

WESTERN AUSTRALIA

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**LAND TAX ASSESSMENT  
AMENDMENT ACT (NO. 2) 1995**

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**No. 37 of 1995**

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**AN ACT to amend the *Land Tax Assessment Act 1976*.**

[Assented to 18 October 1995]

The Parliament of Western Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Land Tax Assessment Amendment Act (No. 2) 1995*.

**Commencement**

2. This Act comes into operation on the day on which it receives the Royal Assent.

**Principal Act**

3. In this Act the *Land Tax Assessment Act 1976\** is referred to as the principal Act.

[\* *Reprinted as at 1 December 1982.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 115 and Act No. 9 of 1995.]*

**Section 16 amended**

4. Section 16 (1) and section 16 (2) of the principal Act are repealed and the following subsections are substituted —

“

(1) Where land tax is payable under section 15 in respect of land and the land is owned by joint owners, the joint owners shall be assessed and liable for the land tax in accordance with this section.

(2) An assessment in respect of land owned by joint owners shall be made as if the land were owned by one person and, for the purpose of ascertaining the extent (if any) to which the land is exempt land, there shall be taken into account —

- (a) each joint owner's use of the land by virtue of which the land is exempted from taxation under this Act (whether or not the use is common to any of the other joint owners); and

- (b) each joint owner's interest in the land by virtue of which the land is exempted from taxation under this Act (whether or not the interest is common to any of the other joint owners).

(2a) An assessment in respect of land owned by joint owners shall be kept separate and distinct from an assessment in respect of any land that is owned —

- (a) by any one of them individually; or
- (b) by any of them as a joint owner with any other person.

(2b) Joint owners of land are jointly and severally liable for land tax payable in respect of the land regardless of each of the joint owner's respective interests in, or use of, the land.

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### **Schedule amended**

5. (1) The Schedule to the principal Act is amended in Part 1, clause 9 (a) —

- (a) by deleting “or” at the end of paragraph (viii);
- (b) by deleting the full stop at the end of paragraph (ix) and substituting a semicolon; and
- (c) by inserting the following paragraphs —

“

- (x) the owner of which is an executor as trustee, or the owners of which are executors as trustees, of a will under which —

- (I) a natural person whose identity is specified in the will has a right to use the land as a place of residence

for as long as he or she wishes even though that person is not entitled under the will to any estate of freehold in possession in relation to the land; and

- (II) the land is to be dealt with as residue of the estate to which the will applies when that person vacates the land or dies, whichever occurs first,

and that person uses the land solely or principally as his or her ordinary place of residence;

or

- (xi) the owners of which are —

- (I) an executor or executors to whom paragraph (x) applies; and  
(II) any other person or persons.

”.

(2) The Schedule to the principal Act is amended in Part 1, clause 9 (b) by inserting after paragraph (iv) the following paragraph —

“

(iva) The exemption provided by subparagraph (xi) of paragraph (a) applies to the unimproved value of the land only to the extent of the proportion of the interest in the land held by —

- (I) a part owner who is an executor, or part owners who are executors, to whom paragraph (a) (x) applies who allow, in accordance with that paragraph, a person to use the land and the person uses the land solely or principally as the person's ordinary place of residence;

- (II) a natural person who is a part owner or the natural persons who are part owners who use the land solely or principally as the ordinary place of residence of the person or persons;
- (III) the resident shareholders of a part owner that is an exempt proprietary company (being the proportion that the number of natural persons who have any share in the share capital of the company and who use the land solely or principally as their ordinary place of residence bears to the total number of persons who have any share in the share capital of the company).

”

## **Application**

6. Section 16 of the principal Act as amended by section 4 of this Act and clauses 9 (a) (x) and (xi) and (b) (iva) of Part 1 of the Schedule to the principal Act as inserted by section 5 of this Act apply in respect of the year of assessment commencing on 1 July 1995 and each subsequent year of assessment.

## **Validation**

7. (1) In this section a reference to an assessment is a reference to an assessment in respect of land owned by joint owners where one or more of the joint owners had an interest in the land which would have been exempt from taxation under the provisions of the principal Act.

(2) Any assessment purported to have been done under section 16 of the principal Act before this Act comes into operation and any thing done under the purported assessment is, and always was, as valid and effective as it would have been if—

- (a) the amendments referred to in section 4 of this Act had been made to the principal Act and had come into operation on 1 July 1976; and

- (b) the assessment or the thing was done when the amendments referred to in section 4 of this Act had effect.

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