

TASMANIA

LAND TAX AMENDMENT BILL 2010

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LAND TAX AMENDMENT BILL 2010

(Brought in by the Deputy Premier, the Honourable Larissa Tahireh Giddings)

A BILL FOR

An Act to amend the *Land Tax Act 2000* and the *Land Tax Rating Act 2000*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Land Tax Amendment Act 2010*.

2. Commencement

This Act commences on 1 July 2010.

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Part 2 – Land Tax Act 2000 Amended

PART 2 – LAND TAX ACT 2000 AMENDED

3. Principal Act

In this Part, the *Land Tax Act 2000** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting “, unless the contrary intention appears” after “this Act”;
- (b) by inserting the following definition after the definition of “penalty tax”:

“prescribed dwelling” means a permanent building of predominantly residential character affixed to land for which human occupation or habitation is not forbidden by a closure order made by a council under section 87 of the *Public Health Act 1997*;

- (c) by inserting the following definition after the definition of “private hospital”:

“qualifying home business” means a business –

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- (a) operated from land on which a prescribed dwelling is located; and
 - (b) operated from that prescribed dwelling or a building ordinarily found on residential land that is not of a solely commercial character; and
 - (c) operated by a person who is the owner of the land or spouse, sibling, child or parent of the owner of the land; and
 - (d) for which the land is the sole permanent business premises of that person; and
 - (e) for the operation of which no more than 50% of the floor area of the prescribed dwelling is ordinarily used;
- (d) by inserting the following definition after the definition of “retirement village company”:

“shack land” is land referred to in section 6A;

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Part 2 – Land Tax Act 2000 Amended

5. Section 6A inserted

After section 6 of the Principal Act, the following section is inserted in Part 1:

6A. Shack land

- (1) Shack land is land that has been determined by the Commissioner under this section to be shack land.
- (2) The Commissioner, on the application of the owner of land, is to determine that land is shack land if the land is qualifying land and an owner of the land is a qualifying owner.
- (3) For the purposes of this section, land is qualifying land if the Commissioner is satisfied that –
 - (a) a prescribed dwelling is located on the land; and
 - (b) if building work on the dwelling was carried out on or after 1 July 2004, the requirements of the *Building Act 2000* have been complied with; and
 - (c) the dwelling is held for recreational purposes of the owner or his or her family and is not used as a principal residence by any person; and

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- (d) no income is derived from the land and the land is not made available or advertised for rent or leasing; and
 - (e) the assessed land value of the land does not exceed \$500 000; and
 - (f) any other conditions prescribed by the regulations have been satisfied.
- (4) For the purposes of this section, a natural person is a qualifying owner if the Commissioner is satisfied that –
- (a) the owner resides in this State; and
 - (b) the owner has attained the age of 18 years; and
 - (c) the owner of the land does not, or if the owner has a spouse both the owner and the spouse do not, own other land that has been determined by the Commissioner to be shack land; and
 - (d) the owner of the land does not, or if the owner has a spouse both the owner and the spouse do not jointly, own other land that has been determined by the Commissioner to be shack land.

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Part 2 – Land Tax Act 2000 Amended

- (5) If the owner of shack land derives any income in any financial year from that land, the owner must notify the Commissioner of the receipt of that income within 30 days of its receipt.

Penalty: Fine not exceeding 10 penalty units.

- (6) If any income has been derived in a financial year from shack land, the Commissioner is to determine the land to be general land as at the beginning of that financial year and reassess the land tax liability of the owner for that financial year, unless the owner of the land successfully applies to the Commissioner for the land to receive a different classification.

6. Section 16 amended (Notice of change in use of land)

Section 16 of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

- (ba) shack land; or

7. Section 20 amended (Amount of land tax)

Section 20(2) of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

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(ba) shack land; and

8. Section 26 amended (Apportioned assessed land value for principal residence land)

Section 26(1) of the Principal Act is amended by inserting “, not including a qualifying home business,” after “purposes”.

9. Section 36 amended (Onus of establishing facts)

Section 36(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “residence.” and substituting “residence;”;
- (b) by inserting the following paragraphs after paragraph (c):
 - (d) that a business operated from principal residence land is a qualifying home business;
 - (e) that land is shack land.

10. Section 37 amended (Land tax rebate)

Section 37 of the Principal Act is amended by inserting after subsection (1) the following subsection:

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- (1A) If the owner is eligible for a rebate under subsection (1) in relation to a financial year, the owner may apply to the Commissioner for an additional (first home builder) rebate in respect of the preceding financial year if –
- (a) the owner was entitled to a full or partial refund of duty paid on that land under section 30A of the *Duties Act 2001*; and
 - (b) the owner was the owner at the beginning of the preceding financial year and incurred a land tax liability; and
 - (c) construction of the dwelling was completed after 1 July 2010.

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Part 3 – Land Tax Rating Act 2000 Amended

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PART 3 – LAND TAX RATING ACT 2000 AMENDED

11. Principal Act

In this Part, the *Land Tax Rating Act 2000** is referred to as the Principal Act.

12. Section 5A inserted

After section 5 of the Principal Act, the following section is inserted:

5A. Shack land

In the financial year beginning on 1 July 2010 and on 1 July in any subsequent year, the amount of land tax payable in respect of shack land is nil.

13. Schedule 1 substituted

Schedule 1 to the Principal Act is repealed and the following Schedule is substituted:

SCHEDULE 1 – RATE OF LAND TAX

Assessed or apportioned assessed land value of land	Amounts and rates of land tax
Less than \$25 000	Nil

Section 6

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Part 3 – Land Tax Rating Act 2000 Amended

Assessed or apportioned assessed land value of land	Amounts and rates of land tax
\$25 000 - \$349 999.99	\$50 and 0.55 cents for each dollar of the assessed land value or apportioned assessed land value in excess of \$25 000
\$350 000 or more	\$1 837.50 and 1.5 cents for each dollar of the assessed land value or apportioned assessed land value in excess of \$350 000

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PART 4 – REPEAL OF ACT

14. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.