



2 March 2010

LETTER TO THE PREMIER OF QUEENSLAND, MS ANNA BLIGH

Dear Premier

Re: Retrospective Legislation

The *Valuation of Land and Other Legislation Amendment Bill 2010* introduces significant changes to the way the value of land is determined for the assessing of local authority rates and land tax.

While the substance of the proposed amendments going to the basis for valuation is a matter of legitimate political debate, there can be no doubt that many land owners will be adversely impacted financially. But there is no justification for making the amendments operative retrospectively from 2002.

It is this retrospective character of the proposed amendments that prompts me to write to you.

A fair legal system has at its core that the law on any given day should govern the actions of citizens. Those citizens are entitled to organise their affairs (domestic and commercial) on the statute law as enacted from time-to-time.

There is well enshrined principle that legislation when introduced should address future, not past, conduct. The basis of this principle against retrospectivity 'is no more than simple fairness, which ought to be the basis of every legal rule' (*L'Office Cherifien des Phosphates v Yamashita-Shinnihon Steamship Co Ltd* [1994] 1 AC 486 at 525, cited in *Bennion on Statutory Interpretation*, 5th ed at 316).

If land tax has been assessed and paid by land owners on the basis of erroneous State valuations, there is no just basis for retrospectively taking away their entitlement to money they should not have paid in the first place. The money was not the property of the State, although it has had the benefit of it. The owners have been commensurately deprived of its use. If the State was wrong to take the money in the first place, then as a basic tenet of honesty and fair dealing, it should effect immediate refund.

Nothing in the Explanatory Memorandum to the Bill, nor in the public comments of the Minister responsible, would justify the amendments being given retrospective effect.

It is a particular shame that such legislation should be proposed at a time when your Government has declared its support for the principle of good government by causing the *Constitution (Preamble) Amendment Act 2010* to be passed, the first paragraph of which proclaims the aim of fostering the good government of Queensland.

Retrospective legislation - "heads I win, tails you lose!" - is the antithesis of good government.

The Bar Association asks you to abandon the retrospective elements of the Bill.

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President