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New tax amendments result in greater responsibilities for land owners

Amendments to the *Land Tax Act 2005* (Vic) and the *Taxation Administration Act 1997* (Vic), both of which came into effect on 9 December 2009, have put new responsibilities on land owners in relation to land tax.

The amendments to the Land Tax Act 2005 (Vic) essentially shift the burden of mistakes when calculating land tax from the State Revenue Office (SRO) to the landowner. The new obligation, if not complied with, could result in substantial penalty taxes.

Under the new provisions, a person who is served with a notice of assessment of land tax must notify the SRO of any error or omission in the notice relating to:

- any land in Victoria owned by the person that is not included in the notice;
- any land in Victoria owned by joint owners that is not specified as being jointly owned in the notice; or
- any land which is incorrectly specified as being eligible for an exemption.

Notice of the error or omission must be given to the SRO within 60 days

from the date the notice of assessment was issued. Failure to notify the SRO within this timeframe will constitute a "notification default".

The failure of a trustee to notify the SRO when certain events occur will also amount to a "notification default". Some of the events which require notifying the SRO include:

- a person becoming a trustee of land in Victoria;
- a trustee of land acquiring further land as trustee;
- a trustee disposing of any land subject to the trust; or
- anything that results in a trust to which land is subject becoming a different category of trust.

Where a notification default occurs, the landowner is liable to pay an additional 25% of the amount of tax that should have been assessed had the notification default not occurred.

However, the SRO has the discretion to increase the amount of penalty tax payable to 75% of the additional tax if it is satisfied that the notification default was wholly or partly a result of the landowner's intentional disregard of the error.



Conversely, the SRO may determine that no penalty tax is payable if it is satisfied that the landowner took reasonable care to comply with the taxation laws, or the default occurred solely because of circumstances beyond the landowner's control.

The new notification defaults are currently in the spotlight, not only because of their recent addition to the land tax laws, but because land tax assessments for 2010 have been received by many taxpayers.

Taxpayers should examine their portfolios of landholdings and their assessments to ensure all details are correct.

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