



Land and Tax Assessments – Objections to Valuation - June 2009

Further to the article entitled “LAW OF THE LAND – Land Tax Assessments – Objections to Valuation” published in the March 2009 edition of the Property Western Australian magazine, when considering whether to object against the unimproved value of the land used by the Commissioner of State Revenue (“**Commissioner**”) in calculating the land tax payable by a taxpayer in a financial year for land held by that taxpayer at midnight on 30 June in the previous financial year, it is important for readers to take into account the application of sections 19 and 20 of the Valuation of Land Act 1978 (“**VLA**”) and the recent decision of the State Administrative Tribunal in *Brzezinski and Office of the Valuer General* [2008] WASAT 166 (“**Brzezinski**”).

In determining the unimproved value of land used to assess land for land tax purposes in any financial year, the standard internal practice of the Valuer-General is to conduct annual general valuations of all rateable land in valuation districts throughout Western Australia on an unimproved value basis (a practice that has taken place since 1993).

In each financial year, the Valuer General will normally fix the date of 1 August as being the date that the unimproved value of all rateable land in valuation districts throughout Western Australia is to be determined for the purposes of the VLA. Once the relevant unimproved value of such land has been determined as at that date, the Valuer-General will usually specify that the unimproved value of the land determined at that date will come into force as the unimproved value of that land for the purposes of the VLA as from midnight on 30 June in the same financial year (or such other date as the Valuer-General determines). This value would therefore be taken to be the unimproved value of that land as at midnight on 30 June of that financial year for land tax purposes. This process is consistent with the requirements contained in section 19 and 20 of the VLA.

By way of illustration, for the 2008/ 2009 financial year, the Valuer General fixes the date of 1 August 2008 as being the date when the unimproved value of all rateable land in valuation districts throughout Western Australia shall be determined for the purposes of the VLA. In conducting the general valuation of all rateable land as at this date, the Valuer-General determines that the unimproved value of a taxpayer’s land is \$300,000 as at 1 August 2008. In accordance with section 20 of the VLA, the Valuer-General then specifies that the unimproved value of the land determined at that date will come into force as the value of that land for the purposes of the VLA as from midnight on 30 June 2009 (thereby replacing the previous unimproved value of that land). For land tax assessment purposes for the 2009/ 2010 financial year, this value would be considered the unimproved value of the land as at midnight on 30 June 2009.

Where a taxpayer who owns land as at midnight on 30 June in the previous financial year is assessed for land tax in the following financial year and disagrees with the unimproved value of the land according to the valuation in force under the VLA as at midnight on 30 June in the previous financial year used to calculate that land tax liability, the taxpayer would then need to submit written evidence on objection to the Commissioner or the Valuer-General challenging the fairness of the unimproved value of the land used by the Commissioner to raise the assessment.

This would essentially involve the taxpayer producing evidence (including for example independent valuation evidence) in support of the contention that the unimproved value of the land as at the date the unimproved value of the land was determined by the Valuer-General (which valuation date, as suggested above, is normally fixed by the Valuer-General as being 1 August of the previous financial year) was not fair, or was unjust, inequitable or incorrect. It is not the case that the taxpayer would seek to challenge the unimproved value of the land used to calculate that land tax liability if the taxpayer considered that this

value differed from the actual market value of the land as at midnight on 30 June of the previous financial year.

The decision in Brzezinski is a clear illustration of the above position. When challenging the unimproved value of land used to assess land held by a taxpayer for land tax in the 2007/ 2008 financial year, the taxpayer in that case attempted to demonstrate (unsuccessfully) that as at the date the unimproved value of the land was determined by the Valuer-General (being August 2006) and not the date the valuation came into force (being 1 July 2007), the valuation was not fair, or was unjust, inequitable or incorrect.

Need Help

The Taxation & Succession Practice Group at Jackson McDonald is well placed to assist taxpayers with advice on all taxes, including land tax.

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