



Government of Bermuda
Ministry of Public Works
The Land Valuation and Tax Amendment Act 2015 Synopsis

The Land Valuation and Tax Amendment Act 2015 received the Governor's assent and was enacted on 4th July 2014.

The principal objective is to amend the Land Valuation and Tax Act 1967 ("the Act") to address a number of recently identified ambiguities in the Act that have significant impact on the 2015 Revaluation.

The Act was enacted in 1967, almost fifty years ago, and legislation generally has since changed, being either repealed or amended. The amendments therefore seek to align the Act with current legislation and amend outdated references to legislation that no longer exists. The amendments also seek to amend various existing definitions in section 1 of the Act and to insert new definitions for both clarity and simplicity.

In brief, the amendments to the Act include:

1. Amends the definition of "annual rental value" in Part I, section 1(1).

There are approximately thirty-five thousand, seven hundred (35,700) valuation units in the valuation list and every valuation unit has an annual rental value in the valuation list on which taxes are levied. However, all rented valuation units also have a rental value, as used in common parlance, and this will undoubtedly differ from the annual rental value figure in the valuation list. The difference can be for various reasons, such as the renting of a unit to a family member or friend at below-market rent or an historic letting where there has been no change in the rent for many years.

The amendment of the definition of "annual rental value" makes it clear that annual rental value, as defined in the Act, refers to the assessed annual rental value of a valuation unit and not its market rental value.

2. Amends Part II, section 8(1) to specify that the powers of entry include entry in a valuation unit.

The amendments clarify the existing powers of entry of the Director of Land Valuation. After giving the required notice, the Director and any person authorized by him, have the power to enter any valuation unit for the purposes of surveying and valuing it for assessment purposes. This power of entry includes entry inside a valuation unit as it is sometimes necessary to obtain internal access to a unit to determine

features such as the division walls between units, tank walls etc. Internal access, when required, is arranged for a convenient date and time for the taxpayer or occupier.

3. Amends Part IV, section 72(1) to allow service of notices to be made on the taxpayer at the unit that is being assessed, or at a physical or post office box provided by the taxpayer for certainty of service.

Prior to the amendments, service of notices under the Act (to bring in, delete or amend an assessment in the valuation list) included only provision for a notice to be hand delivered or sent by post to the taxpayer's usual or last known place of abode (residential units) or to the registered office of a business (commercial and tourist units). In addition to these existing provisions, the amendments broaden the Act to also allow service of notices to be made on the taxpayer at a street address, a post office box address or an e-mail address provided by the taxpayer or at the address of the unit that is being assessed. These amendments modernize the provisions regarding service of notices under the Act and increase efficiencies with the Department.

4. Amends Part II, section 26 to specify that the Valuation Date for each new Draft Valuation List is the date that precedes the date of deposit of the Draft List by eighteen (18) months.

The Act was unclear about the valuation date for each draft valuation list. The date was historically taken to be the date of deposit of each quinquennial valuation list. However, it was a significant challenge to accurately value over thirty-five thousand, seven hundred (35,700) valuation units on the actual date that the draft valuation list went on deposit, as the list must be prepared months in advance.

In order to overcome this considerable hurdle, the amendments insert the new definition of "valuation date". The "valuation date" is the date by reference to which the annual rental value of a valuation unit is assessed. The "valuation date" is now eighteen months before the effective date of the valuation list to which it relates. This will therefore provide the Land Valuation Department adequate time to collect and analyze the rental data for the compilation of a new draft valuation list.

5. Amends Part II, section 7 to specify that rental information that is withheld during the revaluation exercise and thus could not be used to create the Draft Valuation List cannot be later produced as evidence to challenge the Draft List.

To increase public participation in the important revaluation exercise and, consequently, the accuracy of the draft valuation list, the amendments provide that if a person on whom a statutory notice has been served fails without reasonable excuse to make a return, withholds particulars or makes a false or misleading statement, he shall not later present or advance that evidence in an objection to challenge the draft valuation list.

6. Amends Part II, section 20(3) to make it clear that the Land Valuation Appeal Tribunal shall only consider market rental evidence when determining objections to the Draft Valuation List and when hearing objections to proposals to the confirmed Valuation List, the Tribunal shall only carry out a relativity exercise.

The amendments allow the Tribunal to take account of the market rental evidence of a valuation unit only when considering objections in relation to a draft valuation list, but not when considering objections to proposals to amend a confirmed valuation list (the draft valuation list once confirmed).

This amendment therefore gives every taxpayer an opportunity to challenge a draft valuation list using both market rental evidence and comparison of assessments in the list. Once this six-month challenge period is over, the draft valuation list would be reviewed and confirmed by the Tribunal, and the “tone of the List” (the general levels of assessed value) would be established. As a result, there would be certainty of assessments in the valuation list and greater certainty of revenue to the Government for the remainder of the life of the valuation list.

7. Amends Part II, section 25(7) to make it clear that where there is no objection to a proposal to amend the Valuation List, the proposed amendment takes effect without the need for the Land Valuation Appeal Tribunal to perform any unnecessary administrative tasks.

The amendments clarify the manner of deposit with the Tribunal of any objection, proposal or other document served by the Director and makes it clear that, where there is no objection to a proposal of the Director to amend the valuation list, the proposed amendment takes effect without the need for the Tribunal to act.

To review the Act with the above amendments in its entirety, please visit Bermuda Laws Online (www.bermudalaws.bm).