

Contents	Page
What this Ruling is about	1
Ruling and explanation	2
Date of effect	7
References	8

Public Ruling

Taxation Administration Act:

PART 6 OF THE TAXATION ADMINISTRATION ACT 2001—OBJECTIONS, REVIEWS AND APPEALS

A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this ruling is about

1. Part 6 of the *Taxation Administration Act 2001* (the Administration Act) outlines the process of:
 - (a) objections against assessments and reassessments
 - (b) appeals against, and applications for reviews of, objection decisions.
2. Part 6 of the Administration Act applies to the following revenue laws:
 - (a) *Duties Act 2001*¹
 - (b) *Payroll Tax Act 1971*²
 - (c) *Land Tax Act 2010*³
 - (d) the repealed *Land Tax Act 1915*⁴
 - (e) the repealed *Stamp Act 1894*⁵
 - (f) *Betting Tax Act 2018*⁶.

¹ Sections 3 and 6(1) of the Administration Act

² Sections 3 and 6(2) of the Administration Act

³ Sections 3 and 6(4) of the Administration Act

⁴ Section 167 of the Administration Act

⁵ Section 157 of the Administration Act

⁶ Sections 3 and 6(5) of the Administration Act

3. The purpose of this public ruling is to clarify the objection, appeal and review rights available to taxpayers.

Ruling and explanation

Right of objection

4. Section 63 of the Administration Act provides a taxpayer with a right of objection to the following:
- (a) an original assessment⁷, other than a compromise assessment⁸
 - (b) a reassessment⁹ increasing a taxpayer's liability for tax or a reassessment under s.18(b) decreasing a taxpayer's liability for tax, but the right of objection is limited to the changes for the particular matters for which the reassessment is made.
5. Part 6 of the Administration Act also applies to a decision to which s.500 of the *Duties Act 2001* (the Duties Act) applies as if the decision not to reassess was an assessment.¹⁰
6. An objection against an assessment or reassessment may be made on any grounds¹¹, with the following exceptions:
- (a) for a land tax assessment or reassessment, an objection may not be made on the grounds that the value made under the *Land Valuation Act 2010* (LVA value) for an area of land is excessive¹²
 - (b) for a decision to which s.500 of the Duties Act applies, the grounds of objection are limited to whether the particular circumstances apply for the instrument or transaction to which the decision relates.¹³
7. The objection must:
- (a) be in writing
 - (b) state in detail the grounds of objection
 - (c) be accompanied by copies of all materials relevant to decide the objection
 - (d) be lodged within 60 days after the assessment notice for the assessment or reassessment to which the objection relates is given to the taxpayer.¹⁴

⁷ Defined in Schedule 2 of the Administration Act

⁸ Section 12 of the Administration Act

⁹ Defined in Schedule 2 of the Administration Act

¹⁰ Section 500(3) of the Duties Act

¹¹ Section 64(1) of the Administration Act

¹² Section 81(1) of the *Land Tax Act 2010* and s.27 of the *Land Tax Act 1915*

¹³ Section 64(2) of the Administration Act

¹⁴ Section 65(1) of the Administration Act

8. Objections may be lodged by completing the objection form.¹⁵ Alternatively, a letter will suffice. The form or submission must be signed by the taxpayer or the taxpayer's duly authorised agent.
9. An extension of time may be given for the lodgement of the objection if the Commissioner is satisfied it would be unreasonable in the particular circumstances for the objection to be lodged within 60 days.¹⁶
10. An extension of time to lodge an objection is not granted automatically. The Commissioner will not consider a verbal request for an extension of time. The request for an extension of time must be made in writing, in either the objection form or the submission, and must outline the full facts and circumstances of why the extension of time is sought.
11. The Commissioner's decision to refuse to extend the time for lodging an objection is a non-reviewable decision.¹⁷
12. As the timeframe for lodging the objection is longer than the timeframe for paying the assessment or reassessment, the taxpayer must pay the assessment or reassessment on or before the due date¹⁸ even if the taxpayer has lodged, or intends to lodge, an objection. Failure to do so will result in unpaid tax interest accruing under s.54 of the Administration Act.
13. The lodgement of an objection does not affect the Commissioner's power under s.45 of the Administration Act to recover unpaid tax law¹⁹ amounts as debts due to the state.

Determination of the objection

14. The onus of proof for an objection is on the person making the objection.²⁰
15. If a delegate of the Commissioner made the assessment or reassessment against which the objection is lodged, that delegate will not decide the objection.²¹
16. The Commissioner must give written notice to the objector of the Commissioner's decision on the objection (the objection decision).²²
17. If the objection is allowed in part or disallowed, the notice must state:
 - (a) the decision
 - (b) the reasons for the decision
 - (c) that the taxpayer has a right to appeal to the Supreme Court (the court), or to apply, as provided under the *Queensland Civil and Administrative Tribunal Act 2009* (the QCAT

¹⁵ The form for making an objection is *Form OSR—GEN1—Objection*.

¹⁶ Section 65(2) of the Administration Act

¹⁷ Section 65(3) and Part 6, Division 3 of the Administration Act

¹⁸ Defined in Schedule 2 of the Administration Act as the date by which tax under the assessment or self assessment must be paid

¹⁹ A tax law is defined in Schedule 2 of the Administration Act as a revenue law or the Administration Act

²⁰ Section 66 of the Administration Act

²¹ Section 67(2) of the Administration Act

²² Section 68(1) of the Administration Act

Act), to the Queensland Civil and Administrative Tribunal (QCAT) for a review of the objection decision

(d) how, and the period within which, the taxpayer may appeal or apply for the review.²³

18. If a reassessment giving effect to the objection decision results in a refund of tax or late payment interest (the overpaid amount), the taxpayer is entitled to interest on the overpaid amount.²⁴ Interest is paid at the prescribed rate.²⁵

Right of appeal or review

19. Section 69 of the Administration Act provides that if a taxpayer is dissatisfied with the objection decision, they may, within 60 days after notice is given to them of the objection decision,²⁶ either:

(a) appeal to the court

or

(b) apply to QCAT, as provided under the QCAT Act, for a review of the objection decision.

20. However, no right of appeal or review exists if the whole of the amount of the tax and late payment interest payable under the assessment or reassessment to which the objection decision relates has not been paid.²⁷

Appeal process

21. To start an appeal to the court:

(a) a notice of appeal must be filed with the court within 60 days after notice is given to the taxpayer of the objection decision (no extension of time is available for filing the notice)²⁸

(b) written notice of the appeal must be given to the Commissioner within seven days after the notice of appeal is filed with the court.²⁹

22. The notice of appeal must state fully the grounds of the appeal and the facts relied on.³⁰

23. The grounds of the appeal are limited to the grounds of objection unless the court orders otherwise.³¹

²³ Section 68(2) of the Administration Act

²⁴ Sections 61A and 67(1) of the Administration Act

²⁵ Section 61A(3) of the Administration Act

²⁶ Part 11, Division 3 of the Administration Act provides how the Commissioner may give notice of the objection decision to the taxpayer and the time at which such notice is taken to have been given.

²⁷ Section 69(1)(b) of the Administration Act

²⁸ Section 70(2) and (3) of the Administration Act

²⁹ Section 70(1) of the Administration Act

³⁰ Section 70(4) of the Administration Act

³¹ Section 70(5) of the Administration Act

24. For objection decisions relating to land tax assessments or reassessments, no right of appeal against an objection decision exists on the grounds that the LVA value for an area of land is excessive.³²
25. The appellant has the onus of proving the appellant's case.³³
26. If the court is satisfied that evidence material to the objection was not submitted to the Commissioner when the objection was decided and the evidence is admitted to the court, then:
 - (a) the court must adjourn the hearing of the appeal
 - (b) the court must direct the Commissioner to reconsider the objection having regard to the evidence and any other evidence obtained by the Commissioner.³⁴
27. Paragraphs 26(a) and (b) do not apply if the Commissioner requests the court to continue the hearing without the Commissioner reconsidering the objection.³⁵
28. If the Commissioner does reconsider the objection, the Commissioner has all the powers conferred by the Administration Act.³⁶
29. The court must allow the appeal completely or partly, or disallow it.³⁷

Review process

30. To make an application for review by QCAT, an application must be filed in QCAT registry. The application must be made using the approved form^{38, 39} and state the reasons for the application.⁴⁰
31. The application must be filed with QCAT within 60 days after notice is given to the taxpayer of the objection decision.⁴¹ No extension of time is available for filing the application.⁴²
32. The principal registrar of QCAT may accept the application (conditionally⁴³ or unconditionally), or reject the application on the grounds that:
 - (a) the application is made by a person who is not authorised to make it
 - (b) the application is made after the expiry of the period within which it is required to be made

³² Section 81(2) of the *Land Tax Act 2010* and s.28(1) of the *Land Tax Act 1915*

³³ Section 70A of the Administration Act

³⁴ Section 70B(1) and (2) of the Administration Act

³⁵ Section 70B(3) of the Administration Act

³⁶ Section 70B(4) of the Administration Act

³⁷ Section 70C of the Administration Act

³⁸ Rule 7 of the *Queensland Civil and Administrative Tribunal Rules 2009* (the QCAT Rules)

³⁹ The approved form for applying for a review by QCAT is *QCAT Form Number 23—Application to review a decision*.

⁴⁰ Section 33(1) and (2) of the QCAT Act

⁴¹ Section 69(2)(b) of the Administration Act

⁴² Section 69(3) of the Administration Act

⁴³ Rule 18 of the QCAT Rules sets out the conditions that may be imposed.

- (c) the application does not otherwise comply with the QCAT Act or the QCAT Rules.⁴⁴
33. A proceeding in QCAT commences when the principal registrar accepts the application (conditionally or unconditionally).⁴⁵
34. Once the proceeding commences, the applicant must give a copy of the application to the Commissioner within seven days after the application is accepted by the principal registrar of QCAT.⁴⁶
35. The grounds on which the application for review can be made are limited to the grounds of objection unless QCAT orders otherwise.⁴⁷
36. For objection decisions relating to land tax assessments or reassessments, an application for review of an objection decision may not be made on the basis that the LVA value for an area of land is excessive.⁴⁸
37. QCAT must hear and decide the review of the objection decision by way of a reconsideration of the evidence that was before the Commissioner at the time of making the objection decision, unless it considers it necessary in the interests of justice to allow new evidence.⁴⁹
38. The review must be decided in accordance with the same law that applied when the assessment or reassessment the subject of the objection decision was made.⁵⁰
39. The applicant has the onus of proving the applicant's case.⁵¹
40. QCAT may, at any stage in a proceeding, invite the Commissioner to reconsider the objection decision the subject of the proceeding. The Commissioner will then have 28 days to reconsider the decision. If, as a result of such reconsideration:
- (a) the Commissioner confirms the objection decision—the proceeding for the review of the objection decision must continue
 - (b) the Commissioner either amends the objection decision or sets aside the objection decision and substitutes another decision (the replacement decision)—the proceeding for the review will continue, but will be in relation to either the objection decision (as amended) or the replacement decision.⁵²
41. QCAT may:
- (a) confirm or amend the objection decision
 - (b) set aside the objection decision and substitute its own decision

⁴⁴ Section 35 of the QCAT Act

⁴⁵ Section 36 of the QCAT Act

⁴⁶ Section 37(2) of the QCAT Act and rule 19 of the QCAT Rules

⁴⁷ Section 71(2) of the Administration Act

⁴⁸ Section 81(3) of the *Land Tax Act 2010* and s.28(2) of the *Land Tax Act 1915*

⁴⁹ Section 71(3) of the Administration Act

⁵⁰ Section 71(3) of the Administration Act

⁵¹ Section 73 of the Administration Act

⁵² Section 23 of the QCAT Act

- (c) set aside the objection decision and return the matter for reconsideration to the Commissioner, with such directions as QCAT considers appropriate.⁵³

Reassessment after appeal or review started

42. If a taxpayer has appealed to the court against, or applied to QCAT for a review of, an objection decision that relates to an assessment or reassessment of the taxpayer's liability for tax, the Commissioner may make a reassessment of the liability for tax after the appeal or review has started but before the appeal or review has been decided (the post-objection reassessment).⁵⁴
43. If the Commissioner makes a post-objection reassessment, the taxpayer may:
- (a) continue or withdraw the existing appeal or the taxpayer's application for review
 - (b) instead of objecting to the post-objection reassessment, change the grounds of appeal or review, by filing notice of the change with:
 - (i) in the case of an appeal—the registrar of the court
 - (ii) in the case of a review—the registrar of QCAT.⁵⁵
44. The taxpayer may only change the grounds of appeal or review to the extent that the taxpayer would have the right of objection to the post-objection reassessment.⁵⁶

Date of effect

45. This public ruling takes effect from 1 October 2018.

Elizabeth Goli
Commissioner of State Revenue
Date of issue: 27 September 2018

⁵³ Section 24 of the QCAT Act

⁵⁴ Section 69A(1) of the Administration Act

⁵⁵ Section 69A(2) of the Administration Act

⁵⁶ Section 69A(3) of the Administration Act

References

Public Ruling	Issued	Dates of effect	
		From	To
TAA000.1.8	27 September 2018	1 October 2018	30 September 2020
TAA000.1.7	5 January 2016	5 January 2016	30 September 2018
TAA000.1.6	1 July 2014	1 July 2014	4 January 2016
TAA000.1.5	6 June 2011	1 July 2011	30 June 2014
TAA000.1.4	30 June 2010	30 June 2010	30 June 2011
TAA000.1.3	1 December 2009	1 December 2009	29 June 2010
TAA000.1.2	3 July 2009	30 June 2009	30 November 2009
TAA000.1.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Revenue Ruling TA 5.1	1 July 2005	1 July 2005	23 February 2009