

## In this issue:

- Revenue rulings
- What's happening at OSR
- Hints and tips
- Case summaries
- Customer education activities

## Land tax due dates for 2017

The due date for lodgement of your land tax initial return:

**31 March 2017**

## Latest news

### Spouse visas and surcharge land tax and duties

A person who holds a Partner (Provisional) visa (subclass 309 or 820) will be treated in the same way as permanent resident visa holders. The 200 day requirement will need to be satisfied.

## Revenue rulings

We have issued the following revenue ruling:

### Surcharge purchaser duty and surcharge land tax

**G 009 - Definition of Foreign Person** - This ruling explains the Chief Commissioner's interpretation of foreign person for both surcharge purchaser duty and surcharge land tax.

Read more [here](#)

## What's happening at OSR

### Surcharge land tax assessments

From March 2017, we will issue assessments for surcharge land tax to foreign persons who owned residential land as at 31 December 2016. Surcharge land tax will be payable in addition to any land tax payable. The surcharge will still apply even if the owner is residing in the property or the value of the property is under the tax free threshold.

Note that Australian citizens are not foreign persons.

If you are a foreign person and:

- already pay land tax, please use your Client ID and Correspondence ID to update your foreign status and residential land details using our [online services](#)
- have not previously paid land tax, please call us on 1300 139 816 and we will arrange your login details over the phone so you can inform us of your foreign status and residential land details.

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

Legend:  add  edit

Name	Details	Foreign status
JOHN CITIZEN	Birth date: 	<a href="#">Click the add button to confirm status</a>

'Land tax online service' now asks the foreign status of land owners



## Hints and tips

### Surcharge land tax - trusts

Where residential land is held by a trustee for a special trust, the trustee is liable for the surcharge if any potential beneficiary is a foreign person.

This is irrespective of whether there are named or un-named beneficiaries and whether any distributions have or will be made to foreign persons.

However, where the deed in force as at 31 December 2016 excludes foreign persons as potential beneficiaries, no surcharge will be applicable for 2017.

For more information please see paragraph 23 of revenue ruling G 009 - Definition of Foreign Person:

### Improved functionality of land tax online services

When completing returns or requesting exemptions using our online services, you are now able to attach supporting documents such as trust deeds or utility bills. We accept files up to 5MB in 12 formats, including gif, jpg and pdf.

#### Online subscription service

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

#### 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)

#### Supporting Documents

Files up to 5MB in size. Valid file types: png, tiff, tif, gif, pdf, jpg, jpeg, doc, docx, txt, xls, xlsx



attach document



Supporting documents can now be uploaded

You are also now able to confirm the amount of surcharge land tax that will be payable using our [online calculator](#) - see below.

Tax year\*

2017

Is the owner of land a foreign person?\*

Yes

No

Combined land value of residential land for surcharge purposes (whole dollars):

\$ 1,000,000

Combined taxable land value for land tax purposes (whole dollars):\*

\$ 1,000,000

Calculate

Reset

Refresh

### Fines - OSR cracks down on false nominations

Following an investigation by OSR, a man has been sentenced to eight months' jail for falsely nominating others for 62 traffic offences. The offences included speeding, proceeding through red lights, driving in bus lanes and failing to pay tolls. Some of the offences occurred in school zones, placing children at increased risk.

Penalty notices for camera detected offences are posted to the registered owner of the vehicle. Under the transport legislation, the owner of the vehicle can name another person as responsible for the offence by completing a statutory declaration.

In this case, statutory declarations were submitted nominating a friend who had dementia and no driving licence, and the magistrate said that no remorse was shown. In addition to the jail term, the man has also been issued with almost \$20,000 in fines and penalties.

OSR is tough on false nominations and uses a range of intelligence sources to detect fraud. Fines for false nomination can be hefty, and court proceedings may be initiated.

### Fines - Helping customers get back on track

The Work and Development Order (WDO) scheme is a NSW initiative aimed at helping disadvantaged people reduce their fines by participating in activities which benefit them and the community. Participants are paired with an approved WDO sponsor including government or non-government organisations such as local health services, job service providers, charities, and not-for-profits; or health practitioners such as psychologists, psychiatrists, medical practitioners and nurses.

Customers can undertake a range of activities such as treatment programs, education, unpaid work, counselling or mentoring. These are all activities which address complex problems or provide new skills, which in turn also benefits the community.

People who undertake WDOs have said that the scheme is a circuit breaker. It helps address the significant burden of their fines, while also providing treatment or skills which they may not have otherwise obtained.

A psychologist who sponsors WDOs recently shared a good news story with OSR. A 24 year old male customer had numerous fines and was charged with driving unlicensed.

She said *'This young man had never been in therapy and was experiencing a bit of a spiral'*.

The WDO sponsor said the customer was initially attending therapy just to sort out his fines. However, after a while the customer was engaged in the activity and started seeing the benefits.

*'This young man no longer asks how many sessions he needs to attend, but instead is keen to book himself in regularly and seeks help in between sessions. Because of the WDO his life has made a significant turnaround'*.

The customer has cleared his fines, gained a job fixing cars, enrolled at university in a mechanical engineering degree, and stopped smoking.

*'This would not have been possible without the WDO'*; the sponsor said.

### New Home Grant

You may be eligible for a duty concession even if you are not a first home buyer. The New Home Grant scheme allows for a credit of up to \$5,000 on your duty liability when you buy or build a new home in NSW.

You can access information about the New Home Grant on our [website](#).



## Case summaries

### Land tax

*Bellbird Ridge Pty Ltd as trustee for Bellbird Ridge Unit Trust v Chief Commissioner of State Revenue* [2016] NSWSC 1637 (23 November 2016)

The issue was whether the taxpayer was entitled to the primary production land exemption under section 10AA of the *Land Tax Management Act 1956* for the 2011 to 2015 tax years for a property near Cessnock.

For the 2011 tax year the land was zoned rural and the Court revoked the assessment, as the dominant use of the land was for primary production.

For the 2012 - 2015 tax years the land was zoned non-rural and the Court confirmed the Chief Commissioner's assessments as the Taxpayer failed the added commerciality tests.

The Court determined the cattle operations lacked intensity and at an average profit of just \$3,495 per year did not have a substantial commercial purpose, especially since in coming to this profit the expenses were calculated on less than commercial rates. The Court referred to the cattle operations as a 'lifestyle farm'.

### Duties

*Happy Days Property Pty Ltd v Chief Commissioner of State Revenue* [2016] NSWCATAD 289 (8 December 2016)

The taxpayer applied to the Tribunal for a review of the Chief Commissioner's decision not to allow a transfer to be stamped with nominal duty even though the contract was stamped with ad valorem duty.

After exchange of contracts the taxpayer's bank insisted on a different transferee to the purchaser on the contract.

The Tribunal confirmed the Chief Commissioner's interpretation that the nominal duty provision for transfers could not apply as the transferee company was created after the date of the contract.

## Customer educational activities

### Payroll Tax

#### Webinars

- Intro and the basics - 17 February
- Allowances and FBT - 24 February
- The Contractor Provisions - 3 March
- The Grouping Provisions - 10 March

#### Seminars

Payroll Tax for New Clients - 23 February

Read more and register [here](#).

## Fun facts



- It is the shortest month of the year.
- The month is named for the Latin word februum which means purification.
- February is the only month that can pass with no full moon. This will next occur in 2018.
- February frequently occurs in lists of the most commonly misspelt words in the English language.
- February is the second month of the year and has 28 or 29 days. The 29th day is every four years during leap year.

