



Revenue

Revenews

Issue #17 October 2017

News from Revenue NSW

Are you yet to be reunited with missing funds? Read this month's unclaimed money story, which reminds businesses to lodge any unclaimed money by the annual 31 October deadline.

Other news includes an Electronic Duties Returns (EDR) system enhancement that came into effect for conveyancers and solicitors processing surcharge purchaser duty, and an update from the Roads and Maritime Services (RMS) on the new process to qualify for a driver licence.

We also have hints and tips, including information on how unpaid fines could affect your right to drive, updating your land tax assessment, and more.

To share your feedback on Revenews, please email us.

Time to lodge unclaimed money

Each year, businesses must lodge unclaimed money with Revenue NSW so we can process this and make it available through our [unclaimed money search](#).

Enterprises and real estate professionals that held unclaimed money at 30 June 2017 are required to lodge it with Revenue NSW by 31 October 2017.

An enterprise is anyone that holds money on account of another person and operates in NSW, but does not include a bank, building society, credit union or a friendly society.

If you qualify as an [enterprise](#) and you are holding unclaimed money in an inactive account for at least six years, you are required to lodge it with [Revenue NSW](#).

If you hold a licence under the *Property, Stock and Business Agents Act 2002* and have unclaimed money that is held in a trust account for more than two years, you are required to lodge it with Revenue NSW.

To lodge your unclaimed money, go to the Revenue NSW website or call 1300 366 016. You can also email your questions to unclaimedmoney@osr.nsw.gov.au.

Surcharge purchaser duty rate increase

Foreign persons are required to pay surcharge purchaser duty (SPD) on the purchase of residential real estate in NSW. The surcharge is in addition to the duty payable on the purchase of residential property.

As a result of the 2017 State budget, the SPD rate has increased from 4 to 8 per cent. This applies to all agreements entered into on or after 1 July 2017.

Processing surcharge purchaser duty on Electronic Duties Returns (EDR)

Conveyancers, solicitors and settlement rooms need to be aware of changes to the Revenue NSW EDR system.

Most SPD transactions can now be processed using this system. Transactions processed through the EDR system, which calculates the duty payable, will no longer be assessed by Revenue NSW. The interim arrangements introduced in July 2016 have also been discontinued.

To find out more, go to the [Surcharge purchaser duty page](#).

Licensing changes on the way for young drivers

RMS is improving the Graduated Licensing Scheme to ensure new drivers – in particular young drivers – are safe drivers on our roads. The changes come into effect on 20 November 2017.

The changes mean that:

- learner drivers will have to complete the Hazard Perception Test before they can take the driving test
- P1 drivers will no longer have to complete the Hazard Perception Test to get their P2 licence
- the Driver Qualification Test has been removed for P2 drivers and in its place P2 drivers will have to stay on their licence for an extra 6 months if they receive a suspension for unsafe driving behaviour.

Find out how the changes affect you or someone you know on the [Roads and Maritime Services](#) website.

Warning: scam emails and phone calls about fines

We are aware of an email and phone scam that has been affecting the people of NSW recently.

You may have received an email advising you owe money for a fine which provides the details of an Infringement Number starting with "AA".

There were also outbound calls received on Sunday 8 October with the caller stating they are from SDRO and that outstanding debt totalled over \$7000.

Please note these are both scams and have no affiliation with Revenue NSW.

If you receive a suspicious message, or have any doubts, we advise you to not open any attachments, click on any links, download images or handover any personal details.

The best course of action is to delete the email straight away. For more information, please visit our [website](#) or www.staysmartonline.gov.au.

Hints and tips

Sort out unpaid fines now to protect your licence

RMS may not issue a licence, or may suspend it, if you have unpaid fines. If you can't afford to pay in full, there are other options, such as a payment plan.

Call us now on 1300 655 805 Monday to Friday 7.30am to 8.00pm to discuss your options.

Keep your land tax assessment details up-to-date

Land tax assessment notices for 2018 tax year are issued from mid January 2018. Go to [Land tax online service](#) to update your postal address or contact details.

You can also use our online service to provide information relevant to your assessment or to advise of any changes such as:

- tell us if you have purchased or sold a property
- request a new exemption or update a current exemption
- provide account details to allow for electronic refunds
- update your foreign person status or residential land details
- provide additional information to support your request.

To log in you will need your Client ID and Correspondence ID located on the front page of your assessment notice.

Our [Land tax information](#) provides more details to help you with your assessment.

Surcharge purchaser duty – property purchased by apparent purchaser

A resulting trust arises where a person (the real purchaser) acquires property in the name of another person (the apparent purchaser), or jointly in the names of both the real and apparent purchasers. An apparent purchaser is taken to be a 'foreign trustee' where the

real purchaser is a foreign person, and may be liable to [surcharge purchaser duty](#) if the property acquired is residential land.

Real and apparent purchaser arrangements must be disclosed to Revenue NSW using the [Purchaser/Transferee Declaration Form](#).

Pay attention to employee shares and options schemes for payroll tax

Sometimes employees, contractors, and directors, are paid for their services through shares and options. Businesses need to be aware that there could be a liability for payroll tax if workers are paid in this way.

If your scheme is an Employee Share Scheme (ESS) as defined in the *Income Tax Assessment Act 1997*, then the value of those shares and options minus any amount paid by the employee will be seen as liable wages. If the grant of the share or option is not an ESS, it may still be liable for payroll tax as a fringe benefit.

Read more about the [payroll tax liability of shares and options](#).

Case summaries

Payroll tax

Strathavon Resort Pty Ltd v Chief Commissioner of State Revenue [2017] NSWCATAD 200

Strathavon Resort Pty Ltd owned a property used as a boarding house. The boarding house exemption was allowed for the 2013 and 2014 tax years but not the 2015 and 2016 tax years as the property was not a registered boarding house. All boarding houses in NSW must be registered under the *Boarding Houses Act 2012*.

The client claimed that:

- he was not made aware by Revenue NSW that registration was required
- a delay of Revenue NSW issuing tax assessment notices hindered his awareness of this requirement.

The Tribunal held that the delay of the Chief Commissioner did not change the validity of the assessments. Once a liability for land tax arises, an assessment must be issued, but there is no time limit to do so under the *Taxation Administration Act 1996*.

The Tribunal did not accept that the customer was misled. Nor had the Chief Commissioner been negligent or breached any statutory duty, as it was clear to the customer that he had to apply for the exemption each year and not assume that once he received an exemption that it continued from year to year.

[Read more about this case.](#)

Duties

Al-Jaafaria Society Incorporated v Chief Commissioner of State Revenue [2017]
NSWCATAD 283

The Al-Jaafaria Society bought a property and sought an exemption as a charitable and benevolent body under section 275 of the *Duties Act 1997*.

The Tribunal considered the evidence submitted for the Society's charitable status including:

- its accounts
- evidence given on cross-examination
- the Society's website pages.

It concluded the Society's activities were for religious, recreational and general community purposes and not wholly or predominantly for educational purposes.

This confirmed that the Society was liable to pay duty on the property.

[Read more about this case.](#)

Payroll tax

Knight Watch Security Services Pty Ltd v Chief Commissioner of State Revenue [2017]
NSWCATAD 223

The Tribunal confirmed the decision of the Chief Commissioner to assess Knight Watch Security Services Pty Ltd (Knight Watch) as liable to payroll tax on the basis that it was an employment agent for the purposes of Division 8 of Part 3 of the *Payroll Tax Act 2007*.

Knight Watch submitted that the Act should be interpreted as only imposing liability on the employment agent closest to the service provider. Alternatively Knight Watch submitted that it was not the employment agent closest to the end user client, and is therefore not liable on the employment agency contracts as per Revenue Ruling No. PTA 027 (the Ruling).

The Tribunal rejected both submissions on the basis that:

- the Ruling does not have the force of law
- Division 8 of Part 3 of the Act provides that payroll tax liability is imposed on each employment agent in a chain of multiple employment agents, and
- section 41 of the Act is designed to avoid double taxation by providing that, if one employment agent has paid payroll tax for providing services connected with an employment agency contract, then no other person (including another employment agent) is liable to pay payroll tax for the same services.

[Read more about this case.](#)

Customer education activities

Seminars

Payroll tax for new clients – Blacktown, 16 November

Payroll tax for new clients – Sydney, 23 November

Webinars

Payroll tax - Lodgement and Overview for New Clients: 3 November

Payroll tax basics - When does it apply?: 15 November

Payroll tax questions & answers – Common mistakes: 22 November

Payroll Tax - Lodgement and Overview for New Clients: 5 December

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