

LAND TAX ASSESSMENT.

No. 37 of 1912.

An Act to amend the *Land Tax Assessment Act*
1910-1911.

[Assented to 24th December, 1912.]

BE it enacted by the King's Most Excellent Majesty, the Senate,
and the House of Representatives of the Commonwealth of
Australia, as follows :—

Short title and
citation.

1.—(1.) This Act may be cited as the *Land Tax Assessment Act* 1912.

(2.) The *Land Tax Assessment Act* 1910-1911 is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Land Tax Assessment Act* 1910-1912.

Amendment of
s. 3.

2. Section three of the Principal Act is amended by adding at the end of the definition of "Value of improvements" the words "Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the unimproved value of the land to its improved value as at the date of assessment."

Amendment
of s. 25.

3. Section twenty-five of the Principal Act is amended by inserting after the words "less than the fee simple" the words "(other than an estate of freehold arising by virtue of a lease for life under a lease or an agreement for a lease)".

4. Section twenty-seven of the Principal Act is repealed and the following section inserted in its stead :—

Lessees of land
after
commencement
of Act.

"27.—(1.) The owner of a leasehold estate in land, under a lease made or agreed to be made after the commencement of this Act, not being a lease made in pursuance of an agreement made before the commencement of this Act, shall be deemed (though not to the exclusion of the liability of any other person) to be the owner of land of an unimproved value equal to the unimproved value of his estate :

Provided that where the owner of a leasehold estate has, within five years previously, been the owner of a freehold estate in the land he shall be assessed and liable to land tax as if he were the owner of the fee simple.

(2.) He shall be entitled to deduct from the tax payable by him in respect of the unimproved value of his estate an amount equal to the sum of—

- (a) the amount which bears the same proportion to the tax payable in respect of the land by the owner of any freehold estate as the unimproved value of the leasehold estate bears to the unimproved value of the land, and
- (b) the amount which bears the same proportion to the tax payable in respect of the unimproved value of any precedent leasehold estate as the unimproved value of the leasehold estate bears to the unimproved value of the precedent leasehold estate.

(3.) Notwithstanding anything in this section, where the owner of the fee simple is exempt under sections thirteen or forty-one of this Act from taxation in respect of the land, a lessee of the land shall be assessed and liable for land tax as if the lease were made before the commencement of this Act and not otherwise.

(4.) For the purposes of this section—

- (a) the unimproved value of a leasehold estate means the present value of the annual value of the land calculated for the unexpired period of the lease at four and a half per centum, according to calculations based on the prescribed tables for the calculation of values ;
- (b) the annual value of land means four and a half per centum of the unimproved value of the land ;

Provided that the Commissioner may from time to time, if he thinks fit, alter the rate per centum upon which the calculations in this section are based ; and

- (c) the owner of a leasehold estate includes the lessee of land for life under a lease or agreement for a lease."

5. Section twenty-eight of the Principal Act is amended—

- (i.) by omitting paragraph (a) of sub-section (3.) and inserting in its stead the following paragraph :—

Amendment of
s. 28.

"(a) the unimproved value of a lease or leasehold estate in land means the value of the amount (if any) by which four and a half per centum of the unimproved value of land exceeds the annual rent reserved by the lease, calculated for the unexpired period of the lease at four and a half per centum, according to the calculations based on the prescribed tables for the calculation of values ;

Provided that the Commissioner may from time to time, if he thinks fit, alter the rate per centum upon which the calculations in this section are based" ; and

- (ii.) by inserting in sub-section (3.) the following paragraph :—

"(c) the owner of a leasehold estate includes the lessee of land for life under a lease or an agreement for a lease."

Amendment
s. 34.

6. Section thirty-four of the Principal Act is amended by adding to paragraph (b) the following proviso :—

“ Provided that, where a deduction is allowed in respect of the share of an annuitant as one of the beneficial owners of the land, the deduction under this section in respect of the annuity shall be the amount by which the value of the annuity applicable to the unimproved value of the land calculated as provided in this section exceeds the deduction allowed in respect of the annuitant's share in the land.”

Amendment of
s. 35.

7.—(1.) Section thirty-five of the Principal Act is amended by adding at the end thereof the following proviso :—

“ Provided that an equitable tenant for life of land under a settlement made before the first day of July One thousand nine hundred and ten or under the will of a testator who died before that day shall not be entitled to be assessed as if he were the legal tenant for life of the land, without power to sell.”

Amendment of
s. 38.

8. Section thirty-eight of the Principal Act is amended—

(a) by omitting sub-section (2.) and inserting the following sub-section in its stead :—

“ (2.) Joint owners (except those of them whose interests are exempt from taxation under section thirteen or section forty-one of this Act) shall be jointly assessed and liable in respect of the land (exclusive of the interest of any joint owner so exempt) as if it were owned by a single person, without regard to their respective interests therein or to any deductions to which any of them may be entitled under this Act, and without taking into account any land owned by any one of them in severalty or as joint owner with any other person.” ;

(b) by inserting in sub-section (7.) after the words “ In respect of each” the words “ of the joint owners who holds an ” ;

(c) by inserting in paragraph (b) of sub-section (7.) after the words “ unimproved value of the land” the words “ , after deducting the value of any annuity under section thirty-four of this Act, ” ;

(d) by adding to sub-section (7.) the following proviso :—

“ Provided that, where the same persons have a beneficial interest in land or in the income therefrom under more than one settlement or will or under a settlement and will, they shall be jointly assessed in respect of the whole of their interests under the settlements or wills or settlement and will, and there may be deducted in the joint assessment from the unimproved value of the land comprised in the joint assessment, instead of the sum of Five thousand pounds as provided by paragraph (b) of sub-section (2.) of section eleven of this Act, the aggregate of the following sums, namely:—

In respect of each of the joint owners who holds an original share in the land being jointly assessed—

(a) the total sum of Five thousand pounds, or

(b) the sum which bears the same proportion to the unimproved value of the land after deducting the value of any annuity under section thirty-four of this Act as the share bears to the whole, whichever is the less.”; and

(c) by adding in sub-section (8.) after the words “interest in remainder” the words “after a life interest of the settlor or”.

9. After section thirty-eight of the Principal Act the following section is inserted :—

“38A.—(1.) Where, under a settlement made before the first day of July One thousand nine hundred and ten or under the will of a testator who died before that day (in this section referred to as the “original settlement or will”) together with a settlement made before that day by a beneficiary under the original settlement or will of his share thereunder or a will of a beneficiary under the original settlement or will who died before that day, the beneficial interest in any land or in the income therefrom is for the time being shared among a number of persons, who are relatives by blood, marriage, or adoption of the original settlor or testator in such a way that they are taxable as joint owners under this Act, then, for the purpose of their joint assessment as such joint owners, there may be deducted from the unimproved value of the land, instead of the sum of Five thousand pounds as provided by paragraph (b) of sub-section (2.) of section eleven of this Act, the aggregate of the following sums, namely :—

Deductions under original and subsidiary settlements and wills.

In respect of each of the joint owners who holds an original share in the land under the original settlement or will—

(a) the sum of Five thousand pounds, or

(b) the sum which bears the same proportion to the unimproved value of the land, after deducting the value of any annuity under section thirty-four of this Act, as the share bears to the whole,

whichever is the less.

(2.) In this section, “original share in the land” means the share of one of the persons specified in the settlement or will as entitled to the first life or greater interest thereunder in the land or the income therefrom, or to the first such interest in remainder after a life interest of the settlor or after a life interest of the wife or husband of the settlor or testator.”

10. Section thirty-nine of the Principal Act is amended by adding thereto the following sub-section :—

Amendment of s. 39.

“(5.) A company shall be deemed to be the agent in the Commonwealth for the purposes of this Act for an absentee shareholder in respect of his interest in the company.”

11. After section forty-two of the Principal Act the following section is inserted :—

“42A. Where land is occupied, controlled, or used by a person who is not the owner and there is no lease or agreement for a lease

Occupation, control or use of land.

for a definite term in respect of the occupancy, control, or user of the land, the person occupying, controlling, or using the land shall be deemed to be the lessee for life of the land and shall be assessable as provided in section twenty-seven of this Act:

Provided that the Commissioner may exempt the person occupying, controlling, or using the land from the provisions of this section, if he is satisfied that the arrangement is of a temporary nature, as to which matter the decision of the Commissioner shall be final and conclusive."

Application of
Act.

12.—(1.) The amendment made by this Act to sub-section (3.) of section twenty-seven of the Principal Act shall apply to all assessments, whether made before or after the commencement of this Act.

(2.) Except as provided in sub-section (1.) of this section, the amendments of the Principal Act made by this Act shall apply to assessments for the financial year beginning on the first day of July One thousand nine hundred and twelve and all subsequent years.
