- 1A. Subject to clause 1B, if the total unimproved value of land of an owner as assessed under this Act for a year after 1993 is not less than the amount shown in column 1 of an item in Table B and, if an amount is shown in column 2 of that item, less than the amount shown in column 2 of that item, the duty of land tax payable on the land is the amount determined in accordance with column 3 of that item.

S. 6.
Sch. 2
inserted by
No. 9071
s. 2(3),
substituted by
No. 9190
s. 4(1),
amended by
Nos 9699
s. 23 (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 16)), 9842
s. 13, 9969
s. 6, 10121
s. 5, 10210
s. 4(2),
81/1986
s. 4(2),
74/1991
Sch. 2 cl. 1
s. 22(1)-(2),
amended by
Nos 65/1987
s. 56(2),
74/1991
s. 20(1),
101/1993
s. 8(1),
31/1997 s.
8(1).
Sch. 2 Table
substituted by
Nos 65/1987
s. 56(2),
60/1988
s. 8(1),
62/1990 s.
6(1),
substituted as
Sch. 2 Table A
by No.
74/1991
s. 20(2),
substituted by
No. 76/1992
s. 14.
Sch. 2 cl. 1A
inserted by
No. 101/1993
s. 8(2),
amended by
No. 31/1997
s. 8(1).

Sch. 2 Table B
inserted by
No. 101/1993
s. 8(2).

TABLE B

Item	Column 1	Column 2	Column 3
	\$	\$	
1.	0	200 000	Nil
2.	200 000	540 000	\$60 and 0·2 cents for each \$1 of the value that exceeds \$200 000
3.	540 000	2 700 000	\$740 and 3 cents for each \$1 of the value that exceeds \$540 000
4.	2 700 000		\$65 540 and 5 cents for each \$1 of the value that exceeds \$2 700 000

Sch. 2 cl. 1B
inserted by
No. 101/1993
s. 8(1),
amended by
No. 113/1994
s. 9(1)(2)
(a)–(c),
101/1995
s. 33(1)
(2)(a)(b),
10/1996 s. 20,
42/1996
s. 19(1)–(3),
substituted by
No. 31/1997
s. 8(2).

1B. (1) For the purposes of this clause—

- (a) "**clause 1 amount**", in relation to land of an owner in respect of a year ("**the assessment year**"), means the amount determined by applying the rates of tax set out in clause 1 to the sum of—

- (i) in respect of any land that was valued separately as at the relevant date (within the meaning of section 3) for the purpose of assessing land tax for 1993, the unimproved value of that land determined for the purpose of assessing land tax for 1993; and

- (ii) in respect of all other land, the unimproved value of that land as assessed under this Act for the assessment year;

- (b) if the clause 1 amount is zero, the duty of land tax is the amount determined in accordance with clause 1A;
- (c) if the amount determined in accordance with clause 1A is zero, no duty of land tax is payable.

(2) The duty of land tax for 1994 payable on the land of an owner is—

- (a) the amount determined in accordance with clause 1A; or

-
- (b) if that amount differs by more than 20% from the clause 1 amount—
- (i) where the amount determined in accordance with clause 1A is less than the clause 1 amount, 80% of the clause 1 amount; or
 - (ii) where the amount determined in accordance with clause 1A is more than the clause 1 amount, 120% of the clause 1 amount.
- (3) The duty of land tax for 1995 payable on the land of an owner is—
- (a) the amount determined in accordance with clause 1A; or
 - (b) if that amount differs by more than 40% from the clause 1 amount—
 - (i) where the amount determined in accordance with clause 1A is less than the clause 1 amount, 60% of the clause 1 amount; or
 - (ii) where the amount determined in accordance with clause 1A is more than the clause 1 amount, 140% of the clause 1 amount.
- (4) The duty of land tax for 1996 payable on the land of an owner is—
- (a) the amount determined in accordance with clause 1A; or
 - (b) if that amount is more than 140% of the clause 1 amount, 140% of the clause 1 amount.
- (5) The duty of land tax for 1997 payable on the land of an owner is—
- (a) the amount determined in accordance with clause 1A; or
 - (b) if that amount is more than 150% of the clause 1 amount, 150% of the clause 1 amount.

**Sch. 2 cl.
1B(5)
amended by
No. 101/1997
s. 4(1).**

Land Tax Act 1958

Act No. 6289/1958

Sch. 2

Sch. 2 cl. 2 repealed by No. 10210, s. 5(2), new Sch. 2 cl. 2 inserted by No. 65/1987 s. 56(2), amended by No. 60/1988 s. 8(2), substituted as Sch. cl. 2(2) by No. 62/1990 s. 6(2), repealed by No. 74/1991 s. 23, new Sch. 2 cl. 2 inserted by No. 31/1997 s. 8(3).

Sch. 2 cl. 3 (Heading) inserted by No. 48/2001 s. 9(2)(a).

Sch. 2 cl. 3 inserted by No. 101/1997 s. 4(2), amended by No. 48/2001 s. 9(2)(b).

2. The duty of land tax for 1995, 1996 or 1997 payable on the land of an owner is deemed always to have been the duty determined in accordance with this Schedule as amended by the **State Taxation Acts (Amendment) Act 1997**.

3. Land Tax for 1998, 1999, 2000 and 2001

If the total unimproved value of land of an owner as assessed under this Act for 1998, 1999, 2000 or 2001 is not less than the amount shown in column 1 of an item in Table C and, if an amount is shown in column 2 of that item, less than the amount shown in column 2 of that item, the duty of land tax payable on the land is the amount determined in accordance with column 3 of that item.

TABLE C

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	\$	\$	
1.	0	85 000	Nil
2.	85 000	200 000	\$85 and 0·1 cents for each \$1 of the value that exceeds \$85 000
3.	200 000	540 000	\$200 and 0·2 cents for each \$1 of the value that exceeds \$200 000
4.	540 000	675 000	\$880 and 0·5 cents for each \$1 of the value that exceeds \$540 000
5.	675 000	810 000	\$1555 and 1 cent for each \$1 of the value that exceeds \$675 000
<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>

Land Tax Act 1958

Act No. 6289/1958

Sch. 2

	\$	\$	
6.	810 000	1 080 000	\$2905 and 1·75 cents for each \$1 of the value that exceeds \$810 000
7.	1 080 000	1 620 000	\$7630 and 2·75 cents for each \$1 of the value that exceeds \$1 080 000
8.	1 620 000	2 700 000	\$22 480 and 3 cents for each \$1 of the value that exceeds \$1 620 000
9.	2 700 000		\$54 880 and 5 cents for each \$1 of the value that exceeds \$2 700 000

4. Land tax for 2002 and subsequent years

If the total unimproved value of land of an owner as assessed under this Act for 2002 or a subsequent year is not less than the amount shown in column 1 of an item in Table D and, if an amount is shown in column 2 of that item, less than the amount shown in column 2 of that item, the duty of land tax payable on the land is the amount determined in accordance with column 3 of that item.

**Sch. 2 cl. 4
inserted by
No. 48/2001
s. 9(3).**

TABLE D

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	\$	\$	
1.	0	125 000	Nil
2.	125 000	200 000	\$125 and 0·1 cents for each \$1 of the value that exceeds \$125 000
3.	200 000	540 000	\$200 and 0·2 cents for each \$1 of the value that exceeds \$200 000
4.	540 000	675 000	\$880 and 0·5 cents for each \$1 of the value that exceeds \$540 000
<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>

Land Tax Act 1958
Act No. 6289/1958

	\$	\$	
5.	675 000	810 000	\$1555 and 1 cent for each \$1 of the value that exceeds \$675 000
6.	810 000	1 080 000	\$2905 and 1·75 cents for each \$1 of the value that exceeds \$810 000
7.	1 080 000	1 620 000	\$7630 and 2·75 cents for each \$1 of the value that exceeds \$1 080 000
8.	1 620 000	2 700 000	\$22 480 and 3 cents for each \$1 of the value that exceeds \$1 620 000
9.	2 700 000		\$54 880 and 5 cents for each \$1 of the value that exceeds \$2 700 000".

ENDNOTES

1. General Information

The **Land Tax Act 1958** was assented to on 30 September 1958 and came in to operation on 1 April 1959: Government Gazette 18 March 1959 page 892.

2. Table of Amendments

This Version incorporates amendments made to the **Land Tax Act 1958** by Acts and subordinate instruments.

Land Tax (Exemptions and Rates) Act 1958, No. 6447/1958 (as amended by No. 6489/1958)

Assent Date: 18.11.58
Commencement Date: 31.12.58: s. 1
Current State: All of Act in operation

National Art Gallery and Cultural Centre (Amendment) Act 1959, No. 6522/1959

Assent Date: 12.5.59
Commencement Date: 12.5.59
Current State: All of Act in operation

Land Tax (Relief) Act 1960, No. 6710/1960

Assent Date: 13.12.60
Commencement Date: 1.1.61: s. 2
Current State: All of Act in operation

Land Tax (Exemptions and Rates) Act 1961, No. 6827/1961

Assent Date: 12.12.61
Commencement Date: S. 4 on 12.12.61; ss 2, 3, 5–8 on 31.12.61: s. 9
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962

Assent Date: 8.5.62
Commencement Date: 1.8.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

Land Tax (Exemptions and Rates) Act 1962, No. 6929/1962

Assent Date: 27.11.62
Commencement Date: 1.1.63: s. 1(2)
Current State: All of Act in operation

Statute Law (Further Revision) Act 1962, No. 6961/1962

Assent Date: 18.12.62
Commencement Date: 18.12.62: subject to s. 3
Current State: All of Act in operation

Land Tax (Rates and Appeals) Act 1963, No. 7099/1963

Assent Date: 10.12.63
Commencement Date: 1.1.64: s. 1(2)
Current State: All of Act in operation

Land Tax (Rates and Exemptions) Act 1964, No. 7194/1964

Land Tax Act 1958
Act No. 6289/1958

Endnotes

Assent Date: 9.12.64
Commencement Date: 1.1.65: s. 1(2)
Current State: All of Act in operation

Public Lands and Works Act 1964, No. 7228/1964

Assent Date: 15.12.64
Commencement Date: 15.3.65: Government Gazette 11.3.65 p. 557
Current State: All of Act in operation

Valuation of Land (Appeals) Act 1965, No. 7276/1965

Assent Date: 1.6.65
Commencement Date: 1.12.65: Government Gazette 6.10.65 p. 3103
Current State: All of Act in operation

Decimal Currency Act 1965, No. 7315/1965

Assent Date: 30.11.65
Commencement Date: 30.11.65; "Appointed day" is 14.2.66
Current State: All of Act in operation

Statute Law Revision Act 1965, No. 7332/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65: subject to s. 3
Current State: All of Act in operation

Land Tax (Rates) Act 1965, No. 7352/1965

Assent Date: 14.12.65
Commencement Date: 14.2.66: s. 1(2)
Current State: All of Act in operation

Land Tax (Rates) Act 1966, No. 7466/1966

Assent Date: 29.11.66
Commencement Date: 1.1.67: s. 1(2)
Current State: All of Act in operation

West Moorabool Water Board Act 1968, No. 7698/1968

Assent Date: 7.5.68
Commencement Date: 20.6.68: Government Gazette 19.6.68 p. 2183
Current State: All of Act in operation

Land Tax Act 1968, No. 7773/1968 (as amended by No. 8181/1971)

Assent Date: 18.12.68
Commencement Date: S. 8 on 1.1.69: s. 1(3); rest of Act (*except* s. 6(a)(b))
on 1.1.69: Government Gazette 20.12.68 p. 4148;
s. 6(a)(b) on 1.7.69: Government Gazette 1.7.69
p. 1959
Current State: All of Act in operation

Justices (Amendment) Act 1969, No. 7876/1969

*Land Tax Act 1958**Act No. 6289/1958*

Assent Date: 25.11.69
Commencement Date: All of Act (except ss 3, 5–7(k)(m)–(o)) on 1.4.70;
 ss 3, 5–7(k)(m)–(o) on 1.7.70: Government Gazette
 25.2.70 p. 463
Current State: All of Act in operation

Aboriginal Lands Act 1970, No. 8044/1970

Assent Date: 8.12.70
Commencement Date: 8.12.70
Current State: All of Act in operation

Land Tax Act 1970, No. 8055/1970 (as amended by No. 8527/1973)

Assent Date: 22.12.70
Commencement Date: All of Act (except s. 3) on 1.1.71: s. 1(3); s. 3 on
 24.12.73: Government Gazette 19.12.73 p. 4039
Current State: All of Act in operation

Taxation Appeals Act 1972, No. 8274/1972

Assent Date: 13.5.72
Commencement Date: Ss 1, 2, Pt 1 on 1.1.77: Government Gazette 22.12.76
 p. 3739; Pts 2, 3 on 1.9.78: Government Gazette
 9.8.78 p. 2573
Current State: All of Act in operation

Decentralized Industry (Land Tax Rebates) Incentive Payments Act 1973, No. 8474/1973

Assent Date: 20.11.73
Commencement Date: 1.2.74: Government Gazette 16.1.74 p. 81
Current State: All of Act in operation

Land Tax Act 1973, No. 8527/1973

Assent Date: 18.12.73
Commencement Date: All of Act (except s. 2) on 23.12.73; s. 2 on 1.1.74:
 s. 1(3)
Current State: All of Act in operation

Land Tax (Amendment) Act 1974, No. 8538/1974

Assent Date: 30.4.74
Commencement Date: 30.4.74
Current State: All of Act in operation

Land Tax Act 1974, No. 8621/1974

Assent Date: 10.12.74
Commencement Date: 1.1.75: s. 1(3)
Current State: All of Act in operation

Magistrates (Summary Proceedings) Act 1975, No. 8731/1975

Land Tax Act 1958

Act No. 6289/1958

Endnotes

Assent Date: 16.5.75
Commencement Date: S. 173 on 1.7.76: Government Gazette 24.3.76 p. 848
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Land Tax Act 1975, No. 8770/1975

Assent Date: 25.11.75
Commencement Date: S. 2 on 1.1.76: s. 1(3); rest of Act on 1.1.76: Government Gazette 31.12.75 p. 4163
Current State: All of Act in operation

Land Tax Act 1976, No. 8946/1976

Assent Date: 14.12.76
Commencement Date: 1.1.77: s. 1(3)
Current State: All of Act in operation

Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977, No. 8993/1977

Assent Date: 10.5.77
Commencement Date: Ss 1–4, 7–25, 39–46, 48 on 22.6.77: Government Gazette 22.6.77 p. 1712; ss 5, 6, 26, 38, 47, 49 on 1.4.78: Government Gazette 8.3.78 p. 583; ss 27–29, 32–34 on 1.4.78; ss 30, 31, 35–37 on 1.11.78: Government Gazette 1.11.78 p. 3416
Current State: All of Act in operation

Statute Law Revision Act 1977, No. 9019/1977

Assent Date: 17.5.77
Commencement Date: 17.5.77: subject to s. 2(2)
Current State: All of Act in operation

Land Tax Act 1977, No. 9071/1977

Assent Date: 29.11.77
Commencement Date: 1.1.78: s. 1(3)
Current State: All of Act in operation

Change of Ownership Notices Act 1977, No. 9078/1977

Assent Date: 6.12.77
Commencement Date: 1.1.79: Government Gazette 2.8.78 p. 2505
Current State: All of Act in operation

State Development Decentralization and Tourism Act 1978, No. 9126/1978

Assent Date: 23.5.78
Commencement Date: 23.5.78: Government Gazette 23.5.78 p. 1362
Current State: All of Act in operation

Land Tax Act 1978, No. 9190/1978

Land Tax Act 1958
Act No. 6289/1958

Assent Date: 5.12.78
Commencement Date: S. 2 on 1.1.78: s. 2(2); rest of Act (*except* s. 4) on 5.12.78 s. 1(3); s. 4 on 1.1.79: s. 4(2)
Current State: All of Act in operation

Land Tax Act 1979, No. 9300/1979

Assent Date: 27.11.79
Commencement Date: 1.1.80: s. 1(3)
Current State: All of Act in operation

Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80: s. 6(2)
Current State: All of Act in operation

Land Tax Act 1980, No. 9455/1980 (as amended by No. 9549/1981)

Assent Date: 9.12.80
Commencement Date: 1.1.81: s. 1(3)
Current State: All of Act in operation

Economic Development Act 1981, No. 9567/1981¹²

Assent Date: 19.5.81
Commencement Date: S. 4 on 10.3.81: s. 4(2); rest of Act on 1.7.81: Government Gazette 3.6.81 p. 1778
Current State: All of Act in operation

Land Tax (Amendment) Act 1981, No. 9648/1981

Assent Date: 15.12.81
Commencement Date: 1.1.82: s. 1(3)
Current State: All of Act in operation

Companies (Consequential Amendments) Act 1981, No. 9699/1981 (as amended by No. 10087/1984)

Assent Date: 5.1.82
Commencement Date: Ss 9, 14, 18 on 1.7.81: s. 2(2); s. 19 on 1.10.81: s. 2(3); s. 22 on 5.1.82: s. 2(4); rest of Act on 1.7.82: s. 2(1)
Current State: All of Act in operation

Pay-roll Tax (Amendment) Act 1982, No. 9733/1982

Assent Date: 29.6.82
Commencement Date: 29.6.82
Current State: All of Act in operation

Companies (Consequential Amendments) Act 1982, No. 9761/1982

Assent Date: 13.7.82
Commencement Date: S. 2 on 30.3.82: s. 2(2); rest of Act on 1.7.82: s. 1(2)
Current State: All of Act in operation

Evidence (Commissions) Act 1982, No. 9766/1982

Land Tax Act 1958
Act No. 6289/1958

Endnotes

Assent Date: 13.7.82
Commencement Date: 13.7.82
Current State: All of Act in operation

Land Tax (Amendment) Act 1982, No. 9842/1982

Assent Date: 21.12.82
Commencement Date: 1.1.83: s. 1(3)
Current State: All of Act in operation

Statute Law Revision Act 1983, No. 9902/1983

Assent Date: 15.6.83
Commencement Date: 15.6.83: subject to s. 2(2)
Current State: All of Act in operation

Land Tax Act 1983, No. 9969/1983

Assent Date: 22.11.83
Commencement Date: 1.1.84: s. 3
Current State: All of Act in operation

Land Tax (Landata Project) Act 1984, No. 10058/1984

Assent Date: 8.5.84
Commencement Date: 8.5.84
Current State: All of Act in operation

Pensioner Concessions (Rehabilitation Allowance) Act 1984, No. 10070/1984

Assent Date: 15.5.84
Commencement Date: S. 6 on 1.1.85: s. 2(2); rest of Act on 1.7.84: s. 2(1)
Current State: All of Act in operation

Land Tax (Amendment) Act 1984, No. 10121/1984

Assent Date: 7.11.84
Commencement Date: 1.1.85: s. 2
Current State: All of Act in operation

Administrative Appeals Tribunal Act 1984, No. 10155/1984

Assent Date: 20.11.84
Commencement Date: Ss 1–66 on 5.12.84: Government Gazette 5.12.84 p. 4264; s. 70 on 11.2.85; ss 67–69, 81 on 1.3.85: Government Gazette 30.1.85 p. 191; ss 71–79 on 15.8.85: Government Gazette 14.8.85 p. 3184; s. 80 on 18.11.87: Government Gazette 18.11.87 p. 3138
Current State: All of Act in operation

Land Tax (Amendment) Act 1985, No. 10210/1985

Assent Date: 26.11.85
Commencement Date: 1.1.86: s. 2
Current State: All of Act in operation

Taxation Acts (Reciprocal Assistance) Act 1986, No. 23/1986

Land Tax Act 1958
Act No. 6289/1958

Assent Date: 22.4.86
Commencement Date: 22.4.86
Current State: All of Act in operation

Land Tax (Amendment) Act 1986, No. 81/1986

Assent Date: 25.11.86
Commencement Date: 1.1.87: s. 2
Current State: All of Act in operation

State Concessions Act 1986, No. 109/1986 (as amended by No. 48/1987)

Assent Date: 16.12.86
Commencement Date: Ss 1–6, Sch. (items 3, 7, 8, 11) on 30.3.87: Government Gazette 25.3.87 p. 695; rest of Act on 1.12.87: Government Gazette 18.11.87 p. 3072
Current State: All of Act in operation

Taxation (Reciprocal Powers) Act 1987, No. 37/1987

Assent Date: 12.5.87
Commencement Date: 11.6.87: Special Gazette (No. 24) 11.6.87 p. 1
Current State: All of Act in operation

Planning and Environment Act 1987, No. 45/1987

Assent Date: 27.5.87
Commencement Date: Pt 1, s. 204 on 27.5.87: s. 2(1); rest of Act (*except* Sch. items 118, 119) on 16.2.88: Government Gazette 10.2.88 p. 218; Sch. items 118, 119 were never proclaimed, later repealed by No. 86/1989 s. 24
Current State: All of Act in operation

State Trust Corporation of Victoria Act 1987, No. 55/1987

Assent Date: 20.10.87
Commencement Date: 2.11.87: Government Gazette 28.10.87 p. 2925
Current State: All of Act in operation

Taxation Acts Amendment Act 1987, No. 65/1987 (as amended by No. 65/1988)

Assent Date: 12.11.87
Commencement Date: S. 20(2) on 1.12.82: s. 2(1); s. 16 on 1.1.83: s. 2(2); s. 27(2) on 7.11.84: s. 2(3); s. 8 on 30.6.85: s. 2(4); s. 27(4) on 10.12.85: s. 2(5); s. 27(3) on 1.1.86: s. 2(6); s. 25 on 23.12.86: s. 2(7); ss 1–5, 9, 10, 12, 13, 14(1), 15, 18, 20(1), 22–24, 26, 27(1), Pt 4 on 12.11.87: s. 2(8); Pt 3 on 1.11.87: s. 2(9); ss 6, 14(2), 17, 19, 21 on 15.11.87: s. 2(10); ss 7, 11 on 1.1.88: s. 2(11)
Current State: All of Act in operation

Land (Transaction Information) Act 1988, No. 8/1988

Land Tax Act 1958

Act No. 6289/1958

Endnotes

Assent Date: 27.4.88
Commencement Date: Ss 5(2), 6(2), 7(2), 8(2), 9(2), 10(2) on 1.2.92:
Government Gazette 29.1.92 p. 178; rest of Act on
4.3.92: Government Gazette 4.3.92 p. 519
Current State: All of Act in operation

Land Tax (Amendment) Act 1988, No. 60/1988

Assent Date: 29.11.88
Commencement Date: 29.11.88: s. 2
Current State: All of Act in operation

Local Government (Consequential Provisions) Act 1989, No. 12/1989

(as amended by Nos 13/1990, 78/1991, 22/1992)

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 items 66.3, 66.5, 66.6) on 1.11.89:
Government Gazette 1.11.89 p. 2798; Sch. 2 (items
66.1, 66.2, 66.4, 66.7) on 1.10.92: Government
Gazette 23.9.92 p. 2789
Current State: This information relates only to the provision/s
amending the **Land Tax Act 1958**

Transfer of Land (Computer Register) Act 1989, No. 18/1989

Assent Date: 16.5.89
Commencement Date: All of Act on 3.2.92: Government Gazette 18.12.91
p. 3488
Current State: All of Act in operation

County Court (Amendment) Act 1989, No. 19/1989

Assent Date: 16.5.89
Commencement Date: 1.8.89: Government Gazette 26.7.89 p. 1858
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette
30.8.89 p. 2210; rest of Act on 1.9.90: Government
Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Land Tax (Amendment) Act 1990, No. 62/1990

Assent Date: 20.11.90
Commencement Date: 20.11.90
Current State: All of Act in operation

Minerals Resources Development Act 1990, No. 92/1990

Land Tax Act 1958
Act No. 6289/1958

Assent Date: 18.12.90
Commencement Date: S. 128(Sch. 1 item 15) on 6.11.91: Government Gazette 30.10.91 p. 2970
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Land Tax (Revision) Act 1991, No. 74/1991 (as amended by Nos 71/1992, 30/1993)

Assent Date: 26.11.91
Commencement Date: Ss 1–3, 19 on 26.11.91; ss 5, 8, 10, 22(2) on 1.1.93: s. 2(2); s. 22(3) on 1.1.94: s. 2(3); s. 21 was never proclaimed, later repealed by No. 30/1993 s. 8(b); rest of Act on 1.1.92: s. 2(4)
Current State: All of Act in operation

State Taxation (Amendment) Act 1992, No. 76/1992

Assent Date: 24.11.92
Commencement Date: Ss 16, 17 on 15.8.92: s. 2(3); ss 14, 15 on 1.1.93: s. 2(5)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Land Tax (Amendment) Act 1993, No. 30/1993

Assent Date: 25.5.93
Commencement Date: All of Act (*except* ss 4, 6) on 25.5.93: s. 2(1); s. 4 on 1.1.93: s. 2(2); s. 6 on 1.1.94: s. 2(3)
Current State: All of Act in operation

Land Tax (Further Amendment) Act 1993, No. 101/1993

Assent Date: 23.11.93
Commencement Date: Ss 1–3, 9 on 23.11.93: s. 2(1); s. 5 on 1.1.93: s. 2(2); rest of Act on 1.1.94: s. 2(3)
Current State: All of Act in operation

State Taxation (Further Amendment) Act 1993, No. 104/1993

Assent Date: 23.11.93
Commencement Date: S. 20 on 23.11.93: s. 2(1); ss 21–26 on 15.10.93: s. 2(5)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Financial Management (Consequential Amendment) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 4(Sch. 2 item 44) on 1.1.95: Government Gazette 28.7.94 p. 2055
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Trustees (State Owned Company) Act 1994, No. 45/1994

Land Tax Act 1958

Act No. 6289/1958

Endnotes

Assent Date: 7.6.94
Commencement Date: Pt 1 (ss 1–3), s. 27 on 7.6.94: s. 2(1); rest of Act on 1.7.94: Special Gazette (No. 36) 23.6.94 p. 1
Current State: All of Act in operation

Electricity Industry (Amendment) Act 1994, No. 53/1994

Assent Date: 15.6.94
Commencement Date: S. 32(1) on 1.1.93: s. 2(3); s. 32(2) on 3.1.94: s. 2(4)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Valuation of Land (Amendment) Act 1994, No. 91/1994

Assent Date: 6.12.94
Commencement Date: S. 26 on 23.1.95: Government Gazette 19.1.95 p. 121
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Electricity Industry (Further Amendment) Act 1994, No. 110/1994

Assent Date: 20.12.94
Commencement Date: S. 37 on 20.12.94: Special Gazette (No. 100) 20.12.94 p. 1
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Land Tax (Amendment) Act 1994, No. 113/1994

Assent Date: 20.12.94
Commencement Date: Ss 1–6 on 20.12.94: s. 2(1); s. 8 on 1.1.94: s. 2(2); s. 7 on 21.12.94: s. 2(3); s. 9 on 1.1.95: s. 2(4)
Current State: All of Act in operation

State Taxation (Amendment) Act 1994, No. 119/1994

Assent Date: 20.12.94
Commencement Date: S. 33(6) on 20.12.94: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995

Assent Date: 5.12.95
Commencement Date: S. 32(Sch. 2 item 3) on 5.12.95: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation (Further Amendment) Act 1995, No. 101/1995

Assent Date: 5.12.95
Commencement Date: S. 28 on 20.12.94: s. 2(2); ss 25–27, 29–33 on 5.12.95: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation (Omnibus Amendment) Act 1996, No. 10/1996

Land Tax Act 1958
Act No. 6289/1958

Assent Date: 25.6.96
Commencement Date: S. 20 on 1.1.94: s. 2(2); s. 19 on 25.6.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 46) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation (Further Omnibus Amendment) Act 1996, No. 42/1996

Assent Date: 12.11.96
Commencement Date: Ss 18 and 19 on 12.11.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation Acts (Amendment) Act 1997, No. 31/1997

Assent Date: 27.5.97
Commencement Date: Ss 5(1)(3)(4), 7, 8 on 27.5.97: s. 2(4); ss 5(2), 6 on 1.7.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Taxation Administration Act 1997, No. 40/1997

Assent Date: 3.6.97
Commencement Date: S. 138(Sch. 2 item 10) on 1.7.97: Government Gazette 12.6.97 p. 1330
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Urban Land Corporation Act 1997, No. 71/1997

Assent Date: 18.11.97
Commencement Date: S. 32 on 3.2.98: Special Gazette (No. 5) 3.2.98 p. 5
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation (Amendment) Act 1997, No. 86/1997

Assent Date: 2.12.97
Commencement Date: Ss 8, 9 on 2.12.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Land Tax (Amendment) Act 1997, No. 101/1997

Assent Date: 16.12.97
Commencement Date: 16.12.97
Current State: All of Act in operation

Victorian Plantations Corporation (Amendment) Act 1998, No. 35/1998

Land Tax Act 1958

Act No. 6289/1958

Endnotes

Assent Date: 19.5.98
Commencement Date: S. 16 on 26.6.98: Government Gazette 25.6.98 p. 1561
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Land Tax (Amendment) Act 1998, No. 41/1998

Assent Date: 26.5.98
Commencement Date: 26.5.98
Current State: All of Act in operation

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 48) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 37) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation (Further Amendment) Act 1998, No. 103/1998

Assent Date: 1.12.98
Commencement Date: S. 10 on 26.5.98: s. 2(3); s. 9 on 1.12.98: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000

Assent Date: 21.11.00
Commencement Date: S. 56 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

State Taxation Acts (Further Miscellaneous Amendments) Act 2001, No. 10/2001

Assent Date: 8.5.01
Commencement Date: S. 5 on 8.5.01: s. 2(1)
Current State: This information relates only to the provision/s amending the **Land Tax Act 1958**

Duties (Amendment) Act 2001, No. 46/2001

Endnotes

Land Tax Act 1958

Act No. 6289/1958

<i>Assent Date:</i>	27.6.01
<i>Commencement Date:</i>	S. 32 on 27.6.01: s. 2(1)
<i>Current State:</i>	This information relates only to the provision/s amending the Land Tax Act 1958

State Taxation Acts (Taxation Reform Implementation) Act 2001, No. 48/2001

<i>Assent Date:</i>	27.6.01
<i>Commencement Date:</i>	S. 9 on 27.6.01: s. 2(1)
<i>Current State:</i>	This information relates only to the provision/s amending the Land Tax Act 1958

3. Explanatory Details

¹ S. 3(1) def. of "owner": See section 45(5).

² S. 8(2A): Section 5 of the **Land Tax (Further Amendment) Act 1993**, No. 101/1993 reads as follows:

5. Exemption of Rural Water Corporation

For the purposes of section 8(2A) and 9(1AD) of the Principal Act, the Rural Water Corporation is deemed never to have been a public statutory authority or a public authority within the meaning of the **Public Authorities (Dividends) Act 1983**.

³ S. 13F(1): In this situation, the owner will also be exempt from taxation in respect of the land referred to in paragraph (b) in the circumstances set out in section 13A(1)(a).

⁴ S. 13F(2): In this situation, the owner will also be exempt from taxation in respect of the land referred to in paragraph (b) in the circumstances set out in section 13A(1)(b).

⁵ S. 13G(1): In this situation, the owner will also be exempt from taxation in respect of the land referred to in paragraph (a) in the circumstances set out in section 13A(1)(a).

⁶ S. 13G(2): In this situation, the owner will also be exempt from taxation in respect of the land referred to in paragraph (a) in the circumstances set out in section 13A(1)(b).

⁷ S. 54: See section 88(1).

⁸ S. 69(b): See Note 7.

⁹ S. 71: See section 6(2)(a)(b) of the **Land Tax (Amendment) Act 1993**, No. 30/1993.

¹⁰ S. 90: Section 26 of the **State Taxation (Further Amendment) Act 1993**, No. 104/1993 reads as follows:

26. Transitional

Section 90 of the Principal Act, as in force immediately before the commencement of this section, continues to apply in relation to tax paid before that commencement if, before that commencement—

- (a) proceedings for the recovery of the tax had been begun; or
- (b) a person had made an application in writing for a refund of the tax and—
 - (i) the Commissioner had not informed the applicant whether he or she had found the amount to have been overpaid; or
 - (ii) the Commissioner had informed the applicant that he or she had not found the amount to have been overpaid and, within the period of 12 months preceding that commencement, the applicant had disputed that finding in writing to the Commissioner.

¹¹ Sch. 2 cl. 1: Section 9 of the **Land Tax (Further Amendment) Act 1993**, No. 101/1993 reads as follows:

9. Land tax for 1993

Land tax for 1993 shall be assessed, charged and levied in accordance with the provisions of the Principal Act as in force before the commencement of this section.

¹² Table of Amendments, Act No. 9567/1981: Section 20 of the **Economic Development Act 1981**, No. 9567 purported to amend the **Land Tax Act 1958**, but failed.