



New South Wales

Land Tax Management (Transitional) Regulation 2018

under the

Land Tax Management Act 1956

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Land Tax Management Act 1956*.

DOMINIC PERROTTET, MP
Treasurer

Explanatory note

The object of this Regulation is to make a transitional arrangement consequent on an amendment made by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2017* to the *Duties Act 1997*. The amendment inserted section 104I (2) into the *Duties Act 1997*, which enables the Chief Commissioner of State Revenue to make a determination (a **section 104I determination**) that a room or suite of rooms on land is not a dwelling. The main consequence of any such determination is that the land is not treated as residential land for the purposes of determining liability for surcharge purchaser duty under that Act or surcharge land tax under the *Land Tax Act 1956*.

This Regulation provides for a refund of surcharge land tax paid in respect of residential land for the 2017 land tax year in cases where liability to pay that tax would not have arisen had a section 104I determination been made before the liability arose. The refund is to be available only if the section 104I determination is made before 1 January 2018 and approved by the Treasurer.

The transitional arrangement under this Regulation is consistent with a transitional arrangement under the *Duties Act 1997* that provides for a refund of surcharge purchaser duty.

This Regulation is made under the *Land Tax Management Act 1956*, including section 82 (the general regulation-making power) and clause 1A of Schedule 2.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely, matters of a savings or transitional nature.

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1 Name of Regulation

This Regulation is the *Land Tax Management (Transitional) Regulation 2018*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

3 Refund of surcharge land tax for 2017 land tax year

- (1) The Chief Commissioner must assess or reassess the surcharge land tax chargeable on residential land on the basis that no surcharge land tax is chargeable on the residential land for the land tax year starting on 1 January 2017 if:
 - (a) a liability for surcharge land tax arose at midnight on 31 December 2016, and
 - (b) a relevant determination is made by the Chief Commissioner before 1 January 2018 and is approved by the Treasurer for the purposes of this clause, and
 - (c) the Chief Commissioner is satisfied that no surcharge land tax would have been chargeable on the residential land had the relevant determination been made before the liability for surcharge land tax arose.
- (2) A **relevant determination** is a determination made under section 104I (2) of the *Duties Act 1997* (as inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2017*).
- (3) In the case of a reassessment, the Chief Commissioner must refund any surcharge land tax paid on the residential land if an application for the refund of the land tax is made within 5 years after the initial assessment.
- (4) In this clause, **residential land** has the same meaning as in Chapter 2A of the *Duties Act 1997*.