

**SOUTH AUSTRALIA**



**STATE TAXATION OFFICE**

**Circular No. 45**  
**(formerly LT Circular No. 1)**  
(RE-ISSUED)  
**replaced by Circular No. 141**

**A GUIDE TO LEGISLATION**  
**LAND TAX ACT, 1936**

This circular has been re-issued to as a general guide to the provisions of the Land Tax Act. It replaces Circular No.1 issued in booklet form 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 in the Act.

Printed copies of the Act and its regulations are available from the State Information Centre, Australis Centre, 77 Grenfell Street, Adelaide.

For further details on any matters relating to the Act mentioned in this circular contact the Taxpayer Services section of the State Taxation Office (08) 226 3730

September, 1995

COMMISSIONER OF LAND TAX

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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 at 30 June preceding the financial year for which the tax is levied.
- Tax is based on determination of the site value of land made by the Valuer-General under the Valuations of Land Act.
- Tax is calculated at graduated rates on the aggregated value of all land owned by the taxpayer at the relevant 30 June.
- Exemptions apply to land that constitutes the principal place of residence of an owner and land used for primary production.
- Concessions by way of full exemption apply to land owned by religious, educational, charitable, sporting and certain other non-profit organisations.
- 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.
- Change of address for the service of notices must be notified.

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## 2. OUTLINE OF LAND TAX SYSTEM

### 2.1 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. It is part of the general revenue of the State and as such is applied towards financing the costs of the Government including the provision of education, policy, social and other services for which no direct charges are made.

### 2.2 Method of Assessment

Information for the assessment of land tax is derived mainly from records maintained by the Valuer-General's Office by way of a computer system. These records contained the identity of 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 must be notified in certain circumstances and also changes of address for the service notices.

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 the Valuer -General may, in his discretion, make a separate valuation of any portion of any land or may value any land conjointly with other land. This does not mean however that this valuation will necessarily be treated as a legal parcel of land for land tax purposes.

Any inquiries 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, or the Valuer-General's Regional Offices located at various centres throughout the metropolitan and country areas.

### 2.3 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 at midnight 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. in broad terms it means the market value of the land disregarding the value of any buildings or other improvements thereon.

### 2.4 Determination of Site Value

The Valuation of Land Act requires the Valuer-General to make new general valuations within each area of the State at least once in every five years. an area for the purpose is usually a municipality or a district council area.

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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. At present, it is the practice of the Valuer-General to have revaluations made each year. This has made possible since the introduction of computer assisted valuations in 1986.

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 Taxing Authorities. A person who is dissatisfied with the valuation of land may object to the Valuer-General, either personally or by post. Such objection must 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) 226 5700.

### **3. WHO IS THE TAXPAYER**

#### **3.1 Definition of Taxpayer**

The taxpayer in respect of freehold land may be taken to be either the registered owner or any person who may be entitled to, or entitled to purchase or acquire the legal or equitable ownership of the land. In the absence of proper advise 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 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 allow for the shareholder in a home unit company to be treated as the owner for land tax purposes. This will mean that the value of the unit which the shareholder is entitled to occupy will be included in the ownership on the shareholder and not be assessed against the registered proprietor of the land, ie the company.

#### **3.2 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 owner. Any one of the joint owners of land may be held liable for the payment of the whole amount of tax and the joint owners 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.

#### **3.3 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 individual right. Where the relevant indication is not given on the title of the land, e.g. 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.

## 4. CALCULATION OF TAX

### 4.1 Calculation of Tax and Liability for Payment

Land tax is calculated on the aggregate taxable value of all land held by the taxpayer at 30 June preceding the financial year for which the tax is levied. The taxpayer in respect of the land at the date is liable for the payment of the whole of the tax so calculated. If more than one property is held by the taxpayer, 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.

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

Taxpayers may receive notices for payment of tax on land transferred by them between the 30 June and the date of receipt of the notice. Such taxpayers are liable to the department 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.

### 4.2 Rates of Tax

For rates of tax refer Land Tax Circular No.?

## 5. PAYMENT OF TAX

### 5.1 Due Date and Penalty for Late Payment

Land tax accounts for personal ownerships are issued in the alphabetical sequence of surnames, usually between the months of November and February of the 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 possible to issue all the accounts for the same locality at one time.

Due dates are determined so that 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 unpaid at the expiration of 30 days from the date on which it fell due — by a fine of 5 per cent of the amount in arrears.
- b) if the tax is unpaid at the expiration of 6 months from the date on which it fell due — by a fine of 10 per cent of the amount of the arrears, in addition to the above fine of 5 per cent.
- c) if the tax is unpaid at the expiration of 12 months from the date on which it fell due — by a fine of 10 per cent of the amount of the arrears, in addition to the above fines of 5 and 10 per cent.

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The fines are imposed on the amount of land tax in arrears at the relevant time i.e., subsequent fines after the initial fine of 5 per cent are charged on the **land tax** in arrears and not on that 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. EXEMPTION AND CONCESSION**

### **6.1 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. In general terms and at current rates of land tax, the effect is that no land tax is payable if the total taxable value of all land owned is less than \$52,850.

### **6.2 Land used as the principal place of residence**

Land used by the owner as his 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 available from the Taxpayer Services Section.

### **6.3 Land used for Primary Production**

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.

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

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#### 6.4 Land Owned by Religious, Educational, Charitable and Similar Organisations

Exemption from land tax is generally applicable.

Inquiry should be made to the Taxpayer Services Section as to qualifications for entitlements and the method of making application for exemption.

#### 6.5 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 occupied for their purposes.

**Community recreation** — land held wholly or mainly for the recreation of the local community.

**Agricultural shows and exhibitions** — land held for the purpose of agricultural shows and exhibitions of a similar.

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

**Retirement villages** — occupied by residents as principal place of residence.

Inquiry should be made to the Taxpayer Services Section as to qualifications for entitlement and the method of making application for exemption.

#### 6.6 Pensioner Concession

A remission of up to 60 per centum of land tax (to a maximum of \$150), water and sewerage rates and council rates 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, war widowed mothers and unmarried mothers of deceased unmarried servicemen who would normally qualify for the concession cards, and T.P.I war pensioners.

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 and its district officers; and local council officers.

#### 6.7 Housing Land Developers Rebate Scheme



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

### **6.8 Right of Objection**

Section 68a of the Land Tax act 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 Treasury and objection in writing that sets out in detail the grounds of the objection.

## **7. CHANGES IN OWNERSHIP**

### **7.1 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 at 30 June. therefore 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 at the date.

Where a transfer of land has been settled but not registered at the Lands Titles Office on or before 30 June of the financial year in which the change in ownership occurred, the taxpayer should notify the Commissioner in writing, detailing the change of ownership on or before the 31 July.

The Commissioner is empowered to refuse to recognise any change in the ownership of land if notified of transfer is not given in the circumstances set out above. This power is necessary because for land tax to be properly calculated and the issue of accounts commenced, the establishment of the ownership of land at 30 June must be first completed.

It is in the taxpayers' own interest that they should, either personally or through their agents ensure that changes in ownership in the latter part of each financial year are notified when it is apparent that a transfer of the land will not be registered before the 30 June. If there is any doubt, notification should be given.

**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.

### **7.2 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.

### **7.3 Advise for Purchasers of Land**

It is a general practice for Land Brokers 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.

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

Notices for payment of the current year's tax, if not already paid, will be forwarded by the Land Tax Office to the party assessed as owner of the land at the preceding 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 broker 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 number 4 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 commence from 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 not qualify for the exemption in respect of the next following financial year if the purchaser is not in occupation of the land at 30 June preceding the financial year.

## 8. CHANGE OF ADDRESS

Taxpayers are required to notify the Land Tax 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.

### Location —

Ground Floor  
State Administration Centre  
Victoria Square East  
Adelaide

### Postal Address —

Box 2250, GPO  
ADELAIDE SA 5001

### Telephone —

2263730

### Payment of Tax —

- AT THE ADMINISTRATION CENTRE — Ground floor, 9 a.m. to 5 p.m., Monday to Friday.

OR

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- AT THE BANK SA BRANCHES in South Australia — During normal Bank hours provided payment is made on or before the DUE DATE.

**OR**

- BY REMITTANCE POSTED TO ABOVE POSTAL ADDRESS

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