

Revenue Ruling

Commissioner of State Revenue, Tasmania



PUB-LT-2023-5 · Effective 1 July 2022

16H Discretion - Deceased Estates Foreign Investor Land Tax Surcharge

Preamble

1. [Division 1A of Part 2 of the Land Tax Act 2000](#) (the Act) charges an additional amount of land tax known as the Foreign Investor Land Tax Surcharge (FILTS) on certain residential property owned by a “foreign person” at 1 July.
2. [Section 16H](#) of the Act provides that the Commissioner of State Revenue (the Commissioner) may publish circumstances under which a “foreign person” is taken **not** to be foreign for the purposes of the Act.
3. This Ruling is a publication made by the Commissioner in accordance with [Section 16H](#) of the Act.

Ruling

4. For a trust created by death (i.e. a deceased estate) where, at the time of death, the deceased person was an Australian citizen, the Commissioner has determined that the Trustee of the deceased estate, in their capacity as trustee of the deceased estate, is taken not to be a foreign person for the purposes of the Act for a period of up to 24 months from the date of death (the requisite period) provided that the Trustee, in their capacity as trustee of the deceased estate, does not acquire additional land (or an interest therein).
5. This means:
 - the Trustee, in their capacity as trustee of the deceased estate, is taken to not be a foreign person in relation to FILTS for the requisite period; and
 - FILTS is not chargeable in respect of the Trustee’s interest in the relevant land previously owned by the deceased person for the requisite period.
6. Where a deceased estate is not finalised within the requisite period or where the Trustee in their capacity as trustee of the deceased estate acquires additional land (or an interest therein), the Trustee is to notify the Commissioner in writing within 30 days of the expiration of the requisite period or the acquisition and provide information as to whether the deceased estate is a Foreign Trust (refer to [Section 16j\(b\)](#) of the Act).

Application of this Ruling

7. This Ruling applies to assessments and reassessments on and after 1 July 2022.
8. *Rulings do not have the force of law.* Each decision made by the State Revenue Office (SRO) is made on the merits of each individual case having regard to any relevant Ruling.

More information

For more information about this ruling, please contact the SRO's Legislation, Communication and Review section by emailing revenuereview@treasury.tas.gov.au or calling (03) 6166 4400.

For all [Revenue Rulings](#) go to sro.tas.gov.au/resources/rulings. All Rulings must be read subject to Revenue Ruling [Explanation and Status of Revenue Rulings](#) available at sro.tas.gov.au/resources/rulings.

JC Root

Commissioner of State Revenue

26 September 2023