

## In this issue:

- Natural disaster relief
- New legislation
- What's happening at OSR
- Hints and tips
- Case summaries
- Customer education activities

## Health insurance Levy rate increase

The Health Insurance Levy prescribed rate has increased to \$1.49 from 1 April 2017.

Further information on Health Insurance Levy is available at:

[www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

## Natural disaster relief for customers

OSR recognises the impact natural disasters, including the recent flooding in the North Coast of New South Wales, may have on its customers and is offering assistance.

### Payroll tax

If you are a customer who is affected by the recent severe weather and are having difficulty making your monthly payroll tax payment, please contact us on 1300 214 590.

## Other State tax obligations

OSR can assist affected customers by:

- providing extensions of time to lodge documents or returns with OSR
- providing extensions of time for amounts to be paid without interest being charged
- arranging for debts to be paid in instalments
- providing duty relief on the replacement of written-off, comprehensively insured motor vehicles.

If you are experiencing financial difficulty as a result of the recent natural disasters or are unable to meet your State tax obligations, contact us on 1300 782 410 (8.30am to 5.00pm, Monday to Friday).

## Declared natural disaster areas due to floods

The Local Government Areas in NSW that have been declared natural disasters due to the floods can be found on the [Police and Emergency Services](#) website.

For more information, see:

- [Natural disaster duty relief schemes for replacement of motor vehicles](#)

## Extension of time to pay your fines

We can assist eligible customers in Queensland and NSW Northern Rivers cyclone and flood affected areas with outstanding fines to temporarily defer fines related actions or to extend their payment plan arrangements.

If you are suffering hardship as a result of the recent emergencies and need assistance with your outstanding fines or changes to your current payment arrangements, please contact the State Debt Recovery Office on 1300 655 805.

The declared NSW State-wide flood areas are published on [DisasterAssist](#)



## New legislation

### State Revenue Legislation Amendment Act 2017

The *State Revenue Legislation Amendment Act 2017* received assent on 11 April 2017.

#### Duties Act 1997

The amendments:

- extend a provision for no double duty on certain transfers to custodians of self-managed superannuation funds
- ensure that nominal duty of \$50 is chargeable on certain transfers of trust property consequent on retirement or appointment of trustees
- improve the integrity of the landholder provisions to:
  - provide rules to trace the ownership of property through complex company and trust structures
  - confirm the position that liabilities are not taken into account when determining the value of property of entities
  - provide special provisions to deal with the land subject of an agreement for sale
  - treat combined put and call options as an agreement for sale
- remake and extend the duty exemptions on transfers following the break-up of marriages and de facto relationships
- make further provision for the exemption from duty for transfers of primary production land
- provide for an exemption from duty relating to the Commonwealth's MySuper reforms
- amend the general anti-avoidance provisions, and the definitions of associated person and sub-trust
- provide for an exemption from duty for the vesting of land occurring as a consequence of the merger of credit unions or of authorised deposit-taking institutions with mutual structures.

#### Land Tax Management Act 1956

The amendments require a Government entity that leases land to disclose to the lessee in writing, that the lessee can be liable for land tax on the land.

#### Payroll Tax Act 2007

The amendments provide that certain wages paid by employment agents who on-hire their common law employees to clients of the agents are exempt from payroll tax if wages paid by the clients to their own employees are "exempt wages".

The amendments exempt from payroll tax wages paid under the Supporting Leave for Living Organ Donors Programme.

For more information, please see: [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

#### Online subscription service

Receive email updates on news at OSR by registering [here](#)

## Fun facts

MAY

- The month May was named after the greek goddess Maia who was the Roman goddess of fertility.
- Mother's day in Australia is celebrated the second Sunday in May. Mother's Day celebrates motherhood, maternal bonds and the influence of mothers in society. It was first observed in 1908.
- 1 May is a public holiday also known as Labor day in other counties such as US, Asia Russia and Europe. It is a day honouring workers.
- The word 'MayDay' is an international distress call used by people in trouble on ships and aircraft. It is traditionally said 3 times. The word was originally used in 1923 then made official in 1948 as it sounded like the French word m'aider which means help me.
- According to old superstitions, it was once considered unlucky to marry, buy a broom or wash a blanket in May.



### Fire and Emergency Services Levy Act 2017

The *Fire and Emergency Services Levy Act 2017* received assent (and commenced) on 4 April 2017.

The object of the Act is to provide for the imposition of a fire and emergency services levy. The levy is payable on all land (other than government land) that is situated in the area of a council or on Lord Howe Island.

The Act can be viewed on the [Parliamentary Counsel's legislation website](#)

### Fines Amendment Act 2017

The *Fines Amendment Act 2017* received assent on 14 March 2017 (and commenced on 21 March 2017).

The Act makes amendments to the *Fines Act 1996* to allow the Commissioner of Fines Administration to:

- (a) take civil enforcement action against a fine defaulter who is an individual without first suspending or cancelling the fine defaulter's driver licence or vehicle registration, and
- (b) take enforcement action to recover an amount payable under a confirmed order for restitution made by the Commissioner of Victims Rights against an offender or other person (restitution amount).

The Act also makes amendments to the *Victims Rights and Support Act 2013* related to the enforcement and recovery of restitution amounts by the Commissioner of Fines Administration.

The Act can be viewed on the [Parliamentary Counsel's legislation website](#)

## What's happening at OSR

### Office of State Revenue & NSW Treasury Roadshow

The Office of State Revenue and NSW Treasury are providing free seminars in regional areas where you can learn about State Taxes in NSW and the Fire & Emergency Services Levy (FESL).

The State Taxes will include:

- Land tax: Primary production land exemption
- Duties: Transfer of certain business property between family members exemption
- Foreign surcharges: Surcharge purchaser duty and surcharge land tax
- Small Business Grant
- Jobs Action Plan Rebate

The Fire & Emergency Services Levy will include:

- What is the FESL about?
- How, why and when is it changing?
- How will the FESL on property be calculated?

Light refreshments will be provided.

If you have any questions about these seminars, please contact Arlene Fernandez on 02 9689 6138 or email [client.education@osr.nsw.gov.au](mailto:client.education@osr.nsw.gov.au).

Read more and register [here](#)



## Hints and tips

### Payroll tax - Common Employees Grouping

Businesses may be grouped with other businesses if there is a link between the businesses. This does not always have to be in relation to ownership or common control, it can also be in regards to the sharing of employees or otherwise known as common employee grouping.

Businesses are grouped when an agreement for services between two or more businesses results in employees of one business performing duties as an employee for another business.

This provision does not apply to all inter-business agreements for services. The agreement must specify the duties to be performed by the employees of the first business for or in connection with the other business.

## Case Summaries

### First Home Owner Grant

*Kameleddine v Chief Commissioner of State Revenue* [2017] NSWCATAD 42 (30 January 2017)

This Applicant sought review of the decision by the Chief Commissioner of State Revenue (“the Chief Commissioner”) to not approve payment to the Applicant of the First Home Owners Grant (FHOG) of \$15,000.00 in respect of her purchase of a property at Rutherford.

The Tribunal held that, on completion of the purchase transaction, the property was not capable of being lawfully used as a place of residence and as such the purchase transaction was not a “home” pursuant to section 4 of the *First Home Owner Grant (New Homes) Act 2000* and therefore not an eligible transaction for the FHOG.

The Applicant also sought review of the Chief Commissioner’s decision to reject the Applicant’s First Home - New Home stamp duty exemption. The Tribunal held that it had no jurisdiction to deal with this issue as there was no evidence that the Applicant had lodged an objection with the Chief Commissioner that had been disallowed, which is a necessary precondition to jurisdiction.

Read more [here](#)

### Land tax

*Chief Commissioner of State Revenue v Metricon QLD Pty Ltd* [2017] NSWCA 11 (10 February 2017)

In the Supreme Court of NSW the Chief Commissioner was unsuccessful in arguing the dominant use of the subject land owned by the taxpayer was commercial land development rather than primary production. His Honour held that, while “use” in the *Land Tax Management Act 1956* was not necessarily confined to a physical use, it must be a current use and not acts taken, or benefits derived, in respect of a future intended use. Relevantly, His Honour found that holding the subject land as part of its stock in trade or land bank was not a “current” use of the land.

**What would you like to see here?**

Email your suggestions or feedback to [client.education@osr.nsw.gov.au](mailto:client.education@osr.nsw.gov.au)

On appeal the Court of Appeal did not accept the view of Justice White at first instance that use is not confined to physical use and instead found that the concept of "use" is one of physical deployment of the land in pursuance of a particular purpose of obtaining present benefit or advantage from it.

Read more [here](#)

*Leppington Pastoral Co Pty Ltd v Chief Commissioner of State Revenue* [2017] NSWSC 9 (30 January 2017)

The taxpayer conducted a dairy business on the subject lands (known as 'Farmland') and other lands owned by the taxpayer around Oran Park and Leppington. During the relevant period the taxpayer progressively released Farmland for development, with multiple subdivisions of the land such that at each taxing date the definition of 'Farmland' changed.

Justice White determined that section 10AA(3) of the *Land Tax Management Act 1956* requires "weighing the nature and intensity of the competing uses, the physical areas over which they are conducted, the time and labour spent in conducting the different uses, the money spent or assets deployed in each use and the value derived or to be derived from it" and that the onus is on the taxpayer to show that the primary production use was the dominant use of the land.

The Chief Commissioner was successful in respect of the 2011 and 2014 land tax years only. His Honour held that in those years expenditure on earthworks and on consultants' activities on Farmland substantially exceeded expenditure on cattle grazing and raising of pastures and crops. The taxpayer was successful in 2012 and 2013 where His Honour noted the scale of the earthworks had significantly reduced.

Read more [here](#)

**Duties**

*Robert Leigh Rampton v Chief Commissioner of State Revenue* [2017] NSWCATAD 72 (8 March 2017)

The Applicant purchased one vacant lot on his own behalf and purchased another vacant lot as trustee of a family trust obtaining a \$5,000 grant for each purchase under the NSW New Home Grant Scheme.

Following an investigation, the Chief Commissioner informed the Applicant that he was only entitled to one grant as only one grant was payable to the same transferee each financial year.

The Tribunal agreed with the Chief Commissioner deciding that the Applicant in his personal capacity and the Applicant purchasing on behalf of the trust were not different entities under law and in any event the grant was not payable as more than one dwelling was to be built on each lot purchased.

Read more [here](#)

## Customer education activities

### Webinars

#### *Land tax*

Webinar 6  
Common errors  
11 May

#### *Payroll tax*

Webinar 1  
Admin Processes & Systems  
12 May

Questions & Answers - Common Mistakes  
15 May

Webinar 2  
Intro and the basics  
19 May

Webinar 3  
Allowances & FBT  
26 May

Webinar 4  
The Contractor Provisions  
2 June

Lodgement and Overview for New Clients  
5 June

Webinar 5  
The Grouping Provisions  
9 June

Jobs Action Plan Rebate  
16 June

### Seminars

#### *Payroll tax*

Payroll Tax for New Clients  
East Maitland - 11 May  
Parramatta - 16 May  
St Leonards - 24 May  
Sydney - 1 June

#### *Office of State Revenue & NSW Treasury Roadshow*

Dubbo - 9 May  
Orange - 10 May  
Cowra - 11 May  
Bathurst - 12 May  
Griffith - 16 May  
Deniliquin - 17 May  
Albury - 18 May  
Wagga Wagga - 19 May  
Moree - 23 May  
Grafton - 24 May  
Lismore - 25 May  
Coffs Harbour - 26 May  
Goulburn - 30 May  
Queanbeyan - 31 May  
Bega - 1 June  
Worrigee - 2 June  
Armidale - 6 June  
Tamworth - 7 June  
Singleton - 8 June

Read more and register [here](#)