

## NSW Land Tax Update

We have received an increasing number of enquiries relating foreign owner surcharge land tax.

### Background

From 21 June 2016, a duty surcharge applied to acquisitions of NSW residential land by foreign persons, including foreign individuals, corporations, trusts and governments. The surcharge does not apply to Australian Citizens.

The surcharge is payable in addition to any other duty payable on dutiable transactions.

Commencing from the 2017 land tax year, surcharge land tax applied to foreign persons who are owners within the meaning of Section 3 of the Land Tax Management Act ("LTM Act"), and subject to Section 5A (4) of the Land Tax Act 1956.

You must pay surcharge on the taxable value of all residential land that you own as at 31 December each year. There is no tax-free threshold applicable to surcharge.

Surcharge is assessed in relation to each parcel of residential land and is proportional to ownership.

### Who is considered to be a foreign person?

Thus, if you're a foreign person who owns residential land in NSW, you must pay surcharge land tax in addition to any land tax you may already pay. You may be required to pay surcharge even if you do not pay land tax.

You're generally considered a foreign person, unless:

- you're an Australian citizen; or
- you've lived in Australia for 200 days or more in the 12 months prior to the taxing date of 31 December, and you're:
  - o a permanent resident of Australia, or
  - o a New Zealand Citizen, who holds a subclass 444 visa.

On 20 December 2016, the Chief Commissioner of State Revenue released Revenue Ruling number G009 relating to the Definition of Foreign Person.

### Update

On 21 June 2022, the New South Wales (NSW) Treasurer, the Hon. Matt Kean MP, announced tax measures as part of the 2022-2023 State Budget.

From the 2023 land tax year, surcharge land tax payable on residential land owned by foreign persons is **increased from 2% to 4%** of the taxable value of the residential land owned at midnight on 31 December 2022.

The discount for early payment of land tax is reduced from 1.5 per cent to 0.5 per cent if paid within 30 days after service of the notice of assessment.

The content of this article is intended to provide a general guide to the subject matter.

Please contact us on [info@dls-lawyers.com](mailto:info@dls-lawyers.com) if you wish to seek advice about your specific circumstances.

For further information, contact:

**Simon Singer**

**Phone** 9212 1099

**Email** [ssinger@dls-lawyers.com](mailto:ssinger@dls-lawyers.com)

**David Singer**

**Phone** 9212 1099

**Email** [dsinger@dls-lawyers.com](mailto:dsinger@dls-lawyers.com)

**David Penkin**

**Phone** 9212 1099

**Email** [dpenkin@dls-lawyers.com](mailto:dpenkin@dls-lawyers.com)



**David Landa Stewart**  
Lawyers since 1927