

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Land Tax

Circular No. 141
(Replaces Circular No 1)

A GUIDE TO LEGISLATION

LAND TAX ACT 1936

This Circular has been re-issued as a general guide to the provisions of the *Land Tax Act 1936*. It replaces Circular No.1 issued on 5 December 1991. It is not intended to be a complete statement of law and must not be construed to waive or modify any legal obligation provided by the Act.

We hope you find this publication to be worthwhile and we would certainly welcome any comments or suggestions as to improvements.

Printed copies of the Act and its regulations are available from the State Information Centre, Australis Centre, 77 Grenfell Street, Adelaide. Printed copies of current State Taxation Office Circulars, some of which have been referred to herein, may be obtained from either the State Information Centre or directly from the State Taxation Office.

For further details on any matters relating to the Act mentioned in this guide please feel free to contact the State Taxation Office (08) 8226 3730.

October 1996

COMMISSIONER OF STATE TAXATION

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SUMMARY

- Land tax is levied each financial year.
- Liability for the payment of land tax falls upon the owner of the land as at 30 June preceding the financial year for which the tax is levied.
- The tax is based on the site value of the land determined by the Valuer-General pursuant to the *Valuation of Land Act 1971*. Broadly, the site value is the value of the land excluding buildings or other improvements.
- Tax is calculated at graduated rates on the aggregated value of all land owned by the taxpayer as at the relevant 30 June.
- Exemptions apply to land that:-
 - * constitutes the principal place of residence of an owner
 - * is used for primary production
 - * is owned by religious, educational, charitable, sporting bodies or
 - * is owned by non-profit associations for the recreational use of the local community, for the preservation of buildings or objects of historical value on the land or for other specified purposes.
- Unpaid land tax can remain a charge on the land. When settling for sale of land, arrangements should be made for the payment of the current year's tax and any other arrears.
- Taxpayers must notify the Commissioner of State Taxation of changes of address for the service of notices.

2. WHAT IS LAND TAX?

Legislation

Land tax, together with an income tax, was first introduced in South Australia under the *Taxation Act of 1884*. They were new taxes in aid of the general revenue of the State.

Land tax is now levied under the *Land Tax Act 1936* and forms part of the general revenue of the State. As such, it is applied towards financing the costs of the Government including the provision of education, police, community welfare services and other services for which no direct charges are made.

Method of Assessment

Information for the assessment of land tax is derived mainly from records maintained by the Valuer-General's Office. The data forms part of a computer system. This data includes information which identifies the land, its ownership, use and site valuation. Information by annual returns from land owners, as applies in some other States, is not required in South Australia. However, changes in ownership of land may be notified in the circumstances described at section 7 on page 10. Notification of changes of address for the service of notices is also required.

Land tax is billed by a computer system which is linked with the Land Ownership and Tenure System to obtain alterations in the data maintained by the Valuer-General. Accounts for payment describe the land being taxed. However, in some cases descriptions are abridged for reason of space. The land assessed is also identified by an Assessment Number which is the same as the Valuation Number allocated by the Valuer-General for valuation purposes. Under the *Valuation of Land Act 1971* the Valuer-General may make a separate valuation of any portion of any land or may value a number of portions of land as one. This does not mean, however, that this valuation will necessarily be treated as a legal parcel of land for land tax purposes.

Any enquiries as to the precise identity of land or the form in which it is assessed should be directed to the Valuer-General's Office, Department of Environment and Natural Resources, 3rd Floor, 55 Grenfell Street, Adelaide, telephone (08) 8207 2220, or the Valuer-General's Regional Offices located at various centres throughout the metropolitan and country areas.

Basis of the Tax

Land tax is calculated on the basis of determinations of the site value of land in force under the *Valuation of Land Act 1971* at midnight on 30 June preceding the financial year for which the tax is levied.

The meaning of 'site value' is defined in the *Valuation of Land Act 1971*. In broad terms, it means the market value of the land disregarding the value of any buildings or other improvements thereon.

Determination of Site Value

The *Valuation of Land Act 1971* requires the Valuer-General to make new general valuations within each area of the State at least once in every five years. At present, it is the practice of the Valuer-General to have revaluations made each year. This has been made possible since the introduction of computer assisted valuations in 1986.

A general valuation involves the determination of site value and other forms of land value as may be required by the different rating and taxing authorities.

Separate notices of determination of site value are no longer issued by the Valuer-General's Office. Owners are now notified of these values on accounts issued by the various taxing or rating authorities.

A person who is dissatisfied with the valuation of land may object to the Valuer-General, either personally or by post. Objection must be in writing and contain a full and detailed statement of the grounds on which the objection is based.

All enquires in relation to the valuation of land for land tax purposes must be directed to the appropriate branch of the Valuer-General's Office. The locations of these branches may be determined by telephoning (08) 8207 2220.

3. WHO PAYS LAND TAX?

Definition of Taxpayer

The taxpayer, in respect of freehold land, may be taken to be either the registered owner or any person who is entitled to the legal or equitable ownership of the land. This extends to a person who is entitled to purchase or acquire the legal or equitable ownership of the land. In the absence of proper advice to the contrary, the registered owner is taken to be the taxpayer. A mortgagee or lessee (other than certain shack site lessees) cannot be taken as the taxpayer.

Crown land is taxable only if it is held under a perpetual lease which is not subject to revaluation of rent, or if it is subject to an agreement for sale or right of purchase. In such cases, the taxpayer is the holder of the perpetual lease or the person entitled to the benefit of the agreement for sale or right of purchase.

Recent amendments to the *Land Tax Act 1936* allow for the shareholder in a home unit company to be treated as the owner for land tax purposes. This means that the value of the unit which the shareholder is entitled to occupy will be included in the ownership of the shareholder and not be assessed against the registered proprietor of the land, ie. the home unit company.

Land Held in Joint Ownership

Land owned by more than one person is taxed separately from other land which may be held by any one of the joint owners. Any one of the joint owners of land may be held liable for the payment of the whole amount of tax and the joint owner paying the tax has a right to recover a proportion from other joint owners. It is the general practice to hold the first-named joint owner liable for the payment of the land tax.

Land held in a Representative Capacity

Land held by a taxpayer in a representative capacity is taxed separately from other land held by the taxpayer in his or her individual right. Where the relevant indication is not given on the title of the land, eg. land held in trust, the taxpayer must produce evidence of the capacity in which the land is held. Such evidence should be produced by 31 July to be effective for that financial year.

Advising Change of Address

Taxpayers are required to notify the State Taxation Office of any change in their postal address within one month of any such change. Taxpayers failing to do so are liable to a fine not exceeding \$100 and penalty tax.

4. HOW IS THE TAX CALCULATED?

Calculation of Tax and Liability for Payment

Land tax is calculated on the aggregate taxable value of all land held by the taxpayer as at 30 June preceding the financial year for which the tax is levied. As an example, a taxpayer who owns three separate parcels of land valued at \$40,000, \$60,000 and \$300,000 as at 30 June, would pay land tax for the next financial year based on the aggregate (or total) value of \$400,000.

The taxpayer in respect of the land owned as at 30 June is liable for the payment of the whole of the tax calculated for the following financial year. The total of the calculated tax is apportioned to each property in the ratio of its taxable value to all of the land in the ownership. In the example case, the total tax (at the rates applying for the 1996-97 financial year) is \$2,525.00; on an apportioned basis, the tax is applied as \$252.50, \$378.75 and \$1893.75 respectively.

Notices for payment of land tax are usually posted between October and February of the financial year for which the tax is levied.

Taxpayers may receive notices for payment of tax on land transferred by them between 30 June and the date of receipt of the notice. Such taxpayers are liable for payment of the whole of the tax outstanding and to prevent disputes they should ascertain the details of the adjustments or provisions made for payment of tax at the time of sale in order to claim any contribution to which they may be entitled from another party.

Rates of Tax

Land tax rates are subject to periodic change. The rates which were current at the date of issue of this guide are published in Circular No. 121.

5. PAYMENT OF TAX

Due Date and Penalty for Late Payment

Land tax accounts for personal ownerships are issued in alphabetical sequence of surnames, usually between the months of November and February of the relevant financial year. This sequence of issue is adopted because land tax is payable on the aggregate value of all land owned irrespective of its location. It is not practicable to issue the accounts for all taxpayers at one time.

Due dates are determined so that a minimum of 30 days are allowed for payment after the date of issue of the account.

Where land tax is unpaid after it falls due, the amount of land tax will be **increased** by a fine as follows:

- a) if the tax is not paid within 30 days of the due date - by an additional 5 per cent of the tax arrears.
- b) if the tax is not paid within 6 months of the due date - by a further 10 per cent of the amount of tax arrears, resulting in a total fine of 15 per cent of the amount of tax arrears.
- c) if the tax is not paid within 12 months of the due date - a further 10 per cent, resulting in a total fine of 25 per cent of the amount of tax arrears.

The fines are imposed on the amount of land tax in arrears at the relevant time, ie. subsequent fines, after the initial fine of 5 per cent, are charged on the **land tax** in arrears and not on the tax plus previous fines imposed.

Remission of Penalty

The Commissioner may, for any proper reason, remit a fine wholly or in part.

Applications for remission of fines must be in writing setting out the circumstances which resulted in late payment.

6. EXEMPTIONS AND CONCESSIONS

General Exemption and Land Tax

General exemption from land tax applies if the total amount of tax which would otherwise be payable in any financial year is less than \$10. At the current rates of land tax applying for the 1996-97 financial year, the effect of this is that no land tax is payable if the total taxable value of all land owned is less than \$52,850.

Land Used as the Principal Place of Residence

Land used by the owner as his or her principal place of residence is eligible for land tax exemption provided the land is owned by the natural person (as distinct from a corporate body) or a 'home unit' company and certain conditions are satisfied.

Full details of the exemption are contained in Circular 117.

Retirement Villages Occupied by Residents as the Principal Place of Residence

Enquiries may be made to the State Taxation Office, telephone (08) 8226 3730 regarding qualifications for entitlement and the method of making application for exemption.

Land Used for Primary Production

In most instances, land used for primary production is exempt from land tax. For land tax purposes, land used for primary production means any parcel of land, of not less than 0.8 hectare in area, which in the opinion of the Commissioner, **is used wholly or mainly** for the business of primary production.

Where such land is within a **'defined rural area'** the Commissioner **must also** be satisfied that the principal business of the owner of the land -

- (1) is primary production of the type for which the land is used and the land is used to a significant extent for the purpose of that business

or

- (2) is the business of processing or marketing primary production and the land, or produce of the land, is used to a significant extent for the purpose of that business.

In order to satisfy the Commissioner, persons claiming the exemption will be required to provide details of their earnings and time worked by them in the business.

'Defined rural areas' at present comprise the Metropolitan Planning Area within the meaning of the Planning Act, the Municipality of Gawler and a portion of the Municipality of Mount Gambier.

Land Owned by Religious, Educational, Charitable and Similar Organisations

Exemptions from land tax are generally applicable.

Land Owned by Non-Profit Organisations

Exemption may be available to various non-profit associations who hold land for the following purposes:

Sporting - land held wholly or mainly for the playing of cricket, football and other athletic sports.

Racing - land held wholly or mainly for horse racing, dog racing, motor racing or similar contests.

Ex-Servicemen and dependants associations - land held for the social or recreational purposes of members.

Employer or employee industrial associations - land occupied for their purposes.

Community recreation - land held wholly or mainly for the recreational use of the local community.

Agricultural shows and exhibitions - land held for the purpose of agricultural shows and exhibitions of a similar nature.

Historical buildings - land held for the purpose of preserving buildings or objects of historical value of the land.

Enquiries may be made to the State Taxation Office, telephone (08) 8226 4074, regarding entitlement qualifications and the method of making application for exemption.

Right of Objection

Section 68a of the *Land Tax Act 1936* provides that a person who is aggrieved by a decision of the Commissioner that land does not qualify for an exemption may, within thirty days after notice of the decision of the Commissioner is served personally or by post upon him, lodge with the Treasurer an objection in writing that sets out in detail the grounds of the objection.

Pensioner Concession

A remission of up to 60 per cent of land tax (to a maximum of \$150) is allowable in respect of dwellings owned and occupied by pensioners who hold Pensioner Health Benefit Cards (or Pensioner Concession Cards), holders of current State Concession Cards or other persons who would normally qualify for the concession cards, such as T.P.I. disability pensioners, war widows and mothers of deceased unmarried servicemen. (Similar remissions are available for water and sewerage rates and council rates.)

In the case of land tax, the remission would apply only in those situations in which a dwelling owned and occupied by a pensioner may not satisfy all the conditions for the full land tax exemption applicable to an owner's principal place of residence.

Information sheets and application forms are available from SA Water, its district offices and local council offices.

Housing Land Developers Rebate Scheme

Commencing with the 1995-96 tax year, land tax rebates are available to developers of land subdivided for housing allotment purposes.

The rebate relieves land developers of 98% of land tax attributable to valuation increases applying in the first year to newly created housing allotments.

The rebate scheme will apply until 1997-98. Its continuation thereafter will be subject to review.

Full details of the scheme are provided in Circular No. 127.

7. CHANGES IN OWNERSHIP

Necessity to Advise Change in Ownership of Land

Land tax is calculated on the basis of the aggregate value of all land held by the taxpayer as at 30 June.

Therefore, the 30 June of each year is critical in establishing both the liability for payment and the rate of the tax as determined by the aggregate value of land owned as at that date.

Where a transfer of land has been settled but not registered at the Lands Titles Office with effect from 30 June of the financial year in which the change in ownership occurred, the taxpayer should notify the Commissioner in writing of the details of the change in ownership and provide evidence that settlement occurred on or before 30 June.

N.B. It should be noted that the settlement date will be recognised as the date of change of ownership unless relevant evidence can be produced to prove otherwise.

New Owners - Liability for Unpaid Land Tax

Unpaid land tax is a first charge upon the land in preference to all rates, mortgages, charges and encumbrances. **In these circumstances, new owners may become liable for the payment of any tax remaining unpaid at the time the land is transferred to their ownership.**

Purchasers of land should either, personally or through their agents, ensure that all outstanding land tax has in fact been paid or that satisfactory arrangements have been made for future payment.

Advice for Purchasers of Land

It is general practice for Conveyancers and Solicitors to adjust land tax at the date of settlement of the land so that the current year's tax is apportioned between the seller and purchaser having regard to the periods of their ownership of the land during that year.

Advance information of the current year's tax, if available at the time, and details of any arrears of tax, will be supplied by the Taxpayer Services Section to intending purchasers or their agents upon personal or written application and payment of the prescribed fee. Special enquiry forms are available for this purpose.

Notices for payment of the current year's tax, if not already paid, will be forwarded by the State Taxation Office to the party assessed as owner of the land at the preceding 30 June. It is in the interests of the seller and the purchaser, who may be held liable for any unpaid land tax, to ensure that arrangements are made for the prompt payment of any arrears of tax and the current tax, if practicable, before or immediately after settlement of the sale.

Because it is necessary to establish the aggregate value of all land owned by each taxpayer as at 30 June to determine the appropriate rate of tax, advance information of the exact amount of tax payable is not available in the early part of each financial year. However, upon payment of the prescribed fee, the agent will be supplied with the current estimate of the actual tax for that year. Payment of that amount within 90 days of the date of issue of the statement of liability, will ensure the purchaser is

relieved of the liability for any additional tax which may be levied. (See Circulars No. 4 (Land Tax) and 75 for more details.)

Purchasers of land should note that the date of settlement will determine the date upon which they will become liable for land tax. Such liability will apply in respect of the next financial year following 30 June of the financial year in which the date of settlement falls. In the case of the land tax exemption for the principal place of residence, the land will only qualify for the exemption in respect of the next following financial year if the purchaser is in occupation of the dwelling on the land as at 30 June preceding that financial year.

8. MISCELLANEOUS

Contacting the State Taxation Office

Location -

State Taxation Office
State Administration Centre
200 Victoria Square East
ADELAIDE

Office Hours -

9.00am to 5.00pm Monday to Friday

Postal Address -

Commissioner of State Taxation
GPO Box 2250
ADELAIDE SA 5001

Telephone -

(08) 8226 3730

Facsimile -

(08) 8226 3805

Methods of Payment

Payments of land tax may be made at -

- the State Taxation Office at the above address.
- Bank SA Branches in South Australia during normal bank hours provided payment is made on or before the DUE DATE.
- by remittance posted to the above postal address.