

WELCOME

Welcome to the special Land Tax edition of our client newsletter for 2021 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 2021

Land Tax 2021 – 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 2020 is **31 March 2021**. 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 2021 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 levied at the end of the calendar year. It is irrelevant whether you are receiving income from the land or not.

Land Tax rates 2021

The Land Tax rate for 2021 is 1.6% (plus \$100) on the combined value of all taxable land in excess of the threshold. The 2021 Land Tax threshold is \$755,000 for all taxpayers except discretionary trusts, some unit trusts and certain groups of companies where the threshold is nil.

Where the taxable value of land held in NSW is more than \$4,616,000 (known as the "Premium Threshold") the Land Tax payable is \$61,876 for the first \$4,616,000 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 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
- childcare centres
- crown or council land

Exemptions depend upon ownership and use of the land.

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 [2020 Land Tax COVID-19 relief](#) is intended to reduce a landowner's Land Tax payable for 2020 for a taxable parcel of land where rent relief has been given to the tenant who occupies that land. The maximum discount is 50%, spread over two periods. A discount of up to 25% may be available for the period from 1 April 2020 to 30 September 2020 ("Period 1") and a further 25% may be available for the period from 1 October 2020 to 31 December 2020 ("Period 2").

Landowners eligible for the reduction may also defer their land tax payments by up to three months.

As a landowner, you will be eligible for concessions for 2020 if:

- you are leasing a parcel of land to:
 - a commercial tenant, who has an annual turnover of up to \$50 million; or
 - a residential tenant.
- the tenant is in financial distress as a result of COVID-19;
- you reduced the rent of the affected tenant for **Period 1, Period 2** or both; and
- for 2020, you have Land Tax attributable to the parcel of land leased to that tenant.

The [2021 Land Tax COVID-19 relief](#) is **only available for commercial leases** and the relief is intended to reduce a landowners Land Tax payable for 2021, by up to 25%, for a taxable parcel of land where rent relief has been given to the tenant who occupies that land.

You as the landowner are responsible for verifying that your tenant is in financial distress. The regulations provide further guidance on this and can be accessed via the above hyperlinks.

To be eligible, the rent reduction provided to a tenant must not be required to be paid back at a later date.

If you are not eligible for a reduction in Land Tax or a deferral in Land Tax payments under this program but you are having difficulty paying, you can still apply for a payment plan to extend your Land Tax payment dates.

Applications for the 2020 concessions close on 31 March 2021 and for 2021 close on 30 April 2021.

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.

There are special rules defining whether or not entities (companies and trusts for example) are classified as foreign persons, but generally speaking an entity or trust owned substantially by a foreign person (individual or individuals) will be deemed to be a foreign person. A substantial interest for the purposes of these rules would apply where a foreign person(s) holds at least a 20% interest in the entity.

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 LTS will apply – unless your Trust Deed has been amended to exclude foreign persons as beneficiaries.

If you have not reviewed your Trust Deed to determine whether there is any exposure to LTS please contact your StewartBrown Manager or Partner.



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