

WELCOME

Welcome to the special Land Tax edition of our client newsletter for 2022 where we hope to keep you informed of the important Land Tax compliance issues affecting owners of land in Australia. You may recall that Land Tax is a State tax and different rules apply in each State. In this newsletter we have summarised the position in NSW. If in any doubt about your particular Land Tax circumstances, please contact your StewartBrown Manager or Partner.

NSW LAND TAX REMINDER – ACTION REQUIRED BY 31 MARCH 2022

Land Tax 2022 – Registration Form

All landowners in NSW, including Individuals, Companies, Superannuation Funds and Trusts are reminded that the due date for lodgement of the initial return for land held as at 31 December 2021 is **31 March 2022**. If you have previously registered for Land Tax you do not need to complete a variation form unless your ownership or usage details have changed and you haven't already received a correct 2022 assessment.

If you own a property other than your principal residence and you have not previously registered with Revenue NSW, or if you need to lodge a variation form, please contact us as soon as possible. Penalties and interest may be levied for late registration and payment of land tax.

Land Tax applies to:

- vacant land, including vacant rural land
- land where a house, residential unit or flat has been built
- a holiday home
- investment properties
- company title units
- residential, commercial or industrial units, including car spaces
- commercial properties, including factories, shops and warehouses
- Land leased from State or Local government

Land Tax is an annual, asset-based tax. It is irrelevant whether you are receiving income from the land or not.

Land Tax rates 2022

The Land Tax rate for 2022 is 1.6% (plus \$100) on the combined value of all taxable land in excess of the threshold. The 2022 Land Tax threshold is \$822,000 for all taxpayers except discretionary trusts, some unit (fixed) trusts and certain groups of companies where the threshold is nil.

Where the taxable value of land held in NSW is more than \$5,026,000 (known as the "Premium Threshold") the Land Tax payable is \$67,364 for the first \$5,026,000 in land value, then 2% over that amount.

Revenue NSW obtains property values from the NSW Valuer General, who values land in NSW each year. The unimproved value of a taxable property is the value used as the taxable value of the land for Land Tax valuation purposes. If you disagree with the valuation assessed to your land, you may object to the land valuation used in your Land Tax assessment, but that objection must be lodged in writing within 60 days of receiving your notice of assessment.

LAND TAX RELIEF – COVID-19 CONCESSIONS

The NSW Government has introduced measures to provide relief to commercial and residential landowners, who provide a reduction in rent to a tenant who is experiencing financial distress as a result of COVID-19.

The 2021 land tax COVID-19 (1 July 2021 to 31 December 2021) relief is intended to reduce a landowner's land tax payable for 2021, by up to 100 per cent, for a taxable parcel of land where rent relief has been given to the tenant who occupies that land.

The previous 2021 (1 January 2021 to 28 March 2021) land tax COVID-19 relief period, only applied to commercial leases and impacted lessees as defined by the Retail and Other Commercial Leases (COVID-19) Regulation (No 3) 2020. Landowners who have already applied for any of the previous relief periods, can also apply for the 2021 land tax COVID-19 (1 July 2021 – 31 December 2021) period provided all eligibility requirements are met.

Reduction in land tax payable

A landowner can receive a reduction of up to 100 per cent of land tax payable for the 2021 land tax year, subject to the terms of the guidelines explained below.

Landowners providing reductions in rent to tenants between 1 July 2021 and 31 December 2021 can receive reductions in land tax payable for the relevant parcel of land. The land tax reduction will be the lesser of:

- (1) the amount of rent reduction provided to an eligible tenant for any period between 1 July 2021 and 31 December 2021, or

- (2) 100 per cent of the 2021 land tax attributable to the parcel of land leased to that tenant.

Landowners can be eligible for land tax relief provided all eligibility requirements are met.

If you haven't completed payment of your land tax for 2021, the relief granted will be used to offset the balance of land tax you have left payable. If your land tax for 2021 has been paid in full, the reduction can be refunded to you.

Eligibility criteria

As a Land Tax paying landowner you'll be eligible for these concessions if:

- (1) you're leasing a parcel of land to:
 - (a) a commercial tenant, who has an annual turnover of up to \$50 million and is eligible for the Micro-business COVID-19 Support Grant, the 2021 COVID-19 NSW Business Grant and/or the JobSaver scheme, or
 - (b) a residential tenant who has had a reduction in household income of 25 per cent (or more) as a result of COVID-19,
- (2) you reduce the rent of the affected tenant for any period between 1 July 2021 and 31 December 2021, and
- (3) for 2021, you have land tax attributable to the parcel of land leased to that tenant.
- (4) You are not claiming either:
 - (a) The Commercial Landlord Hardship Fund, or
 - (b) The Residential Tenancy Support Payment.

Before applying, you're responsible for verifying that your:

- (1) residential tenant is in financial distress, and/or
- (2) commercial tenant is eligible for the Micro-business COVID-19 Support Grant, the 2021 COVID-19 NSW Business Grant and/or the JobSaver scheme.

Rent reduction

To be eligible, the rent reduction must not be required to be paid back at a later date. If a reduction in rent is provided but is required to be paid back at a later date, this is considered to be a deferral of rent and won't be considered as a reduction of rent under this program.

If you're not eligible for relief under this program but you're having difficulty paying your Land Tax, you can still apply for a payment plan to extend your payment dates.

Applications for land tax relief are available now via Service NSW and will be open until 28 February 2022.

LAND TAX SURCHARGE

If you are a foreign person who owns residential land in NSW, you must pay a Land Tax Surcharge ("LTS") of 2% of the value of the land. This is in addition to the 1.6% Land Tax amount.

The LTS is only payable by foreign persons owning land in NSW. It applies to all properties owned by foreign persons including their principal place of residence. Importantly there is no tax-free threshold applicable to the LTS. A foreign person can be:

- an individual
- a corporation
- a trustee of a trust
- a beneficiary of a land tax fixed trust
- a government
- a government investor
- a partner in a limited partnership

An individual, who is not an Australian citizen, is a foreign person if they are not ordinarily a resident in Australia. Australian citizens are not foreign persons, no matter where they reside.



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