

Guideline

Objections, reviews and appeals

This Guideline explains how to:

- lodge an objection;
- request a review of an objection determination; and
- lodge an appeal against an objection determination.

The term 'objection determination' means the determination of your objection by the Commissioner of State Revenue (the Commissioner). Objections may be:

- Allowed;
- Partly Allowed; or
- Disallowed.

This document is a guide only. In the event that any of the following details are not consistent with relevant legislative provisions, those provisions will prevail.

Objections

Before you lodge an objection

You should ensure that any information requested by the State Revenue Office (SRO) as part of an assessing or investigation process has been provided to the requesting SRO officer. This includes where the Commissioner has made an assessment or decision but stated it will be reviewed if particular information is provided.

You (or your professional representative) should also ensure that all other relevant information is provided to the Commissioner and taken into account (regardless of whether it has been requested) before you lodge an objection.

You may contact the original decision maker to seek clarification about the information that has been requested or to better understand the decision that has been made.

Is your objection valid?

You can lodge an objection when you are not satisfied with the **legal basis** of certain assessments or decisions of the Commissioner.

- ❌ Disagreeing with the basis of a particular tax (or thinking that a tax is unfair) is not a valid ground for an objection.
- ✅ You can object to the legal correctness of the assessment and/or the reasons for the decision.

You can object to assessments or decisions of the Commissioner made under:

- a taxation law as defined in [section 4 of the Taxation Administration Act 1997](#) (the TAA); or
- the [First Home Owner Grant Act 2000](#) (the FHOG Act); or
- the [HomeBuilder Grants Act 2020](#) (the HBG Act); or
- the [Local Government \(Rates and Charges Remissions\) Act 1991](#) (the LGA); or
- the [Payroll Tax Rebate \(Apprentices, Trainees and Youth Employees\) Act 2017](#) (the PTR Act).

Recommendation

In the first instance you should lodge an objection with the Commissioner rather than writing to the Treasurer or another Member of Parliament. There are sound reasons for this:

- i) your further review and appeal rights through the courts are protected; and
- ii) the SRO can conduct an independent review of the decision or assessment. This review may result in changes being made to the original decision or assessment and therefore the resolution of your objection.

Certain circumstances when 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 determination that a transferee is not a foreign person for the purposes of the *Duties Act 2001*;
- a determination that an applicant is not a foreign person for the purposes of the *Land Tax Act 2000*;
- 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 relevant legislation - 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. LCR is separate from the area of the SRO that made the original decision or assessment. The TAA, FHO Act, the HBG Act and the PTR Act prohibit any person who was involved in making the original decision or assessment (or subordinate of that person) from considering and determining the objection. Although the LGA does not contain specific provisions, it is the Commissioner's practice to prohibit any person involved in the making of an original decision, or a subordinate of that person, to determine an objection.

How do you lodge an objection and what should it include as a minimum?

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

The grounds for objection should be fully detailed. It is not enough to say the assessment is wrong, that you do not 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. If you do not do this your objection may be considered invalid - and a determination will not be made.

See the next page for additional explanation at the heading *Objections that are invalid*.

Under the TAA, should a taxpayer wish to exercise their rights of review or appeal against an objection determination, their case upon review or appeal is **limited** to their original grounds of objection.

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 (provided adequate consent has been given by you).

If exceptional circumstances prevent you from lodging your objection within 60 days you can request an extension of time. 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.

Objections that are invalid

Objection letters or emails that are either 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 invalid, a reviewing officer will still examine your claims and inform you of the result and clarify why your grounds were invalid. However, because 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 on objection.

How will you know that the SRO is considering your objection?

After you have lodged your objection, the SRO will send you an email confirming receipt of your objection and then an acknowledgment letter. Each 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 either¹:

- a) **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). [Current and previous rates of market interest are here at the SRO website](#) or go to sro.tas.gov.au/resources/rates-of-interest.; or
- b) **not paying** the outstanding amount. 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 interest. [Current and previous rates are here at the SRO website](#) or go to sro.tas.gov.au/resources/rates-of-interest.

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 that advises whether your objection has been '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.

¹ Under the FHOG Act and HBG Act you have the option to repay the grant funds that have been recalled which will be paid back to you upon a successful objection. If you do not repay the grant funds that have been recalled and your objection is unsuccessful, interest may be imposed at market and premium rates from the date of the recall of the grant funds until the outstanding grant amount is repaid.

What happens if your objection is 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. In addition to an amount refunded, in certain circumstances you will also be paid interest calculated at the market rate from the date of payment of the overpaid amount to the date of the refund.

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 not satisfied with this decision, the Tasmanian legal system provides you with the right of review (by the Administrative Appeals Division of the Magistrates Court) or appeal (by the Supreme Court of Tasmania).² More information about your appeal rights is set out in the section headed *Reviews and Appeals* further on in this guideline.

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.

A different process for objecting to land valuations or adjustment factors

Land values used for 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](#). Therefore, if you are objecting to a valuation or seeking a review of adjustment factors you should contact the OVG. For more information about land valuations and related objection rights please refer to the [OVG website](#) or go to nre.tas.gov.au/land-tasmania/office-of-the-valuer-general.

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

If following the objection there is an adjustment to the land value, the OVG will notify the Commissioner, and your land tax liability will be reassessed based on this new value. You will be sent a new land tax assessment notice and, where applicable, a refund of any overpaid land tax with interest payable, calculated at the market rate from the date of payment of the overpaid amount to the date of the refund.

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 (e.g. 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 with the Commissioner against duty assessments based on OVG valuations will only be considered when accompanied by a declaration prepared by a competent valuer.³ More information about dutiable value and evidence of value can be found in the [Revenue Ruling PUB-DT-2023-4 'Evidence of Value'](#) or go to sro.tas.gov.au/resources/rulings.

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

² Requests for review under the FHOG Act and HBG 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. The review of a determination made under the LGA must be made through the AAD.

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](#).

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:⁴

- a) the Administrative Appeals Division of the Magistrates Court (the AAD); or
- b) the Supreme Court of Tasmania (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

Should exceptional circumstances prevent you from lodging your request for review or appeal within the required time you can request an extension of time through the AAD or the Supreme Court.

How do you request a court review or appeal?

You can request a review through the AAD or lodge an appeal with the Supreme Court; which court to choose depends on the subject matter. See below for details:

Taxation Acts under the TAA	The taxpayer has the choice of seeking a review by the AAD or lodging an appeal directly with the Supreme Court.
FHOG and HBG Act	In the first instance refer the request for review to the AAD.
PRT Act	The taxpayer has the choice of seeking a review by the AAD or lodging an appeal directly with the Supreme Court.
LGA Act	The review of a decision made under the LGA must be made through the AAD. External judicial reviews are completely independent of the SRO.

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](http://magistratescourt.tas.gov.au) (magistratescourt.tas.gov.au).

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. As set out above, First Home Owner Grant, HomeBuilder Grant matters are to be directed to the AAD in the first instance and matters under the LGA must be directed to the AAD.

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](http://supremecourt.tas.gov.au) (supremecourt.tas.gov.au).

⁴ Requests for review under the FHOG Act, PTR Act, and HBG Act are directed to the AAD in the first instance. Under the TAA and PRT Act the taxpayer has the choice of seeking a review by the AAD or lodging an appeal directly with the Supreme Court. The review of a determination made under the LGA must be made through the AAD.

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.

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

The onus of proof is on the taxpayer upon review or appeal.

Can I introduce new material if I am seeking a review or lodging an appeal?

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

Contacting the State Revenue Office

Phone (03) 6166 4400 (weekdays, 9:00am to 5:00pm)
1800 001 388

Email revenuereview@treasury.tas.gov.au

Website sro.tas.gov.au

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