

Guideline

Objections, reviews and appeals

This Guideline contains information about how to lodge an objection, how to request a review of an objection determination¹, and how to lodge an appeal against an objection determination.

Objections

Before you lodge an objection

Before you lodge an objection you should contact the relevant State Revenue Office (SRO) contact person and discuss the decision or assessment with them. It may be possible to resolve the issue at this stage of the assessment or decision-making process.

You should also ensure that any information that has been requested by the SRO as part of the assessing or investigation process has been provided.

If you consider that the Commissioner has not taken all relevant information into account you should provide this information and speak to the SRO contact person before you lodge an objection.

When to lodge an objection?

You can lodge an objection when you are not satisfied with tax assessments or certain decisions of the Commissioner of State Revenue (the Commissioner). While you may disagree with the basis of a particular tax, this is not a sufficient ground for an objection. However, you are able to object to the legal correctness of the assessment and/or the reasons for the decision.

You can lodge an objection if you are not satisfied with:

- an assessment of tax; or
- any other decision of the Commissioner under a taxation law as defined in section 4 of the [Taxation Administration Act 1997](#) (the TAA); or
- a decision of the Commissioner in regard to an application for a first home owner grant under the [First Home Owner Grant Act 2000](#) (the FHOG Act); or
- a decision of the Commissioner under the [Employment Incentive Scheme \(Payroll Tax Rebate\) Act 2009](#) (EISPR Act).

¹ The phrase 'objection determination' means the Commissioner's decision on your objection. Objections may be fully allowed, partly allowed or disallowed.

You should lodge an objection with the Commissioner in the first instance rather than writing to the Treasurer or another Member of Parliament. This way, your further review and appeal rights are protected, and the SRO has the opportunity to carry out an independent review of the decision or assessment. This review may result in changes being made to the original decision or assessment and therefore resolution of your objection.

When you **cannot** lodge an objection

There are some circumstances where you cannot lodge an objection. Examples include:

- a compromise assessment (for example, where it is difficult or impractical to calculate an exact tax liability, a taxpayer and the Commissioner may agree on an amount approximating the tax liability under a taxation law);
- a reassessment resulting from the determination of an objection;
- a decision by the Commissioner to refuse a request for a refund;
- verbal comments or advice provided by the SRO; or
- a refusal by the Commissioner to accept an objection lodged outside the time limit set down in the TAA, the FHOG Act or the EISPR Act - see explanation at the heading *What is the time limit for lodging an objection?*

If you are uncertain about your right to object you should contact the SRO.

Who reviews your objection?

When you lodge an objection, the SRO's Legislation, Communication and Review Unit (LCR) will conduct an independent review of the decision or assessment. The LCR Unit is separate from the area of the SRO that made the original decision or assessment. The TAA, FHOG Act and the EISPR Act prohibit any person involved in making the original decision or assessment (or subordinate of that person) from considering and determining the objection.

How do you lodge an objection?

You must lodge your objection in writing (letter or email).

The grounds for objection should be detailed in full. It is not enough to say the assessment is wrong, that you don't agree with the decision or that you wish to complain about the amount and/or type of tax. You should provide enough information to allow the reviewing officer to determine which aspects of the assessment or decision you object to and your reasons for claiming them to be legally incorrect.

What is the time limit for lodging an objection?

Your objection must be lodged within 60 days of service of the notice of assessment or notification of a decision of the Commissioner. This notice can either be served on you or a person acting on your behalf.

If exceptional circumstances prevent you from lodging your objection within 60 days you can request an extension of time. However, extensions can only be granted at the discretion of the Commissioner. Your request for an extension must be in writing and state the reasons that the objection could not be lodged within time.

Why are some objections not valid?

Objection letters or emails not lodged within time or that do not contain clear grounds for an objection may not be accepted as a valid objection. If your objection is not valid, a reviewing officer may still examine your claims and inform you of the result. However as this 'review' is not part of a formal objection process there are no further rights of review or appeal.

Who has to prove their case at the objection stage?

The onus of proof is on the taxpayer to prove their case.

How will you know the SRO is considering your objection?

After you've lodged your objection, we will send you an acknowledgment letter. It will include a contact name and telephone number should you wish to ask about the progress of your objection.

Do you still have to pay the tax while your objection is being considered?

While your objection is being considered you have the choice of either:

- paying the outstanding amount and, if your objection is successful, receiving a refund of the overpaid amount together with interest paid at the market interest rate detailed in section 35(2) of the TAA (the market rate of interest changes on 1 July each year). The present and past rates of market interest are available on the SRO website, www.sro.tas.gov.au; or
- not paying the outstanding amount; but if your objection is not successful, interest will be imposed on the outstanding amount at the interest rate detailed under section 35(1) of the TAA, being the prevailing market rate plus the premium interest rate of 8 per cent per annum.

How long will it take to have your objection decided?

The SRO seeks to determine 90 per cent of objections within 60 days of receipt. This period does not include time delays caused while the SRO is waiting for information from taxpayers, their representatives or third parties.

Complex objections may take longer to determine. The number of objections received and on hand may also delay completion times.

How will we tell you about the result of your objection?

The reviewing officer will issue you a written Notice of Determination, advising whether your objection has been fully allowed, partly allowed or disallowed. If the objection is partly allowed or disallowed, the Notice of Determination will contain an explanation of the reasons for the determination.

What happens if your objection is fully allowed?

You do not need to do anything. The reviewing officer will issue you a written Notice of Determination. If a reassessment is necessary, the SRO will issue a notice of reassessment together with a refund of any overpaid tax, penalty tax and applicable interest.

What if your objection is disallowed or only partly allowed?

The reviewing officer will issue you a written Notice of Determination, explaining the determination and the reasons for it. If you are dissatisfied with this decision, the Tasmanian legal system provides you with the right of review by the Administrative Appeals Division of the Magistrates Court or by the Supreme Court of Tasmania.² More information about your appeal rights is contained in the section below, headed *Reviews and Appeals*.

² Requests for review under the FHOG Act are directed to the AAD in the first instance, whereas under the TAA, the taxpayer has the choice of seeking a review by the AAD or lodging an appeal directly with the Supreme Court.

Land Values, Capital Values, Adjustment Factors and Estimated Trends in Capital Values

The Commissioner relies on the Office of the Valuer-General (OVG) for information about:

- land values and adjustment factors in relation to land tax; and
- capital values and estimated trends in capital values in relation to duties matters.

Land values

Land values used in land tax notices of assessment are obtained from the OVG. Only the OVG has the authority to determine land values and consider objections about valuations or reviews of adjustment factors.

A land owner can object to the OVG's valuation under Section 28 of the [Valuation of Land Act 2001](#) (the Valuation of Land Act). Therefore, if you are objecting to a valuation or seeking a review of adjustment factors you should contact the OVG. More information about land valuations and your objection rights can be found at the [OVG's website](#), www.dpipwe.tas.gov.au.

You are still required to pay any outstanding land tax while your objection is being considered. The OVG will consider your objection, and inform you about the decision and any rights of appeal you may have.

If as a result of the objection there has been an adjustment to the land value, the OVG will notify the Commissioner of State Revenue, and your land tax liability will be reassessed based on this new value. You will be sent a new land tax assessment notice and, if applicable, a refund of any overpaid land tax.

Dutiable value

Values provided by the OVG may be used in assessments made under the Duties Act where there is no consideration paid for property (that is, if the property was a gift) or where it appears that the stated consideration does not reflect the true unencumbered value of the property.

Objections lodged against duty assessments based on OVG valuations will only be considered when accompanied by a declaration or valuation prepared by a competent valuer.³ More information about dutiable value and evidence of value can be found in the revenue ruling PUB-DT-2014-7 '[Evidence of Value](#)' at www.sro.tas.gov.au.

In the absence of a declaration or valuation, the Commissioner cannot treat the particular matter as a valid objection.

Reviews and Appeals

If you are dissatisfied with the Commissioner's determination of your objection, or 90 days have passed since you lodged your objection and the Commissioner has not yet determined your objection, the Tasmanian legal system provides you with the right of review by the Administrative Appeals Division of the Magistrates Court (the AAD) or by the Supreme Court of Tasmania (the Supreme Court).⁴

³ For the purposes of section 248 of the Duties Act, a reference to a "competent valuer" means a person whose qualifications satisfy the criteria set down in section 4 of the [Land Valuers Act 2001](#) or alternatively a person who, subject to section 4(2) of that Act, was a registered valuer at the time of the repeal of the [Valuers Registration Act 1974](#).

⁴ Requests for review under the First Home Owner Grant Act are directed to the AAD in the first instance. Under the TAA the taxpayer has the choice of seeking a review by the AAD or lodging an appeal directly with the Supreme Court.

When can you request a review or lodge an appeal?

You need to lodge your request for review or appeal within 60 days after the date of service of the Notice of Determination of your objection, or after 90 days from the date you lodged your objection if the Commissioner has failed to determine your objection within that time period.⁵

If exceptional circumstances prevent you from lodging your request for review or appeal within the required time you can request an extension of time to lodge your request, however extensions can only be granted at the discretion of the AAD or the Supreme Court.

How do you request a review or an appeal?

You can request a review through the AAD or lodge an appeal with the Supreme Court. The process for each is different therefore you need to lodge your request for a review or appeal with the correct court.

Requests for review under the FHOG Act are directed to the AAD in the first instance.

Under the TAA, the taxpayer has the choice of seeking a review by the AAD or lodging an appeal directly with the Supreme Court.

The external judicial review is completely independent of the SRO.

Contact the registrar of either the AAD or the Supreme Court to ask how to lodge a request for review or lodge an appeal, respectively.

Administrative Appeals Division (Magistrates Court)

The AAD provides an external review of decisions made by various Tasmanian Government agencies. You can ask the AAD to review your case on most matters. If you are not satisfied with the decision of the AAD you may have further rights of appeal to the Supreme Court on questions of law (that is, you are not able to appeal to the Supreme Court about questions of fact). For more information on your rights you should contact the Magistrates Court directly.

Supreme Court of Tasmania

In certain circumstances you may wish to go directly to the Supreme Court instead of the AAD to have your case reviewed (First Home Owner Grant matters are to be directed to the AAD in the first instance).

If the Supreme Court makes a decision and you are not satisfied with that decision, you may have further rights of appeal. For more information on your rights you should contact the Supreme Court directly.

Which party has to prove their case at the review or appeal stage?

The onus of proof is on the taxpayer.

Can you introduce new information or grounds if you seek a review or lodge an appeal?

No new information or grounds can be introduced at this stage of the process unless the AAD or Supreme Court agrees for that to happen. This rule applies to both the taxpayer and the Commissioner.

More information about reviews and appeals

Administrative Appeals Division (Magistrates Court) - www.magistratescourt.tas.gov.au

Supreme Court - www.supremecourt.tas.gov.au

⁵ You must provide 14 days written notice to the Commissioner of your intention to refer your objection to the AAD or the Supreme Court for a decision if your objection concerns the Commissioner's failure to determine your objection.

Contacting the State Revenue Office

Phone (03) 6166 4400 (weekdays, 9:00am to 5:00pm)
1800 001 388 (Tas-based callers outside the '62' area)

Email revenuereview@treasury.tas.gov.au

Website www.sro.tas.gov.au

Post Commissioner of State Revenue, GPO Box 1374, Hobart TAS 7001

Office Ground floor
Salamanca Building Parliament Square
4 Salamanca Place HOBART TAS 7000
(weekdays, 9:00am to 5:00pm)

Fax (03) 6173 0217