

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, the 26th Day of July 1973

PROPERTY SPECULATION TAX BILL

Proposed Amendments

Hon. Mr ROWLING, in Committee, to move the following amendments:

Clause 2: To omit from the definition of the expression "date of acquisition" in subclause (1) the words "subject to sections 11 and 12 of this Act" in lines 30 and 31 on page 3, and substitute the words "except as otherwise provided in this Act".

To omit from the definition of the expression "date of disposition" in subclause (1) the words "subject to sections 11 and 12 of this Act" in lines 38 and 39 on page 3, and substitute the words "except as otherwise provided in this Act".

Clause 8: To omit from subclause (1) the words "or will be" in line 7 on page 8, and substitute the words "or is to be".

Clause 9: To omit from paragraph (a) of subclause (2) the words "or will be taken into account" in lines 29 and 30 on page 8, and substitute the words "allowed or is allowable as a deduction".

To add the following subclauses:

"(3) For the purposes of paragraph (a) of subsection (1) of this section the date of acquisition shall be deemed to be the date on which that person entered into a binding contract to acquire that land or, in any case where no such contract is entered into, the date of acquisition as defined in subsection (1) of section 2 of this Act.

"(4) Notwithstanding the provisions of subsection (3) of this section and section 12 of this Act, where land is acquired by any person by the exercise of an option to purchase contained in a lease, for the purposes of paragraph (a) of subsection (1) of this section the date of acquisition shall be deemed to be the date on which possession of the land is taken by that person as lessee."

Clause 12: To omit the words "Notwithstanding anything in this Act" in lines 5 and 6 on page 12, and to substitute the words "Subject to subsection (4) of section 9 but notwithstanding any other provision in this Act".

Clause 13: To insert, before the word "Where" in line 13 on page 12 the expression "(1)", and to add, as subclause (2), the following subclause:

"(2) Where any person or persons derive any profit or gain from the sale or other alienation or series of sales or other alienations of any option or like interest or right over or in—

"(a) Any shares in a company which is a flat or office owning company as defined in subsection (1) of section 2 of the Companies Amendment Act 1964; or

"(b) Any shares in any other company the assets of which consist wholly or principally of land, being shares which in the aggregate—

"(i) Represent more than 50 percent in nominal value of the allotted shares in the company; or

"(ii) Carry the right to exercise more than 50 percent of the voting powers in the company,—

then, to the extent that the Commissioner is of the opinion that the value of those shares represents the value of land at the date of sale or other alienation, this Act shall apply to that sale or other alienation or to that series of sales or other alienations in the same manner, with any necessary modifications, as it applies to a disposition of land.

Clause 15: To insert, before the word "Where" in line 21 on page 13, the expression "(1)", and to add, as subclause (2), the following subclause:

"(2) For the purposes of this section, where land is disposed of—

"(a) By a beneficiary under a trust, being land acquired by that beneficiary in his capacity as such within the terms of the trust; or

"(b) By a shareholder or former shareholder in a company, being land acquired by that shareholder or former shareholder as part of a distribution by the company to its shareholders, whether or not on the winding up of the company,—

the date of acquisition of that land by that beneficiary or, as the case may be, that shareholder or former shareholder shall be deemed to be the same date as the date of acquisition of that land by the trustees of that trust or, as the case may be, by that company."

Clause 20: To omit subclause (2), and substitute the following subclauses:

"(2) Where, in relation to the disposition of land by any person, the Commissioner is satisfied that—

"(a) Not less than half the cost to that person of the land at the date of its acquisition by him represents the value of improvements on the land at that date; and

"(b) That person is wholly or principally engaged in a business of renovating buildings or in a business of erecting buildings, the activities of which include the renovating of buildings; and

“(c) The cost of improvements on the land by way of renovation made by that person since the date of its acquisition by him (including, where that person is an individual, the value of his own labour) is not less than 20 percent of the total cost to him of the land and all improvements on the land immediately prior to the date of its disposition by him,— any profit derived by that person from that disposition shall be exempt from property speculation tax.

“(3) For the purposes of this section—

“(a) The Commissioner shall determine in such manner as he considers fair and equitable the cost of any improvements made by any person with his own labour on any land acquired by him or by any company which is under the control of that person within the meaning of section 3 of the Land and Income Tax Act 1954:

“(b) The cost of any improvements made to any land by any person shall be deemed to include any contribution made by that person in respect of that land to any local authority under section 351c of the Municipal Corporations Act 1954 or section 28 of the Counties Amendment Act 1961:

“(c) The date of acquisition shall, subject to paragraph (d) of this subsection, be deemed to be the date on which that person entered into a binding contract to acquire that land or, in any case where there is no binding contract entered into, the date of acquisition as defined in subsection (1) of section 2 of this Act:

“(d) Where land is acquired by any person by the exercise of an option to purchase contained in a lease, the date of acquisition of that land shall be deemed to be the date on which possession of the land is taken by that person as lessee.”

Clause 57: To add the following subclause:

“(3) Notwithstanding the foregoing provisions of this section, where, pursuant to subsection (1) of this section, any instrument relating to the disposition of land has been presented to the Commissioner for stamping accompanied by the appropriate certificate, this section shall not apply to any subsequent instruments relating to the same disposition presented to the Commissioner for stamping or produced to him for any other purpose.”

Clause 60: To insert, before the word “Notwithstanding” in line 31 on page 33 the expression “(1)”, and to add, as subclause (2), the following subclause:

“(2) Notwithstanding anything in this Act, where land was disposed of by any person before the 15th day of June 1973 to his or her spouse or infant child or to a trustee for that spouse or infant child, the date of acquisition of that land by that spouse or that infant child or that trustee shall be deemed to be the same date as the date of acquisition of that land by that person.”

EXPLANATORY NOTE

Clause 2: The amendments made to this clause are consequential upon amendments made to other clauses.

Clause 8: This is a minor drafting amendment only.

Clause 9: The amendment made to *subclause (2)* is a minor drafting amendment only.

The new subclauses added to the clause provide that, for the purpose of determining the period during which expenditure incurred is an allowable expense in relation to the disposition of any land,—

- (a) In any case where a binding contract to acquire the land is entered into, the date of acquisition of the land is to be deemed to be the date of that contract; and
- (b) In any case where the land is acquired by any person by the exercise of an option contained in a lease, the date of acquisition of the land is to be deemed to be the date that possession of the land is taken by that person as lessee.

Clause 12: This is a minor drafting amendment consequential upon the amendment to *clause 9*.

Clause 13: The new subclause provides that any profit or gain derived from the disposition of any options or other like interests over or in shares in a flat or office owning company or in certain shares in any other company the assets of which consist wholly or principally of land may be regarded for the purposes of property speculation tax as a profit or gain from a disposition of land.

Clause 15: The new subclause provides that, for the purposes of this clause, where any land is disposed of by any beneficiary of a trust, being land acquired by him under the trust, or any land is disposed of by any shareholder in a company, being land distributed by the company to its shareholders, the date of acquisition of that land by that beneficiary or by that shareholder is to be deemed to be the same date as the date of acquisition of that land by the trustees of that trust or by that company.

Clause 20: The new *subclause (2)* provides a further exemption from property speculation tax where the Commissioner is satisfied, in relation to the disposition of land by any person, that—

- (a) Not less than half of the cost of the land at the date of acquisition represented the value of improvements on the land; and
- (b) That person is wholly or principally engaged in a business of renovating buildings or in a business of erecting buildings the activities of which include the renovating of buildings; and
- (c) The cost of improvements on the land by way of renovation made by that person is not less than 20 percent of the cost of the land and improvements immediately prior to the disposition.

The new *subclause (3)* provides in addition—

- (a) That the cost of improvements shall be deemed to include any contribution made by any person in respect of any land to any local authority in respect of reserves; and
- (b) That for the purpose of the clause, the date of acquisition shall be the same as that provided by the new *subclauses (3) and (4) of clause 9*.

Clause 57: The amendment provides that, where the requirements of the section have been met in respect of any instrument relating to the disposition of any land, the section is not to apply to any subsequent instruments relating to the same disposition.

Clause 60: The amendment provides a new transitional provision. It provides that where any land was disposed of by any person before 15 June 1973 to his or her spouse or infant child or to a trustee for that spouse or infant child, the date of acquisition of that land by that spouse or infant child or trustee shall be deemed to be the same date as the date of acquisition of that land by that person.