

2021-22 Guide to Legislation

Land Tax

The purpose of this Guide to Legislation is to provide a general guide to the provisions of the *Land Tax Act 1936* and the *Land Tax Regulations 2010*.

This Guide deals with:

- calculation of tax payable;
- payment of tax, interest and penalty tax;
- exemptions available to a taxpayer;
- obligations of a taxpayer;
- taxpayers' rights of objection in respect of land tax; and
- important information for purchasers of land.

This document should not be read in isolation to the legislation and does not in any way override the *Land Tax Act 1936*.

In this Guide:

- all references made to sections, parts, divisions, schedules or clauses relate to the *Land Tax Act 1936*, unless otherwise specified; and
- a reference to the Commissioner is a reference to the Commissioner of State Taxation.

We hope you find this Guide to be helpful and we would certainly welcome any comments or suggestions that would help us to improve it.

For further details on any matters relating to the Acts or Regulations mentioned in this Guide, please feel free to contact RevenueSA on (08) 8226 3750 (select option 2).

COMMISSIONER OF STATE TAXATION

9 July 2021

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What is Land Tax?

Introduction

Land tax is a state tax levied under the *Land Tax Act 1936* and the *Land Tax Regulations 2010*. It operates in conjunction with the *Taxation Administration Act 1996*, which contains administrative provisions relating to matters such as assessments, reassessments, objections, appeals, the charging of interest and penalty.

Land tax forms part of the general revenue of the State and contributes towards the costs of the government including health services, education, police, community welfare services and other services where no direct charges are made.

Summary of land tax

- Land tax is levied each financial year and can be paid in full or by instalments. Land tax is calculated as at midnight on 30 June immediately before the financial year for which the tax is levied, that is, the owner of the land at midnight on 30 June 2021 is liable for the tax for the following financial year beginning 1 July 2021 to 30 June 2022 (2021-22 financial year).
- Land tax is based on the site value of the land. The site value is determined by the Valuer-General pursuant to the *Valuation of Land Act 1971*. Broadly, the site value is the value of the land excluding the value of any buildings or other improvements.
- Land tax is calculated by applying a progressive rate structure to the combined (aggregated) site value of all land held by an owner at midnight on 30 June.
- From the 2020-21 financial year, how land tax is assessed for owners who own land in more than one ownership and for land held on trust changed. Provisions were also introduced to group (aggregate) land owned by related corporations for the assessment of land tax. Exemptions may apply to certain categories of land.
- The owner of the land as at midnight on 30 June is liable to pay the tax calculated. If the land is sold during the financial year before the Land Tax Assessment is fully paid, arrangements should be made at settlement for full payment of the current year's tax and any other arrears, even if the vendor has chosen to pay by instalments. At settlement the parties can make appropriate adjustments to ensure the vendor and the purchaser pay their required share of the tax.
- Land tax is a first charge on the land. The tax can follow the land into a purchaser's ownership unless a Certificate of Land Tax Payable is obtained for settlement purposes and the tax value stated is paid in full. If the amount stated in the Certificate is paid within 90 days of the Certificate being obtained, the purchaser will be indemnified against further tax liabilities for the land accrued to the date nominated in the Certificate. In purchasing a Certificate, it should be ensured that any exemption provided to the vendor (upon which the Certificate may be based) is factually based and correct.

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- Land owners must notify the Commissioner of any change of address for the service of a Land Tax Assessment and of any other change in circumstances that may affect an exemption from land tax.
- Land tax is not subject to the Goods and Services Tax (GST) (Div 81-5 A *New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth).

Who is liable for land tax?

Definition of 'Owner'

The payment of land tax is the responsibility of the **owner** of the land as at midnight on 30 June immediately before the financial year the tax is levied for.

The term **owner** is generally taken to be the person whose name is recorded on the Certificate of Title at Land Services SA.

However, there are several exceptions to this rule, which are described below.

Freehold land

The **owner** of freehold land will, in most cases, be the registered legal owner.

Other **owners** may include any person who is entitled to the legal or equitable ownership of the land at midnight on 30 June immediately before the financial year the tax is levied for. This includes any person who is entitled to purchase or acquire the legal or equitable ownership of the land.

As discussed further under Nomination of beneficiaries/unitholders, where a trustee of a trust that owns land gives notice of:

- a designated beneficiary for a discretionary trust;
- all the beneficiaries for a fixed trust; or
- all the unitholders for unit trusts,

those persons are also deemed to be owners.

In the absence of evidence to the contrary, the registered **owner** is taken to be the taxpayer.

Crown land - perpetual leases/agreement for sale or right of purchase

Where Crown land is held under a perpetual lease, or if it is subject to an agreement for sale or right of purchase, the holder of such a lease or agreement is deemed to be the **owner** of that land for the purposes of land tax.

Perpetual lease means a registered Crown lease issued by the Department of Environment and Water on behalf of the Crown in perpetuity.

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Home unit companies

The shareholder in a home unit company will be treated as the **owner** for land tax purposes. This means that the value of the unit that 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, that is, the home unit company.

Shack sites

Shack site lessees of privately owned land are deemed to be the owner where:

- the shack site is situated on or adjacent to the banks of the River Murray, a tributary of the River Murray, or a lake or lagoon connected with the River Murray or a tributary of the River Murray;
- a registered lease existed as at midnight 30 June 1989 over the land; and
- the term of the lease is at least 40 years.

The occupier of land in a defined shack site area is similarly deemed to be the **owner** for land tax purposes.

Moiety ownerships

Where:

- land is held under a tenancy in common under a moiety arrangement;
- the land is divided into separate portions; and
- the owner of each undivided share in the land is entitled, under a lease registered over the title to the land, to occupy a particular portion of the land;

each owner of an undivided share in the land will be regarded as the **owner** of the portion of the land that the owner is entitled to occupy under the lease.

Land held in a representative capacity (trusts)

Land held by a taxpayer in a representative capacity will be taxed separately from other land held by the taxpayer in their individual right.

New provisions were introduced in the 2020-21 financial year in relation to land held on trust.

See the **land held on trust** section for more information.

Liability where land is held in joint ownership

Any one of the joint owners of land may be held liable for the payment of the whole amount of tax. However, it is the general practice of RevenueSA to address the **Land Tax Assessment** to the first-named joint owner on the Certificate of Title for payment of land tax. The person who is issued with the assessment may then recover a proportion of the tax payable from the other joint owners.

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Land held on trust

For existing land held on trust, the trustee was required to notify RevenueSA by 31 July 2020. For land acquired after 1 July 2020, the trustee must notify RevenueSA within one month of the trust acquiring the land.

Land held on trust will be assessed separately from other land owned by the trustee and may be subject to a higher rate of land tax and a lower land tax threshold.

See the **land held on trust** section for more information.

Related corporations

New provisions were introduced in the 2020-21 financial year which changed the way land is assessed for related corporations, including grouping all land owned by the group and assessing as though the land is held by a single owner.

See the **related corporations** section for more information.

How is land tax calculated?

Land tax is calculated by applying a progressive rate structure to the combined (aggregated) site value of land held by an owner at the relevant date of assessment.

These terms are explained in further detail below:

Relevant date of assessment

Land tax is levied each financial year with the payment the responsibility of the owner of the land as at midnight on 30 June immediately before the financial year the tax is levied for.

Valuations of land

The site value for land tax purposes is determined by the Valuer-General under the *Valuation of Land Act 1971*. The value as at midnight on 30 June immediately before the financial year the tax is levied for is applied for the purpose of calculating land tax.

Site value

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

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.

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Enquiries in relation to the valuation of land should be directed to the Office of the Valuer-General on 1300 653 346.

Any taxpayer who disagrees with the valuation of their land has the right to formally object to the Valuer-General.

See the **objections** section for more information.

Rates of land tax

Once an owner's combined (aggregated) land value is determined, land tax is calculated using a progressive rate structure.

There are 2 rate scales of land tax: general and trusts.

The rates of land tax effective as at midnight on 30 June 2021 for the 2021-22 financial year are as follows:

General rates

Taxable value of land subject to tax	Amount of tax
Does not exceed \$482,000	Nil
Exceeds \$482,000 but not \$774,000	\$0.50 for every \$100 or part of \$100 above \$482,000
Exceeds \$774,000 but not \$1,126,000	\$1,460.00 plus \$1.25 for every \$100 or part of \$100 above \$774,000
Exceeds \$1,126,000 but not \$1,350,000	\$5,860.00 plus \$2.00 for every \$100 or part of \$100 above \$1,126,000
Exceeds \$1,350,000	\$10,340 plus \$2.40 for every \$100 or part of \$100 above \$1,350,000

Trust rates

Taxable value of land subject to tax	Amount of tax
Does not exceed \$25,000	Nil
Exceeds \$25,000 but not \$482,000	\$125.00 plus \$0.50 for every \$100 or part of \$100 above \$25,000
Exceeds \$482,000 but not \$774,000	\$2,410 plus \$1.00 for every \$100 or part of \$100 above \$482,000
Exceeds \$774,000 but not \$1,126,000	\$5,330 plus \$1.75 for every \$100 or part of \$100 above \$774,000
Exceeds \$1,126,000 but not \$1,350,000	\$11,490 plus \$2.40 for every \$100 or part of \$100 above \$1,126,000
Exceeds \$1,350,000	\$16,866 plus \$2.40 for every \$100 or part of \$100 above \$1,350,000

Aggregation of site value

The site values of all taxable land in an ownership will be combined (aggregated) and land tax will be assessed on the total taxable value. The land tax will then be apportioned (or allocated) to each taxable parcel of land in the ownership.

See the **apportionment of land tax to individual parcels of land** section for more information.

This is also the case for land held on trust that is owned by the same trustee for the same trust. Exempt land is not included in the combined (aggregated) total.

Assessment of land tax

For taxpayers who only own land in one ownership

Where an owner(s) owns more than one piece of land, the taxable value of all land owned by the same owner(s) is combined (aggregated) for the calculation of land tax.

Example 1

Poppy owns 3 separate parcels of land valued at \$150,000, \$100,000 and \$420,000 as at midnight on 30 June.

Poppy does not own any other land.

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Poppy would pay land tax for the following financial year based on the combined (aggregate) value.

Land A	\$150,000
Land B	\$100,000
Land C	\$420,000
Total taxable site value	\$670,000

Land tax payable on \$670,000 = \$940.00 (calculated using the 2021-22 financial year general rates).

See the **how is land tax assessed** page on revenuesa.sa.gov.au for more information.

For taxpayers who own land in more than one ownership

Stage 1: Assessed in joint ownership

The taxable site values of all land within the joint ownership will be combined (aggregated) for the calculation of land tax.

A Land Tax Assessment will only be issued to the joint ownership if the total taxable site value is above the taxable threshold.

Stage 2: Assessed in individual's ownership

The taxable site value of all land owned solely by the individual, plus their share of the taxable site value of any land owned with others, will be combined (aggregated) for the calculation of land tax.

A Land Tax Assessment will only be issued to the individual's ownership if the total taxable site value of the land they own individually plus their share of the land they own with others is above the taxable threshold.

A deduction will be applied to the individual's Land Tax Assessment, which equates to the proportion of land tax on their share in the joint ownership. If there was no land tax liability in the joint ownership (for example, combined site value of all land in the joint ownership was below the taxable threshold) no deduction will apply in the individual ownership.

Example 2

Poppy and Daisy own 3 separate parcels of land valued at \$150,000, \$100,000 and \$420,000 at midnight on 30 June. Each own a 50% share.

Stage 1

The joint ownership would pay land tax for the following financial year based on the combined (aggregated) value.

Land A	\$150,000
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Land B	\$100,000
Land C	\$420,000
Total taxable site value	\$670,000

Land tax payable on \$670,000 = **\$940.00** (calculated using 2021-22 financial year general rates).

Poppy also owns another parcel of land with a site value of \$400,000.

Stage 2

Poppy would pay land tax for the following financial year based on the combined (aggregated) value of the land Poppy owns, or partly owns.

Land A (50% share of \$150,000)	\$75,000
Land B (50% share of \$100,000)	\$50,000
Land C (50% share of \$420,000)	\$210,000
Land D (100% share of \$400,000)	\$400,000
Total taxable site value	\$735,000

Land tax payable on \$735,000 = **\$1,265.00** (calculated using 2021-22 financial year general rates).

Poppy would also receive a **deduction of \$470.00** (being 50% of land tax assessed in the joint ownership).

Land tax assessment	\$1,265.00
Less deduction (50% of \$940.00)	\$470.00
Total payable	\$795.00

See the **how is land tax assessed** page on revenuesa.sa.gov.au for more information.

Land held on trust

Land held on trust will be assessed with other land held on trust for the same trust with the same trustee and will generally not be combined (aggregated) with other land the trustee owns in their own right. There are exceptions where the trustee is also listed as the beneficiary of the trust.

Land held on trust under a discretionary, fixed or unit trust is subject to the trust surcharge which is a higher rate of land tax (trust land tax rates) and a lower land tax threshold (currently \$25,000).

The general rate of land tax, rather than the trust rate of land tax, may apply to certain trusts.

See the **land held on trust** section for more information.

See the **Guide to Legislation - Land Tax: Land Held on Trust** available on revenuesa.sa.gov.au for more detailed information.

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Related Corporations

Where 2 or more corporations are related, the land they own will be assessed for land tax as if the land was owned by one corporation.

See the **related corporations** section for more information.

Apportionment of land tax to individual parcels of land

Where there is more than one taxable parcel of land in an ownership, land tax assessed on the combined (aggregated) taxable value will be apportioned (or allocated) to each taxable parcel of land, based on the individual parcel of land's site value.

Example 3

Using the scenario in example 1, the total land tax assessed for the ownership was \$940.00

Poppy's land tax is then apportioned to each property in the ratio of its taxable site value to the total taxable site value of the ownership, as follows:

Land tax apportioned to:

Land A	\$150,000 / \$670,000	x	\$940.00	=	\$210.45
Land B	\$100,000 / \$670,000	x	\$940.00	=	\$140.30
Land C	\$420,000 / \$670,000	x	\$940.00	=	\$589.25
			Total	=	\$940.00

Land held on trust

Land held on trust under a discretionary, fixed or unit trust is subject to the trust surcharge which is a higher rate of land tax (trust land tax rates) and a lower land tax threshold (currently \$25,000).

Some trusts may be excluded from the trust rate of land tax and may instead be taxed at the general rate of land tax.

See the **rates of land tax** section under the **how is land tax calculated?** for more information.

Trusts excluded from the surcharge

The trust surcharge does not apply to land held by:

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- an excluded trust, such as a concessional trust, a superannuation (super fund) trust, or an administration trust for a deceased estate;
- an implied, constructive or resulting trust;
- public unit trust schemes, being either a listed trust or a widely held trust; or
- a corporation as trustee of a fixed trust or unit trust scheme that is grouped with one or more related corporations and land tax is assessed in accordance with section 13J of the *Land Tax Act 1936*.

Notification of land held on trust

The trustee was required to notify RevenueSA by 31 July 2020 of any existing land held on trust. For land acquired after 1 July 2020, the trustee must notify RevenueSA within one month of the trust acquiring the land. You only need to notify RevenueSA of the trust once.

To advise of land held on trust or of changes to land held on trust please complete the online **Trustee Notification Advice** available on revenuesa.sa.gov.au.

Other notification requirements

There are also requirements for the trustee to advise RevenueSA within **one month** when any of the following occur:

- they become a trustee of land, or of additional land (if already a trustee);
- they dispose of any land in the trust if the legal ownership of the land stays the same after the disposal;
- anything that results in the trust changing category, for example, a discretionary trust becomes a fixed trust or a unit trust scheme becomes a public unit trust scheme;
- the beneficial interest(s) of a fixed trust, or unit holdings of a unit trust, changes where the relevant notice is in force;
- where a corporation that is the trustee of a fixed trust or a unit trust scheme becomes, or other related corporations between them become, the owner of more than 50% of the total beneficial interests in land in trust (for a fixed trust) or more than 50% of the total number of units held by the unitholders in the scheme (for a unit trust).
 - The trustee must also notify RevenueSA where related corporations between them acquire more than 50% of the beneficial interests/units in the trust.
 - A corporation was required to notify RevenueSA by 31 July 2020 if this ownership exists at 30 June 2020.
- the administration of a deceased estate that includes land in South Australia is completed;
- probate is granted or letters of administration are issued; or
- where the grounds for an exemption (or partial exemption) from land tax end.

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To advise of land held on trust or of changes to land held on trust please complete the online **Trustee Notification Advice** available on revenuesa.sa.gov.au.

Failing to notify within the required time limit may give rise to a tax default under the *Taxation Administration Act 1996*. When this happens, the trustee may be liable for interest and penalty tax on the additional amount that would have been assessed if the trustee had notified within the required time.

Nomination of beneficiaries/unitholders

The trustee may nominate:

- a designated beneficiary for a discretionary trust;
- all the beneficiaries for a fixed trust; or
- all the unitholders for a unit trust.

If beneficiaries/unitholders are nominated, the land will be assessed at the general land tax rates.

However, nominating a beneficiary/unitholder may have land tax implications for the beneficiary(ies)/ unitholder(s). Land will be firstly assessed in the trust ownership using the general land tax rates, then the land, or the beneficiary/unitholder's share of the land, will be assessed in the beneficiary/unitholder's individual ownership combined (aggregated) with any other land they own, or partly own. A deduction will be applied to the beneficiary/unitholder's Land Tax Assessment, which equates to the proportion of land tax on their share in the trust ownership. If there was no land tax liability in the trust ownership (for example, combined site value of all land in the trust ownership was below the taxable threshold) no deduction will apply in the beneficiary/unitholder's ownership.

To advise of land held on trust or of changes to land held on trust please complete the online **Trustee Notification Advice** available on revenuesa.sa.gov.au.

Discretionary trusts

Trustees have until **31 December 2021** to nominate a designated beneficiary for a discretionary trust.

The designated beneficiary must:

- be a natural person;
- have been a beneficiary of the trust as at midnight 16 October 2019;
- be over 18 years of age at the date of nomination; and
- verify by statutory declaration that they consent to being the designated beneficiary of the trust.

A Nomination and acceptance as beneficiary for a Discretionary Trust Statutory Declaration is available on revenuesa.sa.gov.au.

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Only one beneficiary can be nominated for this type of trust. If all the beneficiaries of the trust specified in the trust documentation are under 18 years old, the trustee can nominate themselves as the designated beneficiary if they are a natural person.

Trustees will only be able to nominate a designated beneficiary for land tax purposes for land they **owned as at 16 October 2019**, with land being assessed at the general land tax rates.

Any land that becomes subject to any discretionary trust after 16 October 2019 will be assessed at the higher trust land tax rates.

Nominate the designated beneficiary using the online **Trustee Notification Advice** available on revenuesa.sa.gov.au.

A designated beneficiary may be substituted if the designated beneficiary dies or becomes incapacitated, or if a marriage, *de facto* or domestic relationship breaks down irretrievably and the designated beneficiary will no longer be the beneficiary of the trust,

The designated beneficiary can also be withdrawn at any time.

See the **Guide to Legislation - Land Tax: Land Held on Trust** available on revenuesa.sa.gov.au for more detailed information.

Fixed trusts

Trustees have the option to nominate all beneficiaries of a fixed trusts.

Nominate all the beneficiaries using the online **Trustee Notification Advice** available on revenuesa.sa.gov.au.

The nomination of beneficiaries can be withdrawn at any time.

See the **Guide to Legislation - Land Tax: Land Held on Trust** available on revenuesa.sa.gov.au for more detailed information.

Unit trusts

Trustees have the option to nominate all unitholders of a unit trusts.

Nominate all the unit holders using the online **Trustee Notification Advice** available on revenuesa.sa.gov.au.

The nomination of unitholders can be withdrawn at any time.

See the **Guide to Legislation - Land Tax: Land Held on Trust** available on revenuesa.sa.gov.au for more detailed information.

Assessment of land held on trust

Discretionary, fixed or unit trust

Land held on trust under a discretionary, fixed or unit trust is subject to the trust surcharge which is a higher rate of land tax (trust land tax rates) and a lower land tax threshold (currently \$25,000).

See the **rates of land tax** section under the **how is land tax calculated?** for more information.

Discretionary, fixed of unit trusts – beneficiaries/unitholders nominated

Where the beneficiaries/unitholders have been nominated, land tax is assessed at the general rates and in a 2 stage process.

Stage 1: Assessed in trust ownership

The taxable site values of all land within the trust ownership will be combined (aggregated) for the calculation of land tax.

A Land Tax Assessment will only be issued to the trust ownership if the total taxable site value is above the tax-free threshold.

Stage 2: Assessed in beneficiary/unitholder's ownership

The taxable site value of all land owned solely by the beneficiary/unitholder, plus their share of taxable site value of any land held on trust (and, if applicable land owned with others), will be combined (aggregated) for the calculation of land tax.

A Land Tax Assessment will only be issued to the individual's ownership if the total taxable site value is above the tax-free threshold.

A deduction will also be applied to the individual Land Tax Assessment, which relates to the proportion of land tax assessed against their share of the land held on trust (and joint ownerships if applicable). If there was no land tax liability in the trust ownership (for example, combined site value was below the threshold) no deduction will apply.

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Trusts excluded from the surcharge

Land held by these types of trusts will be assessed at the general land tax rates.

See the **land held on trust** page on revenuesa.sa.gov.au for more detailed information.

See the **Guide to Legislation - Land Tax: Land Held on Trust** available on revenuesa.sa.gov.au for more detailed information.

Related corporations

New provisions were introduced in the 2020-21 financial year which group together (or aggregate) all land owned by related corporations for the assessment of land tax.

Grouping of related corporations

Corporations will be considered to be related to each other for land tax purposes when:

- control is exercised by a corporation over another/ other corporations;
- control is exercised by the same person(s) over 2 or more corporations;
- control is exercised jointly by a corporation and its shareholders, who between them own more than 50% of issued share capital; or
- a corporation owns more than 50% of the beneficial interests/units in land subject to a fixed trust/unit trust.

Assessment of land owned by related corporations

Where 2 or more corporations are related, the land they own will be grouped together (aggregated) and assessed for land tax as if the land was owned by one corporation.

See the **related corporations** page on revenuesa.sa.gov.au for more detailed information.

See the **Guide to Legislation - Land Tax: Related Corporations** available on revenuesa.sa.gov.au for more detailed information.

Exemptions

General exemption from land tax

A general exemption from land tax applies if the total land tax liability in any financial year is under \$20. This means for the 2021-22 financial year land tax is not payable if the total taxable value of all land owned is \$486,000 or less.

Specific exemptions

Where the general exemption does not apply, subject to conditions, the land may qualify for a specific exemption.

Details of these exemption provisions are detailed below.

Exemptions: Land used as owner's principal place of residence

An exemption from land tax may be granted on a parcel of land where the Commissioner is satisfied that, at midnight on 30 June immediately before the relevant financial year, the land is owned and occupied by a natural person as their principal place of residence (that is, their home).

The land may be partially or wholly exempted from land tax.

What if only one owner lives in the home?

Where a property is owned by 2 or more people, only one of them is required to be living in the principal place of residence to claim this exemption. However, if the residing owner owns an interest in the property of less than 50%, they may not be eligible for an exemption where the residing owner holds an interest of:

- 5% or less, unless the Commissioner is satisfied that the resident's interest was not for a purpose related to the reduction of the amount of land tax payable; or
- between 5% and 50% and the Commissioner has formed the opinion that the resident's interest was created to reduce the amount of land tax payable.

Can the exemption apply for previous financial years?

Where criteria is satisfied for previous financial years, a principal place of residence exemption may be backdated up to a maximum of 5 years. A refund may be available as a result of a reassessment.

Eligibility for a full principal place of residence exemption

In order to be eligible for a full exemption, the following criteria must be met:

1. The land must be owned by a natural person and be their principal place of residence (that is, their home). Where a property is owned by 2 or more people, only one natural person is required to meet this condition

Also see the **what if only one owner lives in the home** section.

A principal place of residence is where the property:

- is the primary residence of the natural person owner(s);
- is the natural person owner(s)'s usual abode; (that is, where they eat and sleep); and
- is occupied on an ongoing basis and occupation is not merely transitory or an intention to occupy.

For the purpose of this condition, the term 'owner' can also include:

- a shareholder in a home unit company;
- the holder of a life interest (not being a lessee);
- a trustee, beneficiary or unitholder of land held on trust;
- a beneficial owner entitled to ownership of the land under the laws of intestacy (where the registered proprietor is deceased, probate or letters of administration have been granted and the estate is yet to be administered);
- a person deemed the beneficial owner where the laws of intestacy apply (that is, where the registered proprietor is deceased, probate or letters of administration have been granted and the estate is yet to be administered); or
- where the owner is deceased, the executors of the deceased person's will.

The term **owner** does not include the directors of a company which owns the land.

2. The buildings on the land must have a predominantly residential character; and

Note: Residential character of the building is determined by its design and use. Caravans and tents are not regarded as buildings for the purpose of these criteria.

3. At least 75% of the total floor area of all buildings (including sheds and garages) on the land are used for residential purposes as the owner's principal place of residence.

Eligibility for a *partial* principal place of residence exemption

A partial exemption from land tax may apply where between 25% and 75% of the total floor area of all buildings (including sheds and garages) on the land are used for

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a business or commercial purpose (other than the business of primary production). In order for the exemption to apply, the first 2 criteria for the full exemption must still be met.

Where a partial exemption may apply, the following scale applies:

Area used for business or commercial purposes expressed as a percentage of the total floor area of all buildings on the land	Percentage reduction in taxable value of land
More than 75%	nil (no exemption)
75%	25%
70% or more but less than 75%	30%
65% or more but less than 70%	35%
60% or more but less than 65%	40%
55% or more but less than 60%	45%
50% or more but less than 55%	50%
45% or more but less than 50%	55%
40% or more but less than 45%	60%
35% or more but less than 40%	65%
30% or more but less than 35%	70%
25% or more but less than 30%	75%
less than 25%	100% (full exemption)

Motels, hotels, serviced apartments and other similar accommodation

This exemption, or partial exemption, extends to motels, hotels, serviced apartments and other similar accommodation. The area used for the hotel, motel, set of serviced holiday apartments or other similar accommodation will be taken to be the area used for a business or commercial purpose.

2021-22 Guide to Legislation: Land Tax**Land tax relief where the owner moves into the property during the financial year**

Where the land becomes the owner's principal place of residence during the financial year, a refund or waiver may be granted in any of the following circumstances:

- where a natural person owns land at 30 June which becomes their principal place of residence (PPR) during the financial year and they sell any other land they had received a principal place of residence exemption on in the financial year, a waiver of land tax payable may be granted. To be eligible, they cannot receive any rent for either home in that same financial year.
- where a natural person owns 2 parcels of land as at midnight 30 June because they have:
 - bought a new home and are in the process of selling their previous home or have recently sold their previous home;
 - and
 - one of the properties is their current principal place of residence (and eligible for exemption); and
 - the other is either the intended (but not yet occupied) principal place of residence or their previous principal place of residence, and would otherwise be liable for land tax

a waiver of the land tax payable will be made available on both parcels of land, provided no rental income is received from either property (when not occupied by applicant) during the period that the homes are owned concurrently and that the former residence is sold prior to the end of the financial year in which the exemption is sought; or

- where a natural person buys land as their principal place of residence, which was a taxable parcel of land when owned by the vendor, and the land tax on the land is apportioned (usually by a conveyancer or similar) between the buyer and vendor at settlement, a refund of the land tax paid by the purchaser is available.

See the **refunds of overpaid tax** section
for additional information relating to any applicable refund.

If an owner has recently completed building their home and are applying for one of the waivers described above, RevenueSA requires a builder's Schedule 19A or Certificate of Practical Completion.

Where a principal place of residence has been destroyed or rendered uninhabitable

Land may be exempted from land tax if the Commissioner is satisfied:

- that the person has ceased to occupy any building on the land of a predominantly residential character because it has been destroyed or rendered uninhabitable by an event which the person is not responsible for (whether directly or indirectly) or which resulted from an accident;

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- that the building was the person's principal place of residence immediately before the date the building was destroyed or rendered uninhabitable;
- that the person intends to repair or rebuild the building within 3 years from the date the building was destroyed or rendered uninhabitable;
- that the buildings on the land will have a predominantly residential character after completion;
- that the person intends to occupy the land as their principal place of residence after the completion of the building work; and
- the person is not receiving an exemption from land tax on other land under the principal place of residence provisions.

The land will be exempted from land tax for a period of up to 3 financial years. The land will become taxable following the exemption period if construction has not been completed.

See the **land tax exemptions, waiver or relief (where your residential home has been destroyed or rendered uninhabitable)** page on revenuesa.sa.gov.au for more information.

Where a principal place of residence is not occupied due to renovations or a rebuild

Where a person no longer lives at their principal place of residence because they are renovating or rebuilding the property, the person can elect to maintain the exemption from land tax for up to 2 financial years:

- where the person owns only their principal place of residence and they rent another property or stay with friends/relatives during the renovation/rebuild, the exemption can be extended for up to 2 financial years even though the person does not live in the principal place of residence; or
- where the person owns and lives in another parcel of land during the renovation/rebuild they can elect which parcel of land will receive the exemption (the property being renovated/rebuilt or the property they live in during the renovation/rebuild) for up to 2 financial years.

The 2 year timeframe for land being renovated/ rebuilt is only available when:

- the building(s) being renovated/rebuilt will have a predominantly residential character on completion;
- the person lives in the renovated house for at least 12 months following completion;
- no rental income or other consideration is received from the property that is renovated/rebuilt during the 2 year period or the 12 months following completion of the rebuild/renovation;

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- the application for relief must be received within 5 years from the date the person moved out of their principal place of residence; and
- the person will only be entitled to one principal place of residence exemption at any one time. The exemption can only be granted on land owned by the person who lives in, or intends to live in, the property.

See the **land tax exemptions, waiver or relief (where you are renovating or rebuilding your residential home)** page on revenuesa.sa.gov.au for more information.

Purchasing land that will become a principal place of residence

The exemption may also include where a person purchases a principal place of residence (being their only property) and renovates or rebuilds prior to moving in.

The person may be granted an exemption for up to 2 financial years if:

- they own the land;
- they live in the renovated/rebuilt house for at least 12 months following completion;
- the building(s) being renovated/rebuilt will have a predominantly residential character on completion;
- no rental income or other consideration is received from the intended principal place of residence during the 2 year period or the 12 month period following completion of the rebuild/renovation; and
- the application for relief is received within 5 years from the date the person purchased the land.

Commissioner's Discretion

RevenueSA recognises that obstacles to completing renovations or rebuilds within the 2 year timeframe may occur. Accordingly, the Commissioner has the discretion to extend the timeframes. The discretion will only be used where the longer timeframe for the rebuild/renovation arises from exceptional circumstances outside the control of the taxpayer.

Applications for an extension must be made in writing to RevenueSA.

See the **land tax exemptions, waiver or relief (where you are renovating or rebuilding your residential home)** page on revenuesa.sa.gov.au for more information.

Application for exemption

The owner of land may apply for an exemption or partial exemption from land tax through RevenueSA for:

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- an exemption from land tax on their principal place of residence (their home);
- an exemption from land tax while renovating or rebuilding their principal place of residence, or where their principal place of residence has been destroyed or is uninhabitable; or
- a refund along with their principal place of residence exemption, if they paid land tax at settlement on land purchased as their principal place of residence.

Please complete an online Application for Land Tax Exemption or Relief including any supporting documentation.

Application for Land Tax Exemption or Relief
is available on revenuesa.sa.gov.au.

Exemptions: Section 5 exemptions

Retirement villages occupied by residents as their principal place of residence

Land held within a retirement village may be exempted from land tax if the land constitutes a residential unit and is:

- occupied at midnight on 30 June, under a residence contract, by a natural person as their principal place of residence; or
- available for occupation, under a residence contract, by a natural person as their principal place of residence and likely to be so occupied at some time during the 12 months following 30 June.

Land that is a facility provided under the retirement village scheme for the exclusive use of residents (and their guests) may also fall within the exemption entitlement.

Enquiries may be made to RevenueSA regarding qualifications for entitlement and the method of making an application for exemption.

Caravan parks

Land may be wholly exempted from land tax if the land constitutes a caravan park.

Residential parks

Retired persons' relocatable home parks are eligible for exemption where the relevant land is used for the purpose of establishing 2 or more relocatable homes, occupied by lease or licence, predominantly by persons who are over the age of 55 years who have retired from full-time employment.

A particular site within a residential park will be exempt in circumstances where there is a relocatable home on the site owned by a natural person and occupied by that person as their principal place of residence.

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An exemption will also apply if it is likely that, within the coming 12 months, there will be a relocatable home on the site owned by a natural person and occupied by the natural person as their principal place of residence.

See the **land tax exemptions, waiver or relief (where land is used for a retired person's relocatable home park)** page on revenuesa.sa.gov.au for more information.

Supported residential facilities

An exemption applies to land used for Supported Residential Facilities that are licensed under the *Supported Residential Facilities Act 1992*.

See the **land tax exemptions, waiver or relief (where land is used for supported residential facilities and aged care facilities)** page on revenuesa.sa.gov.au for more information.

Aged care

Land may be wholly exempted from land tax if the whole of the land is used for the provision of residential care by an approved provider.

Land may be partially exempted from land tax if part of the land is used for the provision of residential care by an approved provider. This is done by reducing its taxable value by an amount equal to the value of that part of the land after applying any principle determined by the Commissioner.

"approved provider" and "residential care" have the same meaning as in the *Aged Care Act 1997* of the Commonwealth.

Application for exemption

Please complete an online Application for Land Tax Exemption or Relief including any supporting documentation.

Application for Land Tax Exemption or Relief
is available on revenuesa.sa.gov.au.

Exemptions: Special Disability Trusts

An exemption may apply to land owned by a trustee of a Special Disability Trust where the land constitutes the principal place of residence of the primary beneficiary of the trust. A waiver or refund of land tax paid by the trustee of the Special Disability Trust on the land at settlement may also be available.

Application for exemption

Please complete a Special Disability Trust exemption application including any supporting documentation.

Special Disability Trust exemption application
is available on revenuesa.sa.gov.au.

See **Information Circular 79** available on revenuesa.sa.gov.au for more information.

Exemptions: Land used for primary production

An exemption from land tax may be granted where the Commissioner is satisfied that land is used for the business of primary production.

Conditions which must be satisfied for exemption to apply

The criteria used in assessing a primary production exemption vary depending on whether or not the land is situated in the defined rural area of the State.

The **defined rural area** consists predominantly of the greater metropolitan areas of Adelaide and Mount Gambier. Metropolitan Adelaide covers an area approximately from Willunga, south of Adelaide, to Gawler, north of Adelaide, and from the coastline in the west to the inner Mt Lofty Ranges in the east.

Metropolitan Mount Gambier covers the majority of the City of Mount Gambier council area.

Please contact RevenueSA on (08) 8226 3750 and select option 2 if you are unsure whether your property lies inside or outside of the defined rural area.

The following general conditions apply regardless of where the land is situated:

- the land must be 0.8 hectare or greater in area; and
- the Commissioner must be satisfied that the land is used wholly or mainly for the business of primary production.

For the purpose of these criteria, these definitions apply:

“business of primary production”

means the business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming, forestry or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic

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organisms and including the intensive agistment of declared livestock.

“declared livestock”

means cattle, sheep, pigs or poultry.

Land outside the defined rural area, that is, land outside metropolitan areas

Only the general conditions above need to be satisfied in order to gain a primary production exemption from land tax where the land is situated outside the defined rural area.

Where the Valuer-General has applied an eligible land use code to the land, and that land satisfies these general conditions, an automatic exemption from land tax will be applied.

Land inside the defined rural area, that is, land inside metropolitan areas

In addition to the general conditions above, any one of the following additional conditions must be met in order to gain a primary production exemption from land tax for land within the defined rural area:

- The sole owner is a natural person who is engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business.
- The land is owned jointly or in common by 2 or more natural persons at least one of whom is engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business and any other owner who is not engaged is a relative of an owner engaged.
- The land is owned solely, jointly or in common by a retired person and the following conditions are satisfied:
 - the retired person was, prior to their retirement, engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business;
 - the co-owner or co-owners of the land (if any) are relatives of the retired person; and
 - a close relative of the retired person is currently engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business.
- The land is owned solely or by tenancy in common by the executor of the will, or the administrator of the estate, of a deceased person and the following conditions are satisfied:
 - the deceased person was, prior to their death, engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business;
 - the co-owner or co-owners of the land (if any) are relatives of the deceased person; and

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- a close relative of the deceased person is currently engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business.
- The land is owned by a company, or by 2 or more companies, or by a company or companies and one or more natural persons, and the main business of each owner is a relevant business.
- The land is owned by a company and one of the following conditions is satisfied:
 - a natural person owns a majority of the issued shares of the company and is engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business;
 - 2 or more natural persons own in aggregate a majority of the issued shares of the company and each of them is engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business; or
 - 2 or more natural persons who are relatives own in aggregate a majority of the issued shares of the company and at least one of them is engaged on a substantially full-time basis (either on their own behalf or as an employee) in a relevant business.

For the purpose of these criteria, these definitions apply:

“relevant business”

a business is a relevant business in relation to land used for primary production if:

- the business is a business of primary production of the type for which the land is used or a business of processing or marketing primary produce; and
- the land or produce of the land is used to a significant extent for the purpose of that business.

“close relative”

a person is a close relative of another if:

- a) they are spouses or domestic partners; or
- b) one is a parent or child of the other; or
- c) one is a brother or sister of the other.

“relative”

a person is a relative of another if:

- a) they are spouses or domestic partners; or
- b) one is an ascendant or descendant of the other, or of the other’s spouse; or
- c) one is a brother or sister of the other or a brother or sister of the other’s spouse; or
- d) one is an ascendant or descendant of a brother or sister of the other or of the other’s spouse.

“domestic partners”

a person is the domestic partner of a person if he or she lives with the person in a close personal relationship as a couple.

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“close personal relationship”

means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include:

- a) the relationship between a legally married couple; or
 - b) a relation where one of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind.
-

See the **land tax exemptions, waiver or relief (where you use the land for primary production)** page on revenuesa.sa.gov.au for more information.

Application for exemption

Please complete an online Application for Land Tax Exemption or Relief form including any supporting documentation.

Application for Land Tax Exemption or Relief
is available on revenuesa.sa.gov.au.

Exemptions: Section 4 exemptions

Public land

Land of the Crown is exempt from land tax unless the Crown instrumentality is a Public Corporation and is required to pay land tax pursuant to the *Public Corporations Act 1993*, its own enabling legislation or by ministerial direction.

Parkland, public roads, public cemeteries, and other public reserves are also exempt.

An exemption is available in respect of any land owned by either a council, a controlling authority (established under Part 19 of the *Local Government Act 1934*) or the Renmark Irrigation Trust.

An exemption is also available where the land is used solely for the purposes of a hospital, which is subsidised by the State Government, or used by any library or other institution, which is administered by the Libraries Board of South Australia.

Charitable, educational, benevolent, religious or philanthropic associations

Land owned by an association established for a charitable, educational, benevolent, religious or philanthropic purpose may be exempt. The association will need to prove that it is established for one of these purposes. This can be demonstrated in the objects outlined in the Association’s rules.

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Where land is owned on behalf of a trust, it is the trust - not the owner of the land - which must be established for a charitable, educational, benevolent, religious or philanthropic purpose.

In addition, an exemption will be provided where land owned or occupied by an association is providing various forms of assistance that is needed by necessitous or helpless persons. The land must be used mainly or solely for the purpose of supplying this assistance. If the association does not own the land, it must be occupying the land either rent-free or be paying a rental sum (monetary or otherwise) that is considerably lower than market value. Also, those people receiving the assistance must be provided that assistance at either no cost or at a cost (monetary or otherwise) which (in the opinion of the Commissioner) is substantially less than the value of the assistance.

An exemption will also apply if the land is used solely or mainly as an educational institution. The land must be owned or occupied by a person or association. If the person or association does not own the land, they must be occupying it rent-free. If the land is held by a landlord as an investment, an exemption cannot apply. The educational institution must be run on a not-for-profit basis.

Where a property is used wholly for a religious purpose, an exemption may apply.

Sporting or racing associations

Non-residential land and non-vacant land is exempt from land tax if held by an association established for:

- sporting purposes, including the playing of cricket, football, tennis, golf or bowling or other athletic sports or exercises, or the creation of a club for the purposes of playing those sports; or
- racing purposes, including horse racing, trotting, dog racing, motor racing or other similar contests, or the creation of a club for the purposes of racing.

All land owned by an association, that is held wholly or mainly for a sporting purpose or for a racing purpose is also exempt.

In order to receive the exemption, the association's rules/constitution must restrict the use of the income to the furtherance of the objects of the association and must not be used for securing a pecuniary profits for the association.

Land held by a sporting or racing association that constitutes residential or vacant land is subject to land tax.

Ex-servicemen (and dependants) associations

Land owned by an ex-servicemen (and dependants) associations may be exempt from land tax if:

- the land is used for the social or recreational purposes of the association members; and
- the association is made up of either former members of the armed forces or their dependants, the common example of which would be any Returned Services League (RSL) club.

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In order to receive the exemption, the association's rules/constitution must restrict the use of income to the furtherance of the objects of the association and must not be used for securing a pecuniary profit for the association.

Employer or employee industrial associations

Land owned by employer or employee industrial associations may be exempt from land tax if:

- the association's members are employers or employees, usually relating to a particular industry;
- the association is registered under a Commonwealth or State law relating to industrial conciliation or arbitration; and
- the land is used for the purpose of the association.

In order to receive the exemption, the association's rules/constitution must restrict the use of income to the furtherance of the objects of the association and must not be used for securing a pecuniary profit for the association.

Community recreation

An exemption applies to land owned by an association where the objects of the association provide that the land is for the recreation of the local community. The term 'local community' refers to the residents of a specified geographical locality, that is, in the general vicinity of the land.

In order to receive the exemption, the association's rules/constitution must restrict the use of income to the furtherance of the objects of the association and must not be used for securing a pecuniary profit for the association.

Agricultural show grounds and exhibition venues

An exemption applies to land owned by an association where the land is used for the purpose of hosting agricultural shows and other similar exhibitions.

In order to receive the exemption, the association's rules/constitution must restrict the use of income to the furtherance of the objects of the association and must not be used for securing a pecuniary profit for the association.

Land used for conservation of native fauna and flora

An exemption applies to land owned by an association whose objects include the conservation of native flora or fauna. The land has to be used solely or mainly as a reserve for the conservation of native flora or fauna.

Heritage agreement for native vegetation

An exemption applies to land that is subject to a heritage agreement under the *Native Vegetation Act 1991* that is noted against the relevant instrument of title, or against

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the land, in accordance with Section 23B(3) of the *Native Vegetation Act 1991* will also be eligible for a land tax exemption.

Preservation of historical buildings or objects

An exemption applies to land owned by an association where the objects of the association is to hold the land for the purposes of preserving buildings or objects of historical value on the land.

In order to receive the exemption, the association's rules/constitution must restrict the use of income to the furtherance of the objects of the association and must not be used for securing a pecuniary profit for the association.

An association of a prescribed kind

An association is of a prescribed kind if it holds land wholly or mainly for the purpose of providing services or support to the community, or a sector of the community, in relation to literature, science, language, the arts, the preservation of historical, traditional or cultural heritage, or for a similar purpose.

In order to receive the exemption, the association's rules/constitution must restrict the use of income to the furtherance of the objects of the association and must not be used for securing a pecuniary profit for the association.

See the **land tax exemptions, waiver or relief (where you are an association or not-for-profit organisation)** page on revenuesa.sa.gov.au for more information.

Application for exemption

Please complete an online Application for Land Tax Exemption or Relief including any supporting documentation.

Application for Land Tax Exemption or Relief
is available on revenuesa.sa.gov.au.

Ex gratia relief

Ex gratia relief from land tax can be granted in certain circumstances not covered by the legislation.

Off-the-plan apartments - Contracts entered into between 22 June 2017 and 30 June 2018

If an owner entered into a contract to purchase an apartment between 22 June 2017 and 30 June 2018, which was eligible for a stamp duty off-the-plan concession upon transfer of the land to them, and such concession was granted, they are eligible for *ex gratia* relief from land tax for up to 5 years from the date of settlement.

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This relief will cease for the following financial year if the apartment is sold before the end of the 5 year period of the concession is revoked.

The relief does not extend to foreign purchasers.

See the **land tax exemptions, waiver or relief (where you have purchased an off-the-plan apartment)** page on revenuesa.sa.gov.au for more information.

Application for relief

This relief was applied automatically for the first 5 years of ownership based on the stamp duty off-the-plan concession. No application is needed.

Residential care

Ex gratia relief is currently available, subject to conditions, for the first financial year where the owner of the land has moved, on an ongoing basis, into residential care provided by an approved provider.

See the **land tax exemptions, waiver or relief (where the home owner has moved into residential care)** page on revenuesa.sa.gov.au for more information.

See **Revenue Ruling LT003** available on revenuesa.sa.gov.au for more detailed information of *ex gratia* relief upon moving into residential care.

Application for relief

Please complete an online Application for Land Tax Exemption or Relief including any supporting documentation.

Application for Land Tax Exemption or Relief
is available on revenuesa.sa.gov.au.

Death of owner

Ex gratia relief is currently available, subject to conditions, for the first financial year following the death of the owner of the land.

See the **land tax exemptions, waiver or relief (where the home owner has died)** page on revenuesa.sa.gov.au for more information.

See **Revenue Ruling LT003** available on revenuesa.sa.gov.au for more detailed information of *ex gratia* relief following the death of the owner.

2021-22 Guide to Legislation: Land Tax**Application for relief**

Please complete an online Application for Land Tax Exemption or Relief including any supporting documentation.

Application for Land Tax Exemption or Relief
is available on revenuesa.sa.gov.au.

Land tax transitional fund

Taxpayers who have an increase on their land tax assessment as a result of the changes to aggregation of land owned at 16 October 2019, may be eligible to receive *ex gratia* relief.

Relief will not be provided on higher trust rates for land held on trust.

The value of relief will be calculated on the difference between land tax payable, compared to the land tax that would have been payable on the relevant properties under the aggregation approach, tax rates and thresholds that applied in 2019-20.

To be eligible for relief, the increase in the land tax assessment must be above \$2,500, but below \$102,500. Relief will not be provided on the first \$2,500 of land tax. Relief available is shown in the table below.

Financial year	Minimum increase	Maximum increase	Relief amount
2020-21	\$2,500	\$102,500	100% of increase above \$2,500 to a maximum of \$100,000
2021-22	\$2,500	\$102,500	70% of increase above \$2,500 to a maximum of \$30,000
2022-23	\$2,500	\$102,500	15% of increase above \$2,500 to a maximum of \$15,000

Where the land tax increase is above the maximum level of relief applicable, the taxpayer is not eligible for any relief.

RevenueSA must receive applications for relief by 31 March in the relevant financial year (for example, an application for the 2021-22 financial year must be received by 31 March 2022).

Applications for the 2020-21 financial year have been extended to 31 December 2021.

Affordable housing concession

Developers who are using land to develop affordable housing, where the land has been aggregated with other land they own, may be eligible for *ex gratia* relief.

The relief will be equivalent to the difference between their actual tax liability and the tax they would be liable for if each affordable housing parcel was taxed separately and not aggregated with their other land.

Relief is limited to a 12 month period and is conditional on developers entering into a Land Management Agreement, or similar, with the SA Housing Authority. The developer must agree to meet any affordable housing requirements as part of the scheme.

Affordable community housing land tax exemption pilot

Property owners who rent their property through a registered community housing provider for affordable community housing purposes may be eligible for *ex gratia* relief.

This scheme is limited for a pilot period of up to 5 years for up to 100 properties.

The property owner must enter, and maintain, a new agreement with a registered community housing provider to make their property available to low-income tenants. The property must be rented to tenants unrelated to the owner at a rate below 75% of the current market rent.

The relief does not apply if the property is not rented within 3 months of the date the property is made available under the agreement, or if rented, stops being rented for longer than 3 months under the agreement.

See the **affordable community housing land tax exemption pilot** page on revenuesa.sa.gov.au for more information.

Obligations of owners of exempted land

An owner of land has responsibilities in relation to any benefit they receive in the form of an exemption or partial exemption from land tax, as follows:

- the owner must not make a false or misleading statement in an application;
- the owner must notify the Commissioner if a notice of exemption is inaccurate within 21 days of receiving the notice; and
- the owner must notify the Commissioner where the grounds for exemption have ceased to exist, or continue to exist but to a lesser standard than granted, as a result of a change of circumstances (for example, owner moves residence, business or commercial use increases).

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Where an owner of land does not comply with these requirements, an expiation fee or prosecution for an offence may apply and the Commissioner may revoke the exemption, resulting in a further land tax liability which may include interest and penalty tax.

Refunds of overpaid tax

Where the owner or purchaser of land has paid land tax in relation to the financial year for which the exemption is sought, they may be eligible for a refund as follows:

- Where the taxpayer owned land as at midnight on 30 June immediately for the financial year the exemption is granted, the refund will be the amount the taxpayer's assessment would have been reduced by if the land were exempt or partially exempt from land tax.

The amount of refund does not alter irrespective of whether the taxpayer commenced occupation before or during that financial year.

Land may be partially exempt if the land is the owner's principal place of residence and is used partially for a business or commercial purpose.

See the **eligibility for partial principal place of residence exemption** section for more information.

- Where refund of land tax is sought by a purchaser of land (where the land is acquired during the financial year for the purpose of being the owner's principal place of residence), the amount to be refunded will be the lesser of either:
 - the amount paid to the vendor by the purchaser as an adjustment of land tax, or
 - a proportion of the land tax that would be payable on the land if the purchaser had owned only that land, taking into account the number of days out of 365 (366 for a leap year) they have owned the land.

If the land is used partially for a business or commercial purpose, the amount of refund will also take into consideration the proportion of the floor area of all buildings on the land used for this non-residential purpose. RevenueSA can provide further information if applicable.

Frequency of Land Tax Assessment and payment of land tax

Land Tax Assessments are usually issued between October and November of the financial year for which the tax is levied.

Taxpayers can elect to have their Land Tax Assessment and correspondence issued by email.

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Update your billing details on revenuesa.sa.gov.au.

The taxpayer also may elect to pay their land tax liability by quarterly instalments or in full, by the date that the first quarterly payment is due. Once taxpayers have elected to pay by quarterly instalments, they still have the option of paying the full remaining liability when issued with any subsequent quarterly instalment advice.

Land owners who take up the instalment option will receive further notices to pay the relevant quarterly instalment approximately 30 days prior to the due date of that instalment.

The first **Land Tax Assessment** for payment describes the land being taxed in terms of its ownership, description, site valuation and proportionate liability.

What does 'ANR' or 'ORS' mean?

Where there are multiple owners, the Land Tax Assessment will be generally addressed to the first owner listed on the Certificate of Title and 'ANR' or 'ORS', for example M E OWNER & ANR.

All other registered owners will be noted on the Land Tax Assessment as either **ANR** ('another person' - where there is one additional owner) or **ORS** ('other persons' - where there are 2 or more additional owners).

If you would like to change the name that appears on the Land Tax Assessment to one of the other registered owners, please contact RevenueSA.

Land held on trust

Where land is wholly owned on behalf of a trust by one trustee, RevenueSA will issue a **Land Tax Assessment** to the **Trustee & ANR**. This does not mean there is more than one owner, but is a system requirement that lists the trust as the additional owner (ANR).

Why have I received 2 Land Tax Assessments with the same property listed?

From the 2020-21 financial year, changes have been introduced to the way properties are assessed and shown where owners own land in multiple ownership structures (that is, with different sets of owners). This means relevant land will appear on 2 or more Land Tax Assessments.

See **for taxpayers who own land in multiple ownership structures** section for more information.

Methods of payment

Refer to page 2 of your Land Tax Assessment for payment options.

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Payment can be made in full as per the Total Amount Due on your Land Tax Assessment or by quarterly instalments.

Payment options include:

- BPAY (telephone or Internet)
- payment in person at any outlet of the organisations listed on page 2 of the **Land Tax Assessment**
- payment by credit card:
 - online at revenuesa.sa.gov.au/payments; or
 - telephone via an Interactive Voice Response System on 1300 669 344

Note: credit card limits apply

- payment by mail
 - return the *Payment Remittance Advice* with your cheque or money order made payable to the Commissioner of State Taxation to Locked Bag 555, Adelaide SA 5001

Interest and penalty tax for late payments

A default in the payment of land tax, that is, payment not made by the due date or payment of only a portion of the amount due, will result in the full annual amount, including arrears outstanding, becoming immediately due and payable.

This includes a default in the payment of any of the 4 instalments, for example, if the second instalment is not paid by its due date, or only a portion of the second instalment is paid, this will result in the second, third and fourth instalment becoming immediately due and payable.

Property owners in default will be issued a Final Notice Reassessment for the full amount, including arrears outstanding, which will include any interest and penalty tax payable on the amount outstanding.

Interest and penalty tax may also apply for providing false, misleading or incomplete information or failing to provide required information (for example, failure to provide advice that the grounds of an exemption have ceased to exist or changed).

Please refer to **Revenue Ruling TAA001** available on revenuesa.sa.gov.au for further information on the application of interest and penalty tax.

Objections

Objection to Commissioner's assessment or decision

If you are dissatisfied with an assessment, or a reviewable decision of the Commissioner, please contact RevenueSA on the telephone number that appears on the **Land Tax Assessment** in the first instance.

If you wish to dispute your Land Tax Assessment, or a reviewable decision of the Commissioner, you may lodge a written objection within 60 days of the date of the assessment or reviewable decision with:

The Treasurer
GPO Box 2264
ADELAIDE SA 5001

The grounds of the objection must be stated fully and in detail in the notice of objection.

Unsuccessful objections to a tax assessment may be appealed to the Supreme Court within 60 days of the Minister's determination of the objection, or if the objection has not been determined, within 90 days of its lodgement.

Objection to valuations

An objection to a valuation must be made in writing within 60 days after the date the first Notice of Land Tax Assessment is served, provided an objection has not already been submitted based on the service of another notice detailing the valuation, and contain a full and detailed statement of the grounds on which the objection is based. Valuation objections should not be directed RevenueSA but rather to:

- Post:** Office of the Valuer-General
GPO Box 1354
ADELAIDE SA 5001
- Email:** OVGObjections@sa.gov.au
- Online:** sa.gov.au/topics/planning-and-property/owning-a-property/objecting-to-a-property-valuation
- Phone:** 1300 653 346

Each year property owners receive various notices from government agencies showing their property's site or capital valuation as determined by the Valuer-General. You are entitled to object to the valuation within 60 days of receiving the first such notice.

Upon receiving the first notice from a different agency you are still entitled to object to the valuation within 60 days of that notice provided you have not already objected to the same valuation under a different notice in that particular year.

Payment of land tax pending an objection

If an owner lodges an objection, they must still make payment of the owed amount by the due date. Overdue tax may be recovered as if no objection were pending, including interest and penalty tax accruing.

Payment of land tax pending an appeal

An appeal cannot be exercised against the decision of the Commissioner or by the Minister on the objection unless 50% of the tax assessed (not including interest or penalty tax) which relates to the appeal has been paid.

Buying or selling property

Your rights and obligations in respect of land tax

Certificates of land tax payable

General information

Under the provisions of the *Land and Business (Sale and Conveyancing) Act 1994*, a **Certificate of Land Tax Payable** ("Certificate") may be obtained from RevenueSA showing the amount of land tax (if any) that will be payable in relation to the financial year in which it is requested (including any arrears).

The issuing of a Certificate is subject to payment of a prescribed administration fee. **The fee prescribed for 2021-22 is \$36.50.**

Where settlements are occurring in the next financial year, the applicant should ask that the Certificate be issued after 30 June to include any liability for the next financial year.

If the land subject to the Certificate request is only part of the land (that is, the land has been subdivided), the Certificate will relate to the whole of that land prior to the subdivision.

Where the Commissioner is unable to calculate the exact amount of land tax payable, an estimate may be provided.

It is an industry-based convention for a real estate contract to provide for land tax to be apportioned (based on a single holding basis) between the purchaser and vendor of land. Single holding basis means that the land tax is calculated as if it were the

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only land owned by the vendor. This practice is adopted to ensure that the purchaser of land is not disadvantaged as a result of a vendor's wider land holdings (if any).

In purchasing a Certificate, it should be ensured that the factual basis of any exemption (upon which the Certificate may be based), is correct.

This process is usually undertaken by the conveyancer pursuant to the standard real estate contract signed by the vendor and the purchaser and is not the responsibility of RevenueSA.

RevenueSA issues a Land Tax Assessment for the full financial year to the owner of the land as at midnight on 30 June immediately before the applicable financial year.

Requesting certificates

Certificates may be ordered either individually from RevenueSA, or as part of a **Property Interest Report** from the Land Services SA.

A **Property Interest Report**, issued pursuant to Section 7 of the *Land and Business (Sale and Conveyancing) Act 1994*, lists any interest the South Australian Government, or one of its agencies, may have in land.

Individual Certificates - RevenueSA

Land Tax Certificates may be requested **online** by registered users of RevenueSA Online, an Internet-based system that allows an easy, flexible and more effective way for conveyancers to do business with RevenueSA.

A Certificate requested via RevenueSA Online is normally issued immediately and may be printed by the user.

Further information is available on the RevenueSA Online website at revenuesaonline.sa.gov.au.

Certificates may also be requested from RevenueSA.

RevenueSA will endeavour to provide a Certificate within 24 hours of the request.

Property Interest Report - Lands Services SA

A Property Interest Report may be obtained **online** by registered users of Property Assist, an internet-based system that allows an easy, flexible and more effective way for conveyancers to do business with the Land Services SA.

Further information is available on the RevenueSA Online website at revenuesaonline.sa.gov.au.

A Property Interest Report may also be requested **over the counter** from the Land Services SA at:

Level 9, 101 Grenfell Street
ADELAIDE SA 5000

Requesting updates of certificates

Certificate updates may be requested via RevenueSA Online (whether ordered individually or as part of a Property Interest Report) or direct from RevenueSA. Where the Certificate is still current, there is no charge for this service.

Payment of outstanding liability shown on a Certificate

Payments of outstanding land tax liability stated in a Certificate may be submitted by various means, as set out below:

Online

Payment may be made online by registered RevenueSA Online users at revenuesaonline.sa.gov.au.

By mail

Payment by cheque or money order made payable to the Commissioner of State Taxation, accompanied by a copy of the Certificate, may be sent to

RevenueSA
Locked Bag 555
ADELAIDE SA 5001

Indemnity offered to purchaser of land

Important note for purchasers

Where the amount of land tax stated in a Certificate is paid within a specified period (currently 90 days after the issue date of the Certificate) or the Certificate indicates that no amount is, or will, be payable, the purchaser (and their successors in title) are released from any liability to land tax that may later arise in relation to any financial year commencing prior to the issue of the Certificate (for example, as a result of an increase in valuation of the land or removal of an exemption).

If such a liability does arise and the purchaser is indemnified as a result of the provision mentioned above, the Commissioner may recover that further tax amount (including interest and penalty tax, if any) from the recognised owner as at the last 30 June prior to the change in ownership (that is, the vendor). However, if the purchaser is not indemnified as a result of the provision mentioned above, the Commissioner may, at their discretion, recover the unpaid tax (including interest and penalty tax, if any) either from the purchaser (or their successors in title) or from the recognised owner (vendor) as at the last 30 June prior to the change in ownership.

Protecting the Commissioner's interest in a land tax liability

To provide notice to prospective purchasers/ transferees of the existence of a land tax debt (which, pursuant to the *Land Tax Act 1936*, constitutes a first charge over

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the land to which the tax relates), the Commissioner may, in certain limited circumstances, effect registration of a permissive caveat over a relevant title or titles.

Caveats registered for this purpose will be removed immediately upon payment of the caveat lodgement and/or caveat withdrawal fees and full discharge of the outstanding land tax debt in respect of the relevant land.

Where such a caveat appears on a title, the purchaser/ transferee or their representative, is encouraged to contact RevenueSA's **Debt Management Services** on **(08) 8226 3116** for further information.

Advising change of ownership

Where a transfer of land has been settled but not registered at the Land Services SA 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.

Generally the lodgement date will be recognised as the date of change of ownership unless relevant evidence, such as the date when the documents were duly stamped and when consideration was paid, can be produced to prove otherwise.

Miscellaneous

Advising change of address

Taxpayers are required to notify RevenueSA of any change in their postal address within one month. Taxpayers failing to do so are liable to a fine of up to \$125.

You can update your details on the **update details** page on revenuesa.sa.gov.au.

Receive notices and correspondence via email

Apply online to receive future notices and correspondence via email.

You can update your details on the **update details** page on revenuesa.sa.gov.au.

Further information

Online versions of state legislation are available at the South Australian legislation website: legislation.sa.gov.au.