

Revenue Rulings

Land Tax Assessments – Period of Retrospectivity *Land Tax Act 2005 and Taxation Administration Act 1997*

Revenue Ruling LTA 007

Ruling history	
Ruling no.	LTA 007
Status	Current
Issued date	December 2008
Replaces	-
Dates of effect	
From	1 January 2009
To	-

Preamble

This Revenue Ruling addresses the retrospective assessment of any land tax outstanding for past periods (period of retrospectivity) by the Commissioner of State Revenue (Commissioner). It should be read in conjunction with Revenue Ruling GEN014 (Assessments – Periods of Retrospectivity) (GEN014).

The *Land Tax Act 2005* (the Act) came into effect on 1 January 2006 and applies to land tax liabilities for the 2006 tax year onwards. Further, the *Taxation Administration Act 1997* (TAA) was amended to make the Act a 'taxation law' from 1 January 2006. As a result, a land tax liability for the 2006 and subsequent tax years comes within the scope of the Act and assessment for the tax liability falls under the TAA.

From 1 July 2007, the refund period under the TAA has increased from three to five years. In order to maintain parity with the increase to a five year refund period, the period of retrospective assessing has also increased from three to five years. The application of the increase in the period of retrospectivity to land tax assessments is explained further in this Revenue Ruling.

The purpose of this Revenue Ruling is to explain how liability for land tax, including that of taxpayers who are assessed for the first time for land tax purposes, is to be assessed retrospectively under the TAA.

Ruling

For an explanation of the italicised terms in this Ruling, refer to GEN014.

As land tax is assessed on a calendar year basis, the period of retrospectivity for land tax assessments is also based on calendar years.

The period of retrospectivity consists of the current calendar year in which the *Reference Date* falls, plus the four preceding calendar years (except in certain circumstances, which are discussed under 'Exceptions to the five-year period' below).

The period of retrospectivity commences from the *Reference Date*, which is defined in GEN014 as the earliest date on which:

1. the Commissioner receives a *voluntary disclosure* from a taxpayer
2. an *investigation commenced*, or
3. a taxpayer is *advised of a tax liability*.

Although the period of retrospectivity has been increased to five years, the five year period does not apply to a tax liability which occurred before the 2006 tax year (except in certain circumstances, which are discussed under 'Exceptions to the five-year period'). This is because the Act only applies to land tax liabilities for the 2006 tax year onwards. Land tax liabilities for periods prior to the 2006 tax year are assessed under the *Land Tax Act 1958* (refer to 'Retrospective assessments under the *Land Tax Act 1958*' below).

The following examples illustrate the application of the period of retrospectivity for land tax under the Act:

Example	Reference Date	Period of retrospectivity goes back to
1	12 March 2009	2006 assessment
2	31 July 2010	2006 assessment
3	16 May 2011	2007 assessment

GEN014 explains the approach to retrospective assessments where a taxpayer has an outstanding land tax liability and the State Revenue Office (SRO) has not previously assessed that taxpayer for land tax. In such cases, GEN014 explains that the taxpayer is only assessed for the current calendar year.

This practice will be phased out progressively, beginning in 2009, so that by 2013 such taxpayers can be assessed retrospectively for five years. The following examples illustrate how the period of retrospectivity will apply in such cases:

Example	Reference Date	Period assessed
4	11 July 2009	2009 year
5	28 April 2010	2009 and 2010 years
6	31 May 2011	2009, 2010 and 2011 years
7	16 June 2012	2009, 2010, 2011 and 2012 years
8	20 February 2013	2009, 2010, 2011, 2012 and 2013 years
9	5 March 2014	2010, 2011, 2012, 2013 and 2014 years

Exceptions to the five-year period

The period of retrospectivity is not limited to five years for special land tax assessments or if there is *undue delay*, an *intentional disregard* of a taxation law or the SRO is of the view that the taxpayer has misled the SRO, whether by withholding information or providing inaccurate information relevant to the land tax liability.

Retrospective assessments under the *Land Tax Act 1958*

The *Land Tax Act 1958* (the 1958 Act) applies to liabilities for land tax which arose prior to the 2006 tax year.

In respect of a land tax liability incurred under the 1958 Act, the Commissioner will generally only assess up to three assessment years prior to the year in which liability for land tax is first incurred. However, the period of retrospectivity is not limited to three prior years for special land tax assessments or if there is *undue delay*, an *intentional disregard* of a taxation law or the SRO is of the view that the taxpayer has misled the SRO, whether by withholding information or providing inaccurate information relevant to the land tax liability.

Commencement

This Revenue Ruling applies to a *Reference Date* commencing from 1 January 2009.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.001.