

Land Tax 2011 Information Booklet



Office of
State Revenue

Land Tax 2011 Information Booklet

A general guide to land tax

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What is land tax?

Land tax is a tax levied on the owners of land in NSW as at midnight on 31 December of each year. Land tax applies to land regardless of whether or not income is earned from the land. Land includes:

- vacant land, including vacant rural land
- land where a house, residential unit or flat has been built
- holiday homes
- company title units
- residential, commercial or industrial units including car spaces
- commercial properties, including factories, shops and warehouses
- land leased from State or Local government.

Who needs to pay land tax?

An owner with one or more parcels of taxable land (eg strata lots, investment properties, holiday houses, commercial premises, vacant land, company title units, etc), is liable for land tax.

For land tax, an owner is defined as any of the following:

- sole owner
- joint owners
- a company (includes a company in an approved shared equity scheme)
- trustee of any trust
- beneficiary of a trust which is not a special trust
- society or organisation whose land is not exempt from land tax
- unit holders with interests in a unit trust which is entitled to the land tax threshold
- trustees of superannuation funds.

Joint owners are assessed as if they are a single owner. Each joint owner may also be assessed separately on all their interests in land, with their share of each jointly owned parcel of land added to the value of each parcel of land that they own individually. Where tax is paid by the joint owners, each joint owner is entitled to a deduction in their separate assessments to prevent double taxation of the jointly owned land.

A company is assessed in the same way as a sole owner unless it is related to another company.

A related company can be assessed separately or assessed jointly with another company or companies to which it is related. In assessing land tax, each member of the group will be assessed as either a concessional, joint concessional or non-concessional company.

Where the concessional or joint concessional companies' total taxable land value does not exceed the premium rate threshold, but exceeds the general threshold, these companies are assessed at 1.6 per cent of the taxable value above the land tax threshold plus \$100. Each non-concessional company is then assessed at 1.6 per cent of their taxable value as it does not qualify for the threshold.

Where the total taxable land value of the group exceeds the premium rate threshold, the total taxable land value of each non-concessional company is assessed at 2 per cent.

A trustee of a trust is assessed in the same way as a sole owner unless it is a special trust.

Special trusts do not qualify for the general threshold. A special trust is assessed at the rate of 1.6 per cent on the combined taxable value of the land up to the premium land tax threshold (\$2 366 000) and then 2 per cent thereafter.

How is land tax calculated for 2011?

Land tax is calculated on the combined value of all the taxable land you own. The land tax threshold for 2011 is \$387 000. This means your land tax assessment is calculated on the combined value of all the taxable land you own above this threshold. The amount of tax is \$100 plus 1.6 per cent of the land value between the threshold and the premium rate threshold (\$2 366 000) and 2 per cent thereafter.

If the combined value of your land does not exceed the threshold, no land tax is payable.

General example

Basic land tax calculation				
Total taxable value of land	Rate of land tax payable	Example		Land tax payable
\$470 000	1.6 cents for each \$1	Total value of land	\$470 000	\$1 428 (\$1 328 + \$100)
		Threshold	\$387 000	
		Value of land above the land tax threshold	\$83 000	
		Rate of land tax payable	x 1.6% (plus \$100)	

Premium land tax calculation				
Total taxable value of land	Rate of land tax payable	Example		Land tax payable
\$2 759 000	2 cents for each \$1 over the premium threshold	Total value of land	\$2 759 000	\$39 624 (\$7 860 + \$31 664 + \$100)
		Premium threshold	\$2 366 000	
		Value of land above the premium land tax threshold	\$393 000	
	1.6 cents for each \$1 over the land tax threshold	Total value of land under premium threshold	\$2 366 000	
		Threshold	\$387 000	
		Value of land above the threshold	\$1 979 000	
		Rate of land tax payable	(\$393 000 x 2%) plus (\$1 979 000 x 1.6%) (plus \$100)	

Special trusts land tax calculation *				
Total taxable value of land	Rate of land tax payable	Example		Land tax payable
\$470 000	1.6 cents for each \$1	Total value of land	\$470 000	\$7 520
		Threshold	Does not apply	
		Rate of land tax payable	x 1.6%	

Note: A premium land tax marginal rate of 2 per cent applies for special trusts on the total taxable land value above \$2 366 000.

How is the value of your land determined?

The Valuer General values all land in NSW annually and provides these values to the Office of State Revenue (OSR) for land tax purposes. Values are determined as at 1 July, preceding each land tax year.

Average values

For 2007 and subsequent tax years, the value used to determine your land tax liability will generally be the average of the land value for the current tax year and the land values for the previous two years. Where a parcel of land was only recently created (eg by subdivision or amalgamation) the average value will be based only on the land values for those taxing dates when the newly created land item existed.

Strata unit valuations

For strata units, the land value for each individual strata lot is calculated on a proportional basis using the unit entitlement for each lot and the aggregate for the strata scheme.

More information

Landowners can find out more or request a land valuation brochure and a general valuation sales report by calling the Land and Property Management Authority toll free on 1800 110 038.

Read more about land valuations at www.lpma.nsw.gov.au/valuation

Exemptions, concessions and allowances

1 Principal place of residence exemptions

What is the principal place of residence exemption?

You can claim the principal place of residence exemption for land, including a strata lot, that is used and occupied as your principal place of residence (your home). The exemption is not affected by the value or size of the land.

Each family, including dependents under 18 years, can only claim the principal place of residence exemption for one property.

If there is more than one owner for the land, at least one owner must use and occupy the property as their principal place of residence.

Eligibility – To be eligible for this exemption you must:

- have continuously used and occupied the land since 1 July of the year prior to the current land tax year (eg for 2011, you must have occupied the land since 1 July 2010)

Note: If the property is not occupied until after 1 July, the Chief Commissioner may grant an exemption if satisfied that the property was used and occupied as your principal place of residence on the taxing date

- have used the land for residential purposes
Note: if you have used the land for incidental business purposes, eg, if one room is used as a home office or workshop and the business is primarily conducted somewhere else, you can still claim the exemption
- not use any other land that you own as your principal place of residence on the taxing date, 31 December, other than in the circumstances described in the information section on selling your former principal place of residence
- be a natural person, a beneficiary of a concessional trust, a life tenant, or a person with a right to reside under the terms of a will.

Land is not exempt if:

- the land is owned by a company or owned jointly with a company, unless the company is a 'trustee company' under the *Trustee Company Act 1964* or the Public Trustee, or a company acting in its capacity as trustee of a concessional trust
- the owner/s of the land who use and occupy the land as a principal place of residence are an owner only by reason of being a trustee
- the land is owned by a trustee of a special trust
- a member of a family, including dependents under 18, who owns the land has received an exemption for another property as their principal place of residence.

Note: if two or more members of a family continuously use and occupy different properties as their principal residences, the family may choose one of the properties to be the exempt property.

Land intended as your principal place of residence

What is this concession?

If you have purchased property which you intend to use as your principal place of residence (your home), you may be able to claim a concession. To qualify for the concession you must not own another property worldwide which you were using as your home at the taxing date.

If you purchase vacant land or if you purchase a home with the intention of demolishing and rebuilding or renovating, the concession applies for four years immediately following the year in which you acquire the property.

If you have owned a home that has been occupied for residential purposes by another person who was not an owner, but which you intend to occupy after rebuilding or renovating, the concession will apply for the four tax years starting from the time the building or renovations physically commence.

There is no discretion to extend the concession. Prior to the 2011 tax year, the concession applied for two years and could be extended under certain circumstances.

Eligibility – To be eligible for this concession:

- you, your spouse/de facto partner and any dependents aged under 18 who will also occupy the property must not own and occupy another principal place of residence worldwide
 - Note:** if the property is owned jointly, only one person who intends to use the property as their home needs to qualify.
- on completion of building or renovation works you must physically occupy the property for a continuous period of at least six months. If you do not meet this residency requirement, the concession for all years will be revoked
- no income must be gained from the use and occupation of the property since the commencement of building
- the proposed use and occupation of the property as your residence is lawful
- it must not be possible, under local planning laws, to build more than two residences or residential units on the property or by combining it with adjoining land you own.

Selling your former principal place of residence

What is this concession?

If you acquire a new residence but you have not completed the sale of your former residence by 31 December, you may be able to claim a concession for both residences.

Eligibility – This concession will apply if:

- you dispose of the former residence within six months after the relevant taxing date or within such longer period that has been approved by the Chief Commissioner
- you became the owner of the new residence during the six months before the relevant taxing date
- the former residence has not been used or occupied except as your principal place of residence and no income has been gained from the use or occupation of the residence since the preceding 1 July, except:
 - ▶ income derived from a permitted occupancy, or
 - ▶ income derived from a lease or licence entered into by the purchaser under a contract for sale of the former residence for a period prior to completion of the sale.
- once you became the owner of the new residence it has not been used or occupied except:
 - ▶ as your principal place of residence, or
 - ▶ by a tenant under a lease entered into by the previous owner.

You must also use and occupy the new residence as your principal place of residence by the 31 December immediately following the relevant taxing date, or this concession will be revoked.

Residence used for incidental business purposes

What is this concession?

If you have a home office or workshop, you may still claim an exemption for your principal place of residence provided the Chief Commissioner is satisfied that the business is primarily conducted somewhere else other than at your residence.

If you use your home for business purposes and you are not eligible for this concession, you may be eligible for a partial exemption under the concession for land partly used for commercial purposes.

Absence from your former residence

What is this concession?

If you move out of your principal place of residence (your home), and move into another residence that you do not own (for example, if you are posted to another part of NSW, interstate or overseas), you may be able to continue to claim an exemption from land tax. This concession will be allowed for a maximum period of six years. (The concession is only available for a maximum of four years where the land ceases to be capable of being used as a residence (For example where an owner knocks down the existing home to rebuild.)

Eligibility – The concession will apply if:

- you have used and occupied the property as your principal place of residence for a continuous period of at least six months prior to the concession period
- you do not own and occupy another principal place of residence worldwide

- the total period in which you receive income from leasing or licensing the property does not exceed six months in a calendar year. If you lease the property for more than six months in a calendar year, you will have to pay land tax for the next tax year unless you resume occupation by the taxing date
- income is derived from people who occupy the property during your absence, provided the total income is no more than is reasonably required to cover rates, water and electricity charges and similar outgoings (but not mortgage repayments).

If you fail to resume occupation of the home as your principal place of residence following the six-year absence the land will become liable for the next tax year.

Deceased estates

Deceased's principal place of residence

What is this exemption?

If a property was the deceased's principal place of residence it will be exempt from land tax:

- for two years after the date of death, or
- until the land is transferred to any person (other than the deceased person's personal representative or a beneficiary of the deceased person's estate),

whichever occurs first.

Tenancy following the death of the owner

What is this concession?

If the deceased's principal place of residence is still used and occupied as the principal place of residence by:

- a person living in the residence who was given a right to occupy by the will of the owner

or

- a person (other than a tenant) who lived with the owner immediately before their death and who continues to live in the residence with the permission of the deceased person's personal representative (usually the executor of the estate),

that person is considered to be the owner of the land, and land tax is not payable - but only while the person continues to use and occupy the land.

Permitted occupancies

What is this concession?

If you have let out part of your principal place of residence to another person/s and receive income from this, you may still be able to claim a concession.

Eligibility – To qualify for this concession, you can let part of your property, but the area occupied by the tenants and boarders must be limited to no more than one of the following:

- one room, or
- one suite of rooms, or
- one flat, or
- one suite of rooms and one room, or
- one flat and one room, or
- two rooms, each of which is separately occupied.

If you let parts of your property in addition to these listed above, you may be eligible for a partial concession for that part of the property used as your principal place of residence. For further information read the concession for land partly used for commercial purposes.

2 Principal place of residence concessions for mixed-use properties

Land partly used for commercial purposes (where the commercial use includes use of buildings for residential and business purposes)

What is this concession?

If you use your land as your principal place of residence and to conduct business activities, you may be eligible for a reduction in land tax for the proportion of the land used as your principal place of residence. Land tax will only be payable on the proportion used for business.

Note: if you use one room of your home for business purposes, you may not be liable for land tax provided the business is primarily conducted elsewhere. See the information on land used for incidental business purposes for more details.

Eligibility – You can claim the reduction if part of your home meets the principal place of residence eligibility requirements.

Calculating the reduction

The proportion of the land used as your principal place of residence is exempted from land tax. This proportion is calculated in the following way:

- if a mixed development apportionment factor is entered on the Register of Land Values maintained by the Valuer General in respect of that land value, this will be used to calculate the reduced taxable land value
- if there is no apportionment factor then the proportion you specify in your application for a reduction as a 'fair and reasonable' proportion of land value will be used
- if the Chief Commissioner is not satisfied with the proportion you specified as 'fair and reasonable', the Chief Commissioner can also request the Valuer General to determine the apportionment factor which will then be used to calculate the reduced taxable land value
- the Valuer General will determine the apportionment factor based on the rental value of the buildings or parts of the buildings used as your principal place of residence compared to the rental value of the whole of the land.

Land partly used for commercial purposes (where commercial use does not include buildings)

What is this concession?

If you use your land as your principal place of residence and for non-residential purposes (eg as a retail plant nursery business, a horse stud or tennis court hire), you may be eligible for a reduction in land tax for the proportion used as your residence.

Eligibility – You can claim the reduction if part of your home meets the principal place of residence eligibility requirements.

Calculating the reduction

The proportion of the land used as your principal place of residence is exempted from land tax. This proportion is calculated in the following way:

- if a mixed use apportionment factor is entered on the Register of Land Values maintained by the Valuer General in respect of that land value, this will be used to calculate the reduced taxable land value

- if there is no apportionment factor then the proportion you specify in your application for a reduction as a 'fair and reasonable' proportion of land value will be used
- If the Chief Commissioner is not satisfied with the proportion you specified as 'fair and reasonable', the Chief Commissioner can also request the Valuer General to determine the apportionment factor which will then be used to calculate the reduced taxable land value
- The Valuer General will determine the apportionment factor based on the rental value of the buildings used as your principal residence compared to the rental value of the whole of the land.

3 Primary production land exemptions

Land used for primary production

What is this exemption?

You can claim this exemption for land if the dominant use of the land is for primary production purposes. This exemption applies even if you do not use or occupy the land but someone else uses it for primary production purposes.

Eligibility – To qualify for the exemption the land **must** be used for primary production for the purpose of selling the produce of primary production.

If the land is zoned rural, rural residential or non-urban, you can claim the exemption if the dominant use of the land is for primary production, which includes:

- maintaining animals for the purpose of selling them, their natural increase or their bodily produce
- cultivating crops for the purpose of selling the produce
- keeping bees for the purpose of selling the honey
- growing flowers, orchids or mushrooms for the purpose of sale
- commercial fishing and commercial farming of fish and oysters
- commercial plant nursery, but not including a nursery where the principal cultivation is maintaining plants pending their sale to the public.

If the land is not zoned rural, rural residential or non-urban, the land may be exempt if the dominant use of the land is for primary production and the use of the land:

- has a significant commercial purpose or character based on primary production activities, and
- the size or scale of the activities is large enough to be considered a business, not just a hobby, and
- is engaged for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).

4 Other exemptions

- land used and occupied primarily for low cost boarding houses which meet guidelines approved by the Treasurer (including specified maximum tariffs)
- land used for low cost accommodation within a five-kilometre radius of the Sydney GPO
- retirement villages, aged care establishments and nursing homes
- certain land owned by religious societies, charitable or educational institutions, unions and associations which are not-for-profit
- residential parks, including caravan parks (read Revenue ruling 71 for eligibility criteria)
- Aboriginal Land Councils
- land that is the subject of certain conservation agreements
- where land is used for two or more purposes, each of which is exempt

- land used for a child care centre, where the centre is licensed under the *Children (Care and Protection) Act 1987* and where it is used for the provision of a child care service.

Submitting a return for the 2011 land tax year

Submitting a registration form (initial return)

You need to submit a registration form if, as at midnight on 31 December 2010, you are liable for land tax for the first time.

The registration form **must** be submitted to OSR by 31 March 2011, unless you receive a notice of assessment or a letter from OSR beforehand.

You can complete your registration online at www.osr.nsw.gov.au, or contact us by phone during business hours for help on how to register. You can also download and complete a hardcopy registration (initial return) form and return this to us.

If you submitted a registration or initial return during the 2010 calendar year, you do not need to register again.

Submitting a variation return form

After you register, you will be forwarded a notice of assessment in 2011 stating your liability, if any, for land tax. If any of your details (including personal details and details about the land you own) are incorrect, you can change your details using our land tax online service or contact us on 1300 139 816.

This advice should be submitted to us by the first instalment date listed on the notice of assessment, or if it is a 'nil' assessment, within 40 days of the date shown on the notice of assessment.

If the variation will result in a 'nil' land tax liability, do not pay the first instalment. If land tax will still be payable, pay the first instalment as stated. A reassessment will be issued with a revised assessment, with any payments credited and any excess refunded.

Interest for tax defaults

Submitting your registration form after the due date or not submitting a form at all is considered a tax default. Interest is charged for tax defaults and penalties may be imposed as provided for in the *Taxation Administration Act 1996*.

Objections and appeals

What if I disagree with my land tax assessment?

If the details on your land tax assessment are incorrect (eg you are incorrectly listed as a landowner or land is listed that you believe should be exempt) you need to update your details with us. You can do this online, by contacting us or by lodging a variation return form.

If you disagree with an assessment, you may object to the Chief Commissioner of State Revenue within 60 days of the issue date (printed on the top right-hand side of your land tax notice of assessment). Your objection must be in writing and must state:

- your name, postal address and telephone number
- your client ID
- the land tax year that your objection applies to
- your grounds for objection in detail
- any supporting documentation.

We will conduct an independent review of your objection and send a written decision as soon as possible. If you are unhappy with OSR's decision you are entitled to request a review of the decision. The review request must be submitted with either the Administrative Decisions Tribunal or the Supreme Court within 60 days of the date you received OSR's written decision.

Interest is imposed on tax which is not paid on time, even if you have submitted an objection or a request for a review. If your objection or review is successful, we will send you a refund plus any interest due.

Note: OSR cannot process land value objections. You must lodge your objection with the Land and Property Management Authority. See 'What if I disagree with the land value?'

What if I disagree with the land value?

Landowners are entitled to submit an objection with the Land and Property Management Authority within 60 days from the date of issue of a land tax assessment.

Objections must be made using a valuation objection form or by using the Land and Property Management Authority online objection facility at www.lpma.nsw.gov.au/valuation

Landowners can obtain more information on land values or request a valuation objection kit which contains an objection guide, a general valuation sales report for the locality and a valuation objection form from the Land and Property Management Authority by calling toll free on 1800 110 038.

Read more at www.lpma.nsw.gov.au/valuation

Glossary

Principal place of residence

The principal place of residence is the residence primarily used and occupied by a person. A person can only have one principal place of residence at a time.

Special trust

A special trust is a trust where the trustee is the only person who meets the definition of 'owner' for land tax purposes, and the beneficiaries are not considered to be owners. If a trust does not meet one of the following trust definitions, it is a special trust. Examples of special trusts include most family trusts, discretionary trusts, some unit trusts, non-complying superannuation trusts and some trusts created by a will.

Fixed trust

A fixed trust is a trust where the beneficiaries are considered to be owners of the land at the taxing date of midnight on 31 December prior to the tax year. This is because they are presently entitled to the income and capital of the trust and these entitlements cannot be varied by the trustee in any way. Fixed trusts include some unit trusts and bare trusts.

Superannuation trust

A superannuation trust is a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust under Sections 42, 43 and 44 respectively of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. If a superannuation trust is not a complying or pooled trust and is not a fixed trust, it is a special trust.

Trust created by a will

A trust created by a will is entitled to the threshold. However, if the trust is a testamentary discretionary trust, it will become a special trust 12 months after the date of death of the testator, or such further period as approved by the Chief Commissioner.

Family unit trust

A family unit trust is a trust that held land at midnight on 31 December 2005 with a taxable value of \$1 000 000 or less; the unit holders have fixed entitlement to income or capital; and 95 per cent or more of the units were family-owned. Certain criteria must be met to continue to qualify as a family unit trust.

Concessional trust

A concessional trust is a trust where the land in the trust is held for the benefit of a person who is:

- under 18 years of age, or
- subject to a guardianship order under the *Guardianship Act 1987*, or
- in the 'target group' under the *Disability Services Act 1993 (NSW)*.

Charitable trust

A charitable trust includes trusts created for the relief of poverty, advancement of education or religion or for the benefit of the community.

Unit trust

A unit trust may be a fixed trust, a special trust or a family unit trust. To be a fixed trust, certain criteria apply. If these criteria do not apply, the trustee may restructure the trust deed to meet the criteria but the threshold will only apply from the next tax year.

Residential and business units

- Lots in strata plans are classified as land for land tax purposes.
- Company title units: owners of shares in a company whose shares entitle those owners to an exclusive right of occupancy of a unit are deemed to own that unit as if it were a strata lot. The company is not regarded as the owner of the land.
- Car spaces, garages and storerooms in strata plans that have their own unit entitlement are also parcels of land.
- Tenancies in common: Where the ownership of the land entitles each joint owner to an exclusive right of occupancy of a flat, each owner is deemed to own that flat as if it were a strata lot. The owners are not regarded as joint owners of the land.

Related companies

Companies are related companies if:

- a company owns more than half the voting shares in another company, or
- one or more persons own more than half the voting shares in two or more companies, or
- a person(s) and a company in which they are a shareholder together have a controlling shareholding in another company.

MORE INFORMATION



www.osr.nsw.gov.au



1300 139 816*



1300 363 806



GPO Box 4269
Sydney NSW 2001
DX 456 Sydney



Phone enquiries
8.30 am – 5.00 pm, Mon. to Fri.

Counter services
8.30 am – 4.30 pm, Mon. to Fri.

*Interstate clients please call (02) 9689 6200.
Help in community languages is available.

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Payment options

You can pay your land tax in one of two ways:

Option 1 – Up-front payment

If you pay your land tax in full by the first instalment date you are entitled to a 1.5 per cent discount. To receive this discount you must pay all overdue amounts (if any).

Option 2 – Instalment plan

You may pay your land tax in three instalments. If you pay by instalment you will not receive the discount.

Your first instalment payment will include any overdue amounts, interest or penalty tax. If any instalment is not paid by the due date, the whole assessment becomes payable. Interest for late payment is then charged.

Please make sure that we receive your payment by the due date as you may incur interest on late payment or you may lose your discount entitlement.

Difficulty in paying land tax

Those unable to pay land tax by the due date or who believe the payment of land tax may cause financial hardship can contact us by phone to discuss options for payment or deferral of land tax.

Payment methods

	BPAY	When making a BPAY payment, remember to include the Biller code and reference number printed on your remittance slip.	
	Pay by phone	Call 1300 363 291 to pay by phone Credit cards payments are accepted to a maximum \$5000 per instalment. To pay by credit card, you will need the client ID and correspondence ID shown on your land tax assessment or instalment notice. We accept MasterCard and Visa for payment of land tax.	
	Pay online	Make an online credit card payment at www.osr.nsw.gov.au (maximum \$5000). To pay by credit card you will need the client ID and correspondence ID shown on your land tax assessment or instalment notice. Payments exceeding the \$5000 limit will not be accepted.	
	Credit card payments	Credit card payments can only be made by phone or online. Credit card payments are not accepted at any OSR office, Australia Post or for electronic payments.	
	Post your payment	Post to: OSR, GPO Box 530, Sydney NSW 1159. Please make cheques payable to: Chief Commissioner of State Revenue, with your client ID and name written on the back.	
	Australia Post	Pay in person at Australia Post by cash, cheque or EFTPOS. Please write your client ID and name on the back of the cheque.	
	Payments to	BSB no: Account no: Account name:	032 001 205 573 OSR EPS Tax Remitting Account
	Overseas payments	Bank name: Address: SWIFT Code: Account Holder Address:	Westpac Level 2, 255 Elizabeth St Sydney NSW 2000 WPACAU2S 132 Marsden St Parramatta NSW 2150
		BSB, Account no. and Account name:	as listed above