

South Australia



## **LAND TAX (SCALE ADJUSTMENT) AMENDMENT ACT 1994**

**No. 63 of 1994**

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**ELIZABETHAE II REGINAE**

A.D. 1994

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**No. 63 of 1994**

**An Act to amend the Land Tax Act 1936.**

*[Assented to 3 November 1994]*

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Land Tax (Scale Adjustment) Amendment Act 1994*.

(2) The *Land Tax Act 1936* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act is taken to have come into operation at midnight on 30 June 1994.

**Amendment of s. 4—Interpretation**

3. Section 4(1) of the principal Act is amended by inserting before the definition of "business of primary production" the following definition:

"aggregation principle" means the principle under which the taxable value of all land owned by the same taxpayer is aggregated for the calculation of land tax;<sup>1</sup>.

<sup>1</sup> See section 12(3).

**Amendment of s. 12—Scale of land tax**

4. Section 12 of the principal Act is amended by striking out subsection (1) and substituting:

(1) Land tax is calculated on the basis of the taxable value of the land in accordance with the following table:

Taxable value of land	Amount of tax
Not exceeding \$50 000	Nil
Exceeding \$50 000 but not exceeding \$300 000	\$0.35 for every \$100 or fractional part of \$100 over \$50 000
Exceeding \$300 000 but not exceeding \$1 million	\$875 plus \$1.65 for every \$100 or fractional part of \$100 over \$300 000
Exceeding \$1 million	\$12 425 plus \$3.70 for every \$100 or fractional part of \$100 over \$1 million

**Amendment of s. 13—Minimum tax**

5. Section 13 of the principal Act is amended by striking out "\$5" and substituting "\$10".

**Amendment of s. 15—Tax in cases where there are two or more owners**

6. Section 15 of the principal Act is amended by striking out subsections (2), (3), (4), (5) and (6).

**Insertion of s. 15A**

7. The following section is inserted after section 15:

**Cases of multiple ownership and aggregation of value**

15A. (1) If two or more persons are owners of the same land but not all in the same capacity<sup>1</sup>, the Commissioner may treat all who are owners of the land in one particular capacity (to be decided by the Commissioner) as—

- (a) the sole owner or owners of the land; and
- (b) the sole taxpayer or taxpayers for the land.

(2) If the Commissioner treats a person or persons as the sole owner or owners of land under subsection (1), the aggregation principle<sup>2</sup> applies as if that person or those persons were the sole owner or owners of the land.

(3) The aggregation principle<sup>2</sup> is subject to the following qualifications:

- (a) if two or more persons are the taxpayers for the same land, the taxable value of the land will not be aggregated with the taxable value of—
  - (i) other land for which one or more, but not all, of those persons is or are the taxpayer or taxpayers; or
  - (ii) other land for which one or more of those persons and some other person are the taxpayers;

- (b) if land is held on trust (other than a trust arising because of a contract to purchase or acquire an estate or interest in the land), notice of the trust is given as required by regulation, and the trustee is the taxpayer for the land, the taxable value of the land will not be aggregated with the taxable value of other land owned by the same taxpayer unless the other land is held in trust for the same beneficiary.

(4) If two or more trustees own land separately, but subject to the same trust, the Commissioner may treat any one of the trustees as the owner or owners of all the land subject to the trust.

(5) For the purposes of this section, the various capacities in which a person may be the owner of land are as follows:

- (a) as legal owner;
- (b) as equitable owner;
- (c) as prospective owner (*ie.* a person who has entered into a contract to purchase or acquire an estate or interest in the land);
- (d) as lessee under a perpetual lease or a shack-site lease;
- (e) if the land is in a defined shack-site area—as occupier.

<sup>1</sup> See subsection (5).

<sup>2</sup> *ie.* the principle under which the taxable value of all land owned by the same taxpayer is aggregated for the calculation of land tax—see section 12(3).

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor