

WELCOME

Welcome to the Land Tax edition of our client newsletter for 2023 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 2023

Land Tax 2023 – 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 2022 is **31 March 2023**. 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 2023 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 2023

The Land Tax rate for 2023 is 1.6% (plus \$100) on the combined value of all taxable land in excess of the threshold. The 2023 Land Tax threshold is \$969,000 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 \$5,925,000 (known as the "Premium Threshold") the Land Tax payable is \$79,326 for the first \$5,925,000 in land value, then 2% over that amount.

Revenue NSW obtains property values from the NSW Valuer General, who values land in NSW on 1 July 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. The taxable value of each parcel of land is determined on the average value from the current year and the two past years, where applicable. When a parcel of land has been created less than three years ago – for example, through a subdivision or amalgamation – only the years after it was created are taken into account.

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 exemptions potentially apply to:

- principal place of residence (except if the property is rented or is used for business purposes)
- the former principal place of residence of some deceased persons (subject to limitations)
- land used for primary production
- boarding houses
- low cost accommodation
- residential parks (including caravan parks)
- non-profit organisations
- retirement villages, aged care establishments and nursing homes
- child care centres
- crown or council land

Exemptions depend upon ownership and use of the land.



LAND TAX FOREIGN OWNER SURCHARGE

If you are a foreign person who owns residential land in NSW, you must pay a Land Tax Foreign Owner Surcharge ("LTFOS") of 4% (previously 2%) of the value of the land. This is in addition to the 1.6% Land Tax amount.

The LTFOS 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 LTFOS. 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. NZ citizens holding subclass 444 visas and who reside in Australia more than 200 days prior to 31 December each year are also not foreign persons for the purposes of the LTFOS.

If you are a foreign person and own land in NSW you must inform Revenue NSW. It may well be that you are liable for the LTFOS but not land tax (for example if your NSW land value falls below the threshold for land tax assessment purposes).

Similar surcharges exist in other States although the rules can be quite different between States. Please consult with your StewartBrown Manager or Partner if you need further assistance with land tax or the land tax foreign owner surcharge.

Important (Discretionary Trusts)

If you own residential land via a discretionary (or family) trust it is highly likely the trust will be deemed a foreign person and therefore the LTFOS will apply, unless specific provisions in your Trust Deed prevent foreign persons from being beneficiaries. If we haven't already assisted with reviewing your Trust Deed please contact us.

FIRST HOME BUYER CHOICE

Whilst not a Land tax, a new property tax has recently been created to assist first home buyers in NSW to enter the property market. The *Property Tax (First Home Buyer Choice) Act 2022* received assent on 11 November 2022.

If you are an eligible first home buyer in NSW purchasing a property up to \$1.5million in value, you now have a choice between paying stamp duty or a smaller annual property tax.

Once you have made your choice to opt into the property tax, you cannot change your mind once you are the owner

of this land. However you have until you complete your purchase to change your mind and seek a re-assessment to pay the transfer duty.

The property tax will only be payable by first home buyers who choose it and will not apply to subsequent purchasers of a property.

Existing stamp duty exemptions and concessions for first home buyers will continue to apply for eligible purchases of up to \$800,000. Further details of the scheme can be found here: <https://www.nsw.gov.au/initiative/first-home-buyer-choice>



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