Historic Property Tax Legislation in NSW Passes in Parliament

Date : November 21, 2022

Thousands of first home buyers in New South Wales will now be able to unlock the dream of home ownership sooner after the Property Tax (First Home Buyer Choice) Act 2022 ("**the Act**") received assent from the Governor on 11 November 2022.

The Act allows an eligible person to opt to pay an annual property tax rather than stamp duty when buying their first home.

The concept of the property tax was first raised by NSW Premier Dominic Perrottet in July 2020 as a mechanism to abolish stamp duty and land tax and replace it with a single annual property tax. The concept relies on a long transitional period initially beginning with first home buyers who can choose to place the property being purchased into the property tax system.

Property tax rates

From 16 January 2023, first home buyers can opt in to the annual fee directly and will not be required to pay stamp duty. However, any first home buyer who makes a purchase from 12 November 2022 to 30 June 2023 can apply for a refund on their stamp duty and choose to opt into the property tax system instead.

In 2022-23, the annual property tax rates for owner-occupiers will be $400 plus 0.3 per cent of the property's land value (as determined by the NSW Valuer General). The tax rates will be annually indexed to ensure the property tax remains an affordable option for first home buyers.

In addition to this, if the first home buyer opted to pay the annual property tax and then turned the property into an investment, the property tax rate will change. In 2022-23, the annual property tax rates for residential investment properties will be $1,500 plus 1.1 per cent of the property's unimproved land value. The tax rate will be annually indexed by Gross State Product per capita divided by a Land Value Indexation Factor to ensure average payments grow in line with average incomes and to offset the impact of sudden price changes in the residential property market.

Who is eligible?

Applicants must be individuals who are over 18 years old and are Australian citizens (or permanent resident). The first home buyer (and their spouse) must never have owned (or co-owned) residential property in Australia and never received a first home buyer exemption or concession in the past. The first home buyer must also move into the home within 12 months after buying it, and must live there for a continuous period of at least 6 months.

The residency time limit does not apply to first home buyers who purchase vacant land, however, the higher tax rate (i.e. the tax rate for residential investment properties) will apply until it is owner-occupied. First home buyers opting into the property tax scheme will need to advise Revenue NSW if they move out or into the property.

Also, first home buyers can only opt in to the property tax system if they purchase a property with a value up to:

- for vacant land - $800,000; and
- otherwise - $1,500,000.

If the value of the property exceeds these thresholds, the first home buyer will not be able to opt in to the property tax system and will be required to pay stamp duty.

Considerations for purchasers when making the choice

Whether a first home buyer should make the choice to opt to pay an annual property tax rather than stamp duty will depend on several factors, such as:

- the amount of time they intend to hold the property;
- whether they intend to lease the property; and
- the difference between the amount of property tax and the stamp duty otherwise payable.

Where and when can I apply for the property tax?

The process for applying for the annual property tax will be set out on the Revenue NSW website from 16 January 2023. However, the application to opt into the property tax system will need to be made through your solicitor or conveyancer and must be made prior to settlement of your purchase.

Matthews Folbigg Lawyers has a specialist team dedicated to property transactions

If you would like more information or advice in relation to the annual property tax, please contact:
Anna Zdrilic on (02) 9806 7425 or email annaz@matthewsfolbigg.com.au
Christopher Cole on (02) 9806 7432 or email christopherc@matthewsfolbigg.com.au