



Office of State Revenue  
NSW TREASURY

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## Revenue Ruling No. LT 11

# Amendment of Assessments

### Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
LT 11	06 May 1988	06 May 1988	31 December 1996	Legislation repealed and inserted into the Taxation Administration Act 1996 with effect from 01 January 1997

### Preamble

Under the provisions of section 16 of the Land Tax Management Act 1956, the Chief Commissioner may, of his own motion or upon receipt of an application from a taxpayer, amend any assessment by making such alterations in or additions thereto as the Chief Commissioner thinks necessary to ensure its completeness and accuracy. This Ruling explains the time limits within which amendments to assessments may be made, the provisions of the Act relating to certain categories of amendments and the consequences of an amendment for the taxpayer.

### Ruling

#### Time Limits within which Assessments may be Amended

- 1 Where an application for amendment is made by a taxpayer within three years after the service of notice of the assessment or any amendment thereof and the taxpayer has supplied to the Chief Commissioner within that period or such further period as the Chief Commissioner may allow all information required for the purpose of deciding the application, an amendment may be made at any time (Section 16(2)(a)).
- 2 In addition, an amendment may be made at any time where the Chief Commissioner is of the opinion that a taxpayer has attempted to evade the payment of land tax by failing to lodge a complete and accurate return (Section 16(2)(b)).
- 3 In any other case an amendment may only be made within three years after the service of notice of assessment or of any amendment thereof (Section 16(2)(c)). Examples include where land was sold and the taxpayer failed to advise the Chief Commissioner, or where exempt land (such as a principal place of residence) was incorrectly included in a return, or where the taxpayer failed to include land in a return but did not do so with the intention of evading tax.

#### Amendment of an Assessment Subject to a Prior Amendment

- 4 Where an assessment has been amended and a period of more than three years has elapsed since the service of notice of the original assessment any further amendment of the assessment is limited to the matter the subject of such prior amendment. An application for a further amendment may only be made within three years after the service of notice of the prior amendment.

#### Amendments Arising from Alterations to Valuations

- 5 Section 54(7) of the Act provides that where the land value of land is altered by the appropriate valuing authority upon the determination of an objection or for the purposes of correcting any

6 Where any land value has been so altered, section 54(8) of the Act provides that a due adjustment shall be made, and amounts paid in excess shall be refunded, and amounts short-paid shall be recoverable as arrears. This means, in effect, that the time limits specified in section 16 do not apply in such cases, and the consequential amendment of an assessment may proceed regardless of the length of time which has elapsed since the date of service of notice of the original assessment.

### **Amendment of Default Assessments**

7 Section 15 of the Act provides in part that if any taxpayer or person makes default in furnishing any return, the Chief Commissioner may make a default assessment of the amount of tax payable.

8 Under the provisions of section 16(2)(b) of the Act a default assessment may be amended at any time, where the Chief Commissioner is of the opinion that a taxpayer has attempted to evade the payment of tax by failing to lodge a return (thereby failing to lodge a "complete and accurate return").

9 In practice, a default assessment will be amended at any time where the amendment increases the taxpayer's liability, but will generally only be amended within the time limits imposed by section 16(2)(a) or (c) of the Act where the alteration has the effect of reducing the taxpayer's liability. This means that in cases involving a reduction in tax, defaulters are treated in the same way as other taxpayers who have not defaulted in furnishing returns.

10 However, provided an amendment results in additional tax being payable, a default assessment will be amended at any time to simultaneously include additional land owned and to exclude land which had been incorrectly included in the assessment.

### **Effect of an Amended Assessment**

11 Where the amendment of an assessment has the effect of imposing any fresh liability, or increasing any existing liability, the taxpayer is liable to pay the difference between any land tax already paid and the land tax which ought to have been paid, plus any additional tax imposed in accordance with the Act.

12 Under the provisions of section 16(4)(b) of the Act a taxpayer may lodge an objection against an amended assessment which imposes any fresh liability or increases any existing liability unless the alteration or addition to the assessment has been made with the consent of the taxpayer.

13 Where an alteration in an assessment has the effect of reducing the taxpayer's liability the Chief Commissioner will refund any land tax overpaid.

**R P Daley,**  
for Chief Commissioner of Land Tax.  
6th May, 1988