Newly Subdivided Rural Business Land

This Commissioner's practice addresses the retrospective assessment of newly subdivided rural business land under section 15 of the *Land Tax Assessment Act 2002* (the Act).

Background

Land tax is payable in accordance with section 15 of the Act when rural business land is subdivided (as defined in Clause 3 of the Glossary to the Act) if:

- the land was exempt from land tax or subject to a concession for any of the five financial years reckoned retrospectively from and including the financial year in which the land was subdivided and
- the subdivision was not carried out only for the purpose of defining an area of land to be taken or resumed under an enactment relating to the compulsory acquisition of land.

Land tax is payable by the subdividing owner of the land on the unimproved value of the taxable portion of the land for each of the five financial years reckoned retrospectively from and including the financial year in which the land is subdivided.

The taxable portion of the land is the area that remains after subtracting from the whole area of the land:

- the area of any part of the land that is exempt as private residential property, immediately after the subdivision is completed as a result of the subdividing owner's ownership or use of the land and
- the area of any part of the land that immediately after the subdivision is completed, consists of a lot of 2.0234 hectares or more that is zoned for rural purposes under a local planning scheme.

The amount of land tax payable for each of those five financial years is assessed, at the rate applicable for that year under the *Land Tax Act 2002*, as if the taxable portion of the land were the only land of the subdividing owner on which land tax was payable for that year.

If an amount of land tax has already been charged on any part of the taxable portion of the land under another provision of the Act for any of those five financial years, the amount of land tax payable for that year under this section is reduced by the amount already charged.

The unimproved value of the taxable portion of the land is the amount that bears to the unimproved value of the whole of the land the same proportion as the area of the taxable portion bears to the whole area of the land.

Commissioner's Practice

1. A retrospective assessment is raised for a five year period, irrespective of when the current owner (that is, the owner at the time of the subdivision) acquired the land.

2. The Commissioner will not raise a retrospective assessment when a subdivision occurs primarily for any of the following reasons:

   2.1 *The resumption of land*

   Where a subdivision has occurred solely for the purpose of the resumption of land by a statutory authority, then an assessment will not be made. Furthermore, an assessment will not be raised where approval to subdivide has been given as part of a compensation measure for the original resumption.

   2.2 *The realignment of boundaries*

   Where a subdivision is carried out for the sole purpose of redefining the boundaries of existing lots and the area of the lots remains almost the same, an assessment will not be made.

   2.3 *The merging of land*

   Where the same owner holds two or more lots and they are merged to form one lot, an assessment will not be made.

   2.4 *To identify owner's portion of land*

   Where land is jointly owned and a subdivision occurs for the purpose of defining each owner's interest, and each owner receives an identifiable lot in the same proportion as they held in the original land, an assessment will not be made.

Date of Effect

This Commissioner's practice takes effect from 19 August 2011.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

19 August 2011

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 3.0	29 October 2003	29 October 2003	18 August 2011
LT 3.1	19 August 2011	19 August 2011	18 April 2023