IPTI Xtracts

Property Tax and Assessment News from Around the World

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Contents

THE HEADACHE OF THIS COUNTRY'S LAND TAX 1
PROPERTY VALUES NOT ALL POSITIVE 2
LAND TAX VALUATION AND OBJECTIONS - ARE YOU OVERPAYING? 3

The headache of this country's land tax

On just one piece of land, you could be paying up to $60,000 more in state land tax, depending on where you buy and the ownership structure.

If you're a property investor considering a purchase, don't forget land tax. While its state-based revenue cousin stamp duty hogs the headlines and political attention, land tax – a far more economically-efficient and arguably fairer measure – varies widely between states and territories.
It's only one of the imposts property investors face – in addition to council rates, maintenance and interest costs – but the rules around land tax have been changing in various jurisdictions and, depending on where an investment is held, they could affect you.

There are no simple answers, says Pitcher Partners partner Phil Shepherd. "The number of different acts you have to work through to find an answer is a little bit ridiculous," Shepherd says. "There are layers and layers of legislation. The complexity is not going away. If anything, it's getting more complex."

Land tax anomalies

The sands of land tax – based on the underlying value of a piece of land – are shifting even as people look at it as a possible replacement for stamp duty. Stamp duty is widely disliked because it is levied on the value of a transaction, which creates a hurdle for anyone considering a sale, as any house vendor knows.

Land tax anomalies mean an investor spending $2 million on a piece of land could pay as little as $11,975 in Victoria or as much as $72,000 in NSW depending on whether the land ownership is individual, trust-based or foreign-owned (example in the table is based on land market value of $2 million and $1 million building investment).

The Property Council of Australia lobby group says this complexity hinders tax reform efforts to create a more efficient system.

"Land taxes are the complex and out-of-sight, out-of-mind extra tax burden on business which ends up being paid by investors, consumers and tenants," Property Council chief executive Ken Morrison says.

"Different thresholds and rates, surcharges on foreign buyers and revaluations all compound the complexity of the different regimes in place across Australia, which also make meaningful reform much more challenging."

The ACT recently removed land tax on commercial properties and replaced it with what Shepherd calls a "very severe" variable charge, pointing out that while the top land tax rate of 1.1 per cent looks attractive at first glance, the territory's variable charge on commercial land can exceed 5 per cent.

Unlike the large eastern states, South Australia, Tasmania and Western Australia don't impose an annual surcharge on foreign owners in the form of a land tax. But they have a higher stamp duty surcharge for foreign purchasers of land.

The biggest change to land tax calculations comes in the way ownership is regarded, and this has been changing recently. Historically, land owners have been able to reduce their overall land tax by separating land holdings into multiple entities and benefiting from the tax-free threshold multiple times.

This is changing across a number of states, with Shepherd's home state of SA changing the system – after a tortured series of tweaks – from July 1, bringing it into line with NSW and Victoria.
This loophole regarding trust ownership of land is being tightened up across the country. Trusts have traditionally not been subject to such aggregation provisions, as determining who actually benefits from a trust can be difficult.

Significant onus on trustees

NSW, Victoria, Queensland and now SA have established surcharge regimes for land held in trust that lower – or eliminate – the tax-free threshold for land held in trust and which make trustees subject to a higher land tax liability than an individual or company would pay on the same piece of land.

Then there are considerations around foreign ownership. New reforms in NSW (where they have yet to pass parliament) and Victoria (where they took effect this month) will cause most family trusts to be treated as "foreign trusts" – and subject to an additional 8 per cent duty surcharge – unless they are irrevocably amended to exclude foreign beneficiaries.

The new regimes also apply to the 2 per cent land tax surcharge levied to foreign owners of land in the two largest states, although with some variations.

This makes it easier for revenue authorities but creates more work for investors, says K&L Gates tax partner Matthew Cridland.

"It introduces a significant onus on trustees of family trusts to get existing trust deeds amendments," Cridland says.

"It also introduces a new risk for lawyers and accountants who advise on family trust matters and who don't want to get sued for negligence by overlooking these new requirements."

Property values not all positive

This week, the Valuer General's 2020 property market movement report was released, comprising the annual statutory land valuations for 21 local government areas totalling about 825,000 valuations or 48 per cent of all properties in Queensland. From this, there are continued signs of strength in some areas of Queensland's property market. Generally, across Queensland there has been increased sales activity in rural markets despite recent devastating fires, heavy rains and flooding, a continuing drought and the seasonal threat of cyclones. As a result, the 1799 farming valuations this year have seen an uplift in land values of around 30 to 80pc within the majority of grazing, horticultural, small crop and dryland farming industries.

This market confidence has generally been driven by the continued effects of the forecast high value of Australian agricultural production, and low interest rates. Rural land values have continued to grow on the back of landowner expectations. The bulk of market purchases are largely by existing family businesses acquiring additional property, using scale to deliver farming operation efficiencies. Potential purchasers are taking a long-term view of the current drought situation with regards to acquisition, but still remain cautious. Queensland has not seen a good season for some time, and most farmers are still waiting for sustained rains to increase production after the prolonged drought conditions.

However, as agricultural land values rise, some farmers are becoming liable for greater land tax and their local government rates are increasing. With Queensland's intensive industries maintaining high throughput businesses which require water, energy and feed, farmers are facing greater financial pressure as their profitability margins are eroded and their business viability is threatened. Any farmer in Queensland who does not agree with their 2020 their statutory land valuation may lodge an objection demonstrating why the valuation is incorrect and do so within 60 days of the date of issue of the valuation notice, that is by Tuesday, May 5. While agricultural property market values are positive, the cumulative impact of government policies across portfolios and high input prices remain a significant issue for farmers.

Land tax valuation and objections - are you overpaying?

Between now and May 2020, the State Revenue Office (SRO) Victoria will send close to 510,000 land tax assessment notices to customers.

If you consider that the valuation placed on your property is too high, you must lodge an objection within 60 days of receiving your land tax assessment notice.

Even relatively small variations in valuations can result in large savings to landlords in relation to land tax and council rates. Therefore, it is important to seek advice on the prospects of objecting to a valuation placed on a property within the time limits to ensure landlords are not paying too much.

Background

As at 1 January 2019, Victoria's 3.1 million rateable and leviable properties, including residential, industrial, commercial and rural properties were valued at $2.29 trillion. This compares with $2.30 trillion in 2018 and $1.85 trillion in 2016.

From 1 July 2018 land valuations were centralised under Valuer-General Victoria (VGV), with a new annual cycle of valuations for land tax, the Fire Services Property Levy and council rates setting purposes. As a result of re-valuations in 2018 there was a substantial increase in the land tax revenue collected by the SRO for the 2018/2019 financial year, which showed an increase in land tax revenue of 37 per cent from the previous financial year.

Higher land values will of course lead to higher land tax, however given recent fluctuations in the property market, and considering that the total value of Victoria’s rateable and leviable properties actually dropped in 2019 from the previous year, owners should consider how their property is being valued in the current climate and whether they could be paying too much land tax.

How do I object?

If you do not agree to the valuation placed on your property, you must lodge an objection within 60 days of receiving your land tax assessment notice.

You must lodge your objection with the correct rating authority. If you disagree with the value of your property as listed on your council rate notice, you must object to your local council. Objections to the valuation given on your land tax assessment notice are to be lodged with the SRO.

If your land tax is due for payment in full or by instalment while you are awaiting a decision on your valuation objection, you must still pay the amount set out in your assessment. If you do not pay your assessment by the due date, interest may accrue daily on any outstanding amount. If you are successful in your objection and your property valuation is changed, you will be given a refund.

Are there exemptions from land tax?

There are various exemptions for your principal place of residence, primary production land and charities. Also if you have been impacted by the recent 2019/2020 bushfires, the SRO has placed a hold on land tax assessments for impacted postcodes.

If your property is destroyed or substantially damaged by the bushfires, you will receive relief in your 2020 land tax assessment for these properties. In certain circumstances, land tax will also be reduced on properties used to provide free accommodation for people who need it.