Property Receipts Levy Ordinance 2018

Explanatory Report

Key Points

- The Property Receipts Levy Bill gives effect to Synod resolution 34/17.
- The Bill will impose a levy, at a rate set in a table determined by Synod, on the net property income of all parishes.
- Broadly speaking the net property income of a parish is calculated as the aggregate of –
  - the lease income for each leased property that is not subject to another ordinance that applies a portion of the income for non-parish purposes, less any direct expenses and certain other specified payments applying to that property, PLUS
  - any income from licence and casual booking fees, PLUS
  - any finance income.
- The net property income for 2019 will be used to calculate the levy for 2021, but the initial impact will be smoothed with only 33% of that amount payable in 2021, and 67% in 2022.

Purpose of the Bill

1. The purpose of the Bill for the Property Receipts Levy Ordinance 2018 is to implement the proposal for a property receipts levy requested by Synod in resolution 34/17.

Recommendations

2. That Synod receive this report.

3. That Synod pass the Bill as an ordinance of the Synod.

Evidence given

Background

4. By resolution 34/17 Synod, noting a report "Proposal for a Property Receipts Levy", asked Standing Committee to pass an ordinance to implement a Property Receipts Levy based on that report and attached schedule with respect to property income form 2018 subject to –

(a) a deduction being provided for bank and financial statutory charges, taxes and assessments on finance income, and

(b) the Standing Committee being restricted from increasing any percentage or modifying any monetary thresholds without authorisation from the Synod

(c) parishes with net receipts of $120,000 or less being totally excluded from this levy,

5. At its meeting on 13 November 2017 the Standing Committee requested the Diocesan Resources Committee to –

(a) arrange for a suitable ordinance to implement the Property Receipts Levy to be brought to a future meeting, and

(b) arrange for the consideration and implementation of a suitable form of the Large Property Receipts Policy for sales.

6. Standing Committee also asked that the Finance Committee be given the opportunity to provide input into the drafting of the ordinance to implement the Property Receipts Levy (Synod resolution 34/17 para. (e)), with a view to making both the format of the Prescribed Financial Statements for 2018 and the calculation of Net Property Income as simple and efficient as possible.

7. The Finance Committee provided its comments to the Diocesan Resources Committee based on a first draft of the ordinance. The Diocesan Resources Committee incorporated those comments in a report and recommendation it prepared which was considered by the Standing Committee at its meeting on 12 February 2018. At that meeting the Standing Committee agreed with the Diocesan Resources Committee's recommendation and asked that 2 changes be made to simplify the calculation of Net Property Income. The changes agreed were to –

(a) remove the deduction for the property insurance component of the Parish Cost Recovery charge (on the basis that it cannot be determined accurately and in any case the amount of the deduction would be immaterial), and

(b) remove the deduction for bank and financial statutory charges, taxes and assessments (on the basis that there are in fact no financial statutory charges, taxes and assessments on finance income payable in NSW and the amount of bank charges would be relatively small compared to any property income and so would have a very little impact on the amount of levy payable).

8. A Bill for an ordinance drafted by the Diocesan Legal Counsel incorporating the changes agreed by Standing Committee was included in the agenda papers for the Standing Committee meeting on 26 March 2018. However, at that meeting the Archbishop indicated that he will refer the matter to the next ordinary session of the Synod, having received a request to that effect in writing from 3 members of Standing Committee in accordance with section 5(3)(b) of the *Delegation of Powers Ordinance 1998*.

Synod resolution 34/17

9. The report "Proposal for a Property Receipts Levy" ("the Report") which was noted by Synod in resolution 34/17 established the following parameters for the application and operation of the levy –

(a) There are two types of income that parishes may receive –

(i) Through the generosity of the current parishioners, all parishes receive offertory (which for the purposes of this paper is defined widely, to include bequests and other donations, including large one-off donations).

(ii) Some parishes receive income from land and buildings, or interest and investments. This is known as "property income" and is available to those parishes as a result of the generosity of previous generations and the advantages of geography. Parishes with property income may have substantial assets and the opportunity to generate significant additional income. The proposed PRL is intended to apply only to property income, as a means of redistributing wealth throughout the diocese. *[para. 34 of the Report]*

(b) With respect to the Property Receipts Levy, a parish's "property" includes both its real property (land and building assets) and its personal property (investment assets, e.g., trust funds, term deposits). The levy will apply equally to income generated from both classes of assets. To do otherwise (for example, to exempt investment income as was suggested in feedback sessions) would discourage parishes from investing in their real property. Whether a parish has a property generating lease income, or whether the property is sold and the proceeds invested, the levy will apply regardless. Applying to both forms of property income is also demonstrably more equitable and transparent. *[para. 35 of the Report]*

(c) A levy could be applied either to the gross property income of a parish, or to a parish's property income net of related expenses. Applying the levy to the gross amount would have the advantages of being simpler to administer and easier to forecast the amount of funds raised by the levy. However, given that the theological foundation of the levy is found in "sharing out of surplus", the form of proposed levy recommended by the committee applies to property income net of property expenses related to that income-producing property. *[para. 36 of the Report]*

(d) Applying the levy to Net Property Income rather than gross also allows the proposed levy to address many of the concerns raised during consultations with parishes. Following consultation with parishes, the Committee identified that the following expenses should be considered as deductible –

(i) principal and interest portions of mortgage repayments on income-generating properties,

(ii) lease payments for a place of public worship (for example, if a parish uses property income to finance the rent it pays for a leased church meeting place), and

(iii) mortgage repayments, lease payments or housing allowances for a residence for ministry staff where there is a corresponding residential property owned by the parish that is generating lease income (for example, where a ministry residence owned by a parish is unsuitable for its purpose and is rented out in order to fund the leasing of another residence for a minister).

The Standing Committee subsequently agreed to add the following further category of deductible expense –

(iv) property insurance component of the Parish Cost Recovery (PCR) charge. *[para. 39 of the Report]*

(e) It is expected that the deduction for expenses from income producing property is capped at the amount of the total income from that property - i.e., parishes are not allowed to offset "pooled expenses" against "pooled income". *[para. 40 of the Report]*

(f) As the proposed levy was passed at Synod in 2017, it was intended to apply to income generated in 2018, which will be reported through the PFS in 2019, with the levy being paid in 2020. *[para. 61 of the Report]*

(g) It is expected that most parishes will contribute to the proposed levy. In order to minimise the impact on ministries, the proposed levy incorporates a phase-in period where –

(i) in the first year of application (i.e., 2021), contributions would only attract 33% of the normal levy contribution for each parish,

(ii) in the second year (2022), contributions would attract 67% of the normal levy contribution, and

(iii) in the third year, the full levy would apply for the first time. *[para. 62 of the Report]*

(h) The proposed levy should be reviewed 5 years after commencement, with subsequent review periods being set at that time. *[para 63 of the Report]*

10. The Schedule to the Report provided that –

(a) A levy is applied at the rate set out in paragraph 4 to each parish's Net Property Income, unless the property income is already subject to contribution under ordinance.

(b) Net Property Income is the total property income (from licences and leases on commercial and ministry residences, and from dividends, distributions and interest) net of expenses incurred for those income-generating properties, and other named deductions as set out below. The standard diocesan chart of accounts describes the relevant income as follows –

4-3000 Property Income (lease rental from commercial and residential properties, licence fees and casual booking fees)

4-5000 Finance income (bank interest, investment income and ACPT Client Fund income)

6-7000 Expenses for Property lease income*, including costs and payments in relation to 6-7500 mortgage repayments on leased properties

6-9000 Other expenses deductable for the purposes of this levy, including –

6-9### leases for a place of public worship

6-9### mortgage repayments, leases or allowances for a residence for ministry staff where there is a corresponding residential property owned by the parish that is attracting lease income in order to fund the ministry residence in use

6-9### property insurance component of the Parish Cost Recovery ("PCR") charge.

* A deduction for expenses from income producing property is capped at the amount of the total income from that property. i.e., parishes are not to offset "pooled property expenses" against "pooled property income".

(c) The levy for each parish is calculated as follows = [4-3000] + [4-5000] – [6-7000] – [6-9000].

(d) The following table sets out the rate at which the levy is applied –

Net Property Income	% Levy to be applied (within the income band)	Levy contribution
$0-10,000	0%	0% of every dollar
$10,000-50,000	5%	5% of every dollar > $10k
$50,000-100,000	15%	$2,000 + 15% of every dollar > $50k
$100,000-200,000	25%	$9,500 + 25% of every dollar > $100k
$200,000-400,000	35%	$34,500 + 35% of every dollar > $200k
$400,000+	45%	$104,500 + 45% of every dollar > $400k

11. After noting the Report, by resolution 34/17 Synod –

(a) affirmed the principle that the proposed levy should apply only to parish property income,

(b) agreed that a property levy should be applied against net, rather than gross, property income because of the theological principle of "a sharing out of surplus",

(c) agreed in principle, that –

(i) offertory income (including regular giving, donations, bequests etc) should be used to meet the stipend, allowances and benefits of the minister of the parish and, to the extent possible, other recurrent ministry expenditure of the parish (including maintenance of non-income producing property),

(ii) property income should first be used to meet property expenditure, including the maintenance of buildings and adequate provision for future capital expenditure on commercial property before it is used to support recurrent ministry expenditure, and

(iii) a proportion of a parish's surplus property income (i.e., non-offertory income) should be shared with the wider Diocese,

(d) supported in principle a Property Receipts Levy ("PRL") as outlined in the report and attached schedule subject to –

(i) a deduction being provided for bank and financial statutory charges, taxes and assessments on finance income, and

(ii) the Standing Committee being restricted from increasing any percentage or modifying any monetary thresholds without authorisation from the Synod,

(iii) parishes with net receipts of $120,000 or less being totally excluded from this levy, and

(e) requested the Standing Committee to pass an ordinance to implement a PRL with respect to property income from 2018.

Implementation

12. This Bill seeks to implement the PRL as outlined in Synod Resolution 34/17 and the supporting documents presented to Synod. It should be noted that there is an internal tension in Synod Resolution 34/17 with respect to sinking funds for property maintenance. Subsection (c)(ii) articulates the principle that property income should be used to make an "adequate provision for future capital expenditure", which would seem to support the creation of sinking funds for property maintenance. However, Synod Resolution 34/17 asks the Standing Committee to implement a PRL "as outlined in the report and attached schedule", and the report expressly precludes the deductibility of sinking funds for the purposes of the calculation of a PRL. Accordingly, this Bill does not allow sinking fund expenses to be deductible.

13. Synod Resolution 34/17 provides that the deduction for expenses from income producing property is capped at the amount of the total income from that property. To perform this calculation, it is necessary to capture income and expense on a per-property basis.

The Property Income Worksheet

14. A Property Income Worksheet, the form of which is prescribed from time to time by Standing Committee, has been created to calculate a parish's property income for the year and the amount of the levy payable on that income (cl. 2 & 3(1)).

15. The Property Income Worksheet requires that parishes maintain a separate record of the income and direct expenses for each leased property. Typically that could be achieved through the use of separate subaccounts for each property, or it could be done by assigning a separate job code or cost centre for each property within the one account.

16. There could be a number of situations where a parish may receive one invoice covering work done in relation to more than one property. Common examples would include a firm providing cleaning or gardening services that issues one invoice covering work done on several properties on the same day. In such cases, the wardens will need to determine a fair and equitable method of apportioning the cost of the single invoice to each individual property.

17. A new account (6-7500) will be needed for each leased property to capture the interest payments on loans relating to the purchase of the property, or to fund work to construct, renovate or improve or extend buildings on that property. Where a loan has been obtained and the proceeds used to undertake work on 2 or more properties the wardens will need to determine a fair and equitable method of apportioning the interest paid to each individual property.

18. The wardens will then also need to analyse the principal repayments made on all loans outstanding during the year (generally shown as a reduction in the balance of account 2-2000) and determine a fair and equitable method of apportioning those principal repayments to each individual property.

19. In addition, the wardens will also need to identify the amount of any mortgage repayments, leases or allowances paid (perhaps captured with a new account 6-1155) for a residence for ministry staff where there is a corresponding residential property owned by the parish that is generating lease income because it is considered unsuitable as a ministry residence.

20. A new account (6-6700) will be needed to capture any lease or rental payments relating to a place of public worship so that these payments can be deducted from the lease income generated from a parish-owned property that is considered unsuitable for ministry.

21. The worksheet will also identify any lease income from a property that is subject to an ordinance applying some portion of that income outside the parish.

22. For the purposes of the calculation of Net Property Income of the parish, the income for each individual leased property cannot be negative. In other words the aggregate deduction for expenses from an income producing property is capped at the amount of the total income from that property.

23. There will be no expenses to be deducted from the income from licence fees and casual booking fees. By definition the properties that earn such income are available for use by the parish for ministry purposes at other times and therefore the expenses relating to those properties would be incurred to support the parish ministry irrespective of the licence or casual booking fee income.

24. A parish's finance income should be easily determined by reference to account 4-5000. This item/group should include any income earned by an ACPT client fund held for the benefit of the parish.

25. An excel version of the Property Income Worksheet will be provided to parishes. The wardens are responsible for preparing the worksheet, presenting it to be audited by the parish auditor and forwarding it to the Diocesan Secretary within 7 days after the parish's AGM (cl. 5).

26. Where a parish fails to provide some or all of the information required in the Property Income Worksheet, or the information provided is inconsistent with that in the parish's audited Financial Statements, the Standing Committee is authorised to estimate the parish's Property Income based on the information in the parish's Financial Statements (cl. 6). This is similar to a provision in the Cost Recoveries Framework Ordinance for the Standing Committee to estimate the net operating receipts of any parish that fails to provide Prescribed Financial Statements.

Insurance component of the PCR charge

27. Standing Committee had initially proposed a further category of deductible expense (for the property insurance component of the Parish Cost Recovery ("PCR") charge, which was confirmed by the Synod. However, at its meeting on 12 February 2018 Standing Committee considered a contrary recommendation from the Diocesan Resources Committee, noting –

(a) the amount cannot be determined accurately because, like all parochial network costs, the property insurance component of the PCR charge is allocated across parishes based on their net operating income, not the cost of insuring their property,

(b) in any case, the amount of the deduction would be immaterial.

28. If the property insurance component of the PCR charge was calculated based on the current variable PCR charge (5.05467%) multiplied by the property insurance component of total parochial network costs (32% in 2008 figures), the deduction for the property insurance component of the PCR charge would be just 1.6% of the net income derived from that property. On the basis that this was a relatively immaterial proportion and that this deduction would apply equally to all parishes contributing to the levy, Standing Committee decided not to allow an automatic deduction for insurance.

29. Standing Committee agreed therefore to prepare the Bill in a form that does not provide any deduction for the property insurance component of the PCR charge.

Bank charges

30. Synod had asked that a deduction be provided for bank and financial statutory charges, taxes and assessments on finance income. At its meeting on 12 February 2018 Standing Committee first noted that in practice this deduction could sensibly be limited to bank charges as there are in fact no statutory financial charges or other taxes or assessments on finance income payable in NSW. A new account (6-5120) would then be required to isolate bank charges for the calculation of Net Property Income.

31. However, Standing Committee accepted that the amount of any bank charges would probably be relatively small compared with the amount of any rental income from property and investment income, and so this deduction would have very little impact on the amount of Net Property Income and hence the levy payable by the parish. Accordingly, Standing Committee agreed to prepare the Bill in a form that does not provide any deduction for bank and financial statutory charges, taxes and assessments on finance income.

Operation of the Bill

32. A suitable version of the attached Property Income Worksheet will be prescribed from time to time by Standing Committee for the purposes of the Bill. An excel version of the same worksheet will be provided

to parishes, and be required to be audited by the parish auditor and provided to the Diocesan Secretary within 7 days after the parish's AGM.

33. The Bill has been drafted in a way that exempts from Net Property Income in a particular year any source of property income that is subject to another ordinance which provides for the application of that income, in whole or part, for non-parish purposes. Net Property Income will however include property income from any source where a parish receives 100% of the income under an ordinance at present, which is the case for example with property income subject to a standard form parish trust ordinance. A general provision has been included that will allow the Standing Committee to declare that the levy does not apply to some or all of the property income of a parish cl. 4(b)(ii)).

34. Using this mechanism, where a parish receives property income that is subject to another ordinance that applies all or part of the income for a non-parish purpose, that property income will be excluded from the calculation of the levy. However, it will be included for the purposes of working out which band of the PRL will apply to the property income of the parish. For example, Parish X receives $150,000 of income from a lease, which is subject to a specific large-receipts provision in another ordinance that levies 15% ($22,500) to the Synod Fund. Parish X also receives a further $50,000 in licence income each year. The total property income of Parish X is $200,000. The ordinance-based levy on the $150,000 remains unchanged at $22,500. The PRL on the additional $50,000 of licence income is levied at the marginal rate of 25% (being the rate applicable for parishes with a Net Property Income of between $100,000 and $200,000), which will be $6,250. Therefore, the total amount paid by Parish X would be $28,750. (By comparison, the PRL on the entire $200,000 would be $34,500, but the PRL on the $50,000 if it were considered on its own would be only $2,000).

35. There may be some situations where the Standing Committee has consciously chosen not to apply any portion of a parish's property income for non-parish purposes. The Bill as drafted will require such a parish to come forward and seek a declaration under cl. 4(b)(ii) in relation to that income.

36. An alternative approach that was considered, but rejected, would be to grandfather all existing parish property income until the next review date under the applicable ordinance. This would have the effect of grandfathering all parish property income since all property income is governed by a trust ordinance or other ordinance in some manner (other than licences granted by wardens). Choosing this alternative would therefore appear to frustrate the phased introduction of the levy proposed in the report received with resolution 34/17.

37. Following the same mechanism as that used for the calculation and payment of parochial network costs, the levy will be payable in 10 instalments two years after the property income is received (cl. 3(2)).

38. Parishes with Net Operating Receipts less than $120,000 are exempt from the PRL in that year (cl. 4(a)).

39. The wardens are responsible for calculating the Net Property Income for the parish in accordance with the Property Income Worksheet, then submitting that calculation for review by the parish auditor, and forwarding a copy of the duly audited worksheet to the Diocesan Secretary (cl. 5).

40. As the Bill could not be passed until October 2018 and the calculation of Net Property Income will require the separate identification of a number of new components within the financial statements, parishes will need to be advised of the changes required in the format of their prescribed financial statements so the required data can be collected from 1 January 2019. Accordingly 2019 will be the first year for which Net Property Income can be calculated, and the levy on that Net Property Income would be payable in 2021.

41. In order to smooth the introduction of the levy, the amount payable by each parish in the first year (2021) will be only 33% of the levy calculated, and in the second year (2022) only 67% of the calculation (cl. 7).

42. Although the report to Synod recommended a review of the operation of the ordinance after 5 years, it is proposed to extend that date to 7 years from commencement (cl. 9). This is because a review date of 5 years would mean the actual raising of the levy will have only been occurring for a maximum of 3 years. Indeed the actual review work will have to be done before the third year of actual levy-raising has been completed, and the first two years of levy-raising are at phase-in rates. Of course, requiring a review of the ordinance's operation after 7 years does not preclude an earlier review if problems become apparent.

For and on behalf of the Standing Committee

THE REV CRAIG ROBERTS / BISHOP MICHAEL STEAD 27 August 2018

Schedule

PROPERTY INCOME WORKSHEET

Key: data entry | locked formula

The calculation of Net Property Income requires:

A separate analysis of the net income from each leased property, calculated in accordance with the worksheet below.

The aggregate expenses for a particular leased property are capped at the amount of lease income from that property, ie. the net result for a particular property cannot be negative.

Where a single invoice or other charge (eg. loan interest or repayment) relates to more than one property the parish will have to calculate an appropriate portion applicable to each property.
The total net income from all income producing properties = net income (lease income less any expenses/deductions) for each leased property + gross licence fees and casual booking fees from other properties.

Net property income = the total amount received from income producing properties + finance income - any lease/rent payments for a place of public worship.

Adjusted net property income = Net property income - income from property(s) subject to an ordinance applying some portion for non-parish purposes.

				Each income producing property							**Parish total**
				Property leased for income				**Property used for ministry**			
		Item No.		**#1** old hall	**#2** shop	**#3** old rectory	**#4** other	**#11** main hall	**#12** church	**#13** other	
Lease rental from commercial property		4-3100	*to be analysed by property*			n/a		n/a	n/a	n/a	n/a
Lease rental from ministry residences	(see Note 1)	4-3150	*to be analysed by property*	n/a	n/a			n/a	n/a	n/a	n/a
Licence fees	(see Note 1)	4-3200	*to be analysed by property*	n/a	n/a	n/a	n/a				n/a
Casual booking fees	(see Note 1)	4-3300	*to be analysed by property*	n/a	n/a	n/a	n/a				n/a
less Expenses of property leased for income (utilities, r&m, improvements, agency fees)	(see Note 1)	6-7000	*to be analysed by property*					n/a	n/a	n/a	n/a
less Interest payments on loans relating to that property		6-7500	*new item no. to be analysed by property*					n/a	n/a	n/a	n/a
less Principal repayments on loans relating to that property		*movement in B/S item 2-2000 to be analysed by property*						n/a	n/a	n/a	n/a
less Mortgage repayments, lease payments or housing benefit paid to ministry staff	(see Note 2)	6-1155	*new item no. to be analysed by property*	n/a	n/a		n/a	n/a	n/a	n/a	n/a
Total net income from all income producing properties				-	-	-	-	-	-	-	-
Is the income from this property to be excluded (ie. subject to an ordinance applying some portion for non-parish purposes)?			enter "Y" or "N"					n/a	n/a	n/a	
Adjusted net income from this property				-	-	-	-	-	-	-	-
Finance income		4-5000									
less Lease/rent payments for a place of public worship	(see Note 2)	6-6700	*new item no.*								
Net Property Income											**-**
Net Property Income before excluding income subject to an ordinance applying some portion for non-parish purposes											-

Note 1 -

Under a **lease** the tenant has exclusive use of the property 24/7 (for any purpose, subject to the social covenants), for the period of the lease.
A **licence** agreement only gives the licencee limited (non-exclusive) right to use the property for certain purposes, and only during certain times. As owner the parish retains the right to the use the property at all other times.

For the purposes of both the Prescribed Financial Statements and the calculation of Net Property Income and the Property Receipts Levy the distinction between a lease and a licence is important.-

Under a lease certain expenses directly related to the particular property are deducted from the rental income received.

With a licence arrangement no expenses can be deducted from the rental income or casual use fee derived from the property.

Note 2 -
In each case the expense is only to be deducted here if income is received from a similar parish-owned property considered unsuitable for ministry.

Calculation of PROPERTY RECEPTS LEVY

The amount of the Levy is determined by reference to the table below -

Net Property Income	Levy
< $10k	0
$10k - $50k	5% of every $ > $10k
$50k - $100k	$2k + 15% of every $ > $50k
$100k - $200k	$9.5k + 25% of every $ > $100k
$200k - $400k	$34.5k + 35% of every $ > $200k
> $400k	$104.5k + 45% of every $ > $400k

Levy applicable to Net Property Income before excluding income subject to an ordinance applying some portion for non-parish purposes	-
less Levy applicable to the Net Property Income from property subject to an ordinance applying some portion for non-parish purposes	-
Property Receipts Levy applicable to Net Property Income	-
Net Operating Receipts (calculated on page 1 of Prescribed Financial Statements)	
Actual Property Receipts Levy payable	-