



HEIDTMAN & CO.

LAWYERS

LAND TAX

What is Land Tax?

Put simply, Land Tax is a tax on the ownership of land. Exemptions apply to land used as a principal place of residence or land used in primary production. Introduced into New South Wales in 1956, the tax has proved particularly lucrative because of the increased value of property - and in 2002 raised \$1.01 billion for the New South Wales State Government.

Last year alone the Office of State Revenue, which collects the tax, sent out almost 22,000 letters to people "newly identified" as having a possible Land Tax liability. This resulted in 11,589 new "clients" who paid up to \$11 million in tax for 2002.

How is Land Tax Calculated?

If the unimproved land value is equal to \$261,000, an amount of \$100.00 will be payable. For land valued greater than \$261,000, the tax will be \$100.00 plus 1.70 cents for each \$1.00 in excess of \$261,000.

What is Premium Property Tax?

Premium Property Tax was introduced in 1998. Also known as the "Millionaires Tax" it applies to

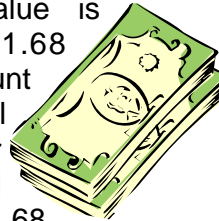


principal places of residence where the value of the land is \$1.68 million or more.

The Valuer-General would be required to increase the amount of \$1.68 million if it became the case that more than 0.2% of homes in New South Wales would attract the Premium Property Tax.

How is Premium Property Tax Calculated?

If the land value is equal to \$1.68 million, an amount of \$100.00 will be payable. For land valued greater than \$1.68 million, the tax will be \$100.00 plus 1.70 cents for each \$1.00 in excess of \$1.68 million.



Do I Have to Notify The Office of State Revenue?

The law places the onus of lodging land tax returns on the taxpayer. There are many instances where taxpayers have received their assessment not only to discover that they are liable for their current year Land Tax, but that they are also liable for previous years and penalties.

If you owned land as at midnight on 31 December 2002 and you are liable for Land Tax in 2003 for the first time, you may have to lodge an initial land tax return. This must be

delivered to the Office of State Revenue on or before 30 April 2003.

How Do I Object?

If you feel that your Land Tax has been incorrectly assessed, you can make an objection to the Chief Commissioner of State Revenue within 60 days of receiving the assessment. The objection must be made in writing and it should set out the grounds for objection in detail. Either the Administrative Decisions Tribunal or the Supreme Court can review the decision.

If your objection concerns land valuation matters, submission must be made to the NSW Valuer General. Appeal lies to the Land and Environment Court.

To What Do Most Objections Relate?

Most objections relate to valuations. Next in line are arguments over what is deemed "the principal place of residence".

How Are Properties Valued?

Land value is based on what the land would sell for if it was vacant. Your Land Tax liability for 2003 is based on all land owned as at midnight on 31 December 2002 and valued as at 1 July 2002.

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The High Court recently made a unanimous decision (*Maurici v Chief Commissioner of State Revenue*) which will have an affect on the way property is valued in New South Wales.

The Decision

Mr Maurici, owner of a multi-storey waterfront property, was so determined that his property had been overvalued by the Chief Commissioner that he



took his case all the way to the High Court - and won.

What the Chief Commissioner did was to use sales of vacant land in a local area as the benchmark for determining unimproved land values.

The court found this valuation method to be flawed. Comparison with vacant land was held not to be representative of sales in Hunters Hill, as vacant land in Hunters Hill is, as the court states, "scarce, if not to say very scarce".

The matter has now been remitted to the Land and Environment for the Commissioner to determine the matter in accordance with the judgment.

What Is Deemed My Principal Place of Residence?

There are three requirements:

- Use and occupation by the owner:

The key element is possession. As long as the land is maintained as the owner's principal residence

whenever the owner wishes to use it, the exemption will apply.

Things that you would need to point out are: where you store your clothes, where you entertain your guests, to what address your electricity and other bills are posted and the address on your driver's licence. You would lose the exemption if the property became tenanted.

- Use for residential purposes and for no other purposes:

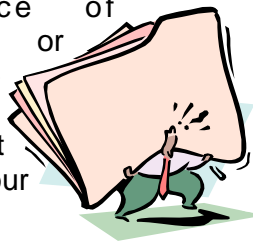
The land must be used and occupied solely for residential purposes.

- No other principal place of residence:

A person is entitled to claim an exemption for only one principal place of residence.

What Do I Do If My Circumstances Change?

You must complete a variation return if there has been a change in the ownership or use of any land shown in your land tax notice of assessment or you have additional land not shown in your notice.



Are There Any Partial Exemptions?

Yes, they include:

- Land used as the owner's principal place of residence where income is earned from separate accommodation such as a granny flat;
- Up to one year from the date of death for land owned by a deceased estate formerly used and

occupied by the deceased as his or her principal place of residence; and

- A strata lot used as the owner's principal place of residence and no other purpose.

What Do I Do When I Receive My Assessment?

You have two options:- there is a 1.5% discount for full payment of Land Tax if paid within 30 days. Or, you may pay in three instalments but you will not receive the discount. The first instalment payment will include any overdue interest amounts, interest and penalty tax.

Tax defaults include late or non-lodgement of Land Tax returns, as well as late or non-payment of Land Tax assessments.

Even if you make an objection interest will be imposed on tax which is not paid on time. In the event the objection is successful, interest will be refunded.

Question Your Assessment

On receipt of assessment ask:

- "Does the valuation reflect the actual value of my land?"; and
- "Has the tax been correctly assessed- could an exemption apply?".

If you are concerned that your land may have been overvalued or that an exemption may apply, contact us. We can help you with writing your submission to the Commissioner or the Valuer General.

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