# Windfall gains tax — Payment and deferral

**22 June 2023 Video transcript**

0.15 Welcome James.

0.16 Thanks, Phil.

0.17 I'm looking forward to hearing your comments on how payment and deferral of the windfall gains tax works.

0.25 Once the taxpayer receives their assessment in the mail, they will see an assessment payment deadline, and that payment deadline is not legislated, but we understand from the SRO that it will be 60 days from the date of receipt of the assessment.

0.40 Now, the government recognises that a rezoning in and of itself doesn't give you the cash to pay the tax. So in the great majority of cases. I expect that the taxpayers will make an election to defer the payment because that's a mechanism available under the legislation.

0.58 So essentially, a taxpayer can make this deferral election by notifying the State Revenue Office and they need to do so prior to that 60 day default payment deadline. And the SRO does have a discretion to accept an out of time deferral request. However, you don't want to necessarily throw yourself at the mercy of the SRO. And so a practitioner should try to make sure they work with their client to make sure that a deferral request is in on time.

1.27 What are the consequences of deferral? Well, there's no free lunch here. Of course, the, the payment will need to be made at some point and the liability will accrue interest. That interest rate is the 10-year Victorian government bond rate. Clearly that is, um, a pretty favourable rate compared to normal borrowing.

1.46 So that's why that's a big part of the reason why I expect that this deferral mechanism will be opted by a number of taxpayers.

1.52 So how long do you have to defer? Well, there's a maximum of 30 years. You, if nothing happens to the land or to the taxpayer in that, in that timeframe, you can push it out for 30 years.

2.04 However the deferral arrangement will cease earlier if certain events occur. And a classic example of an event that would cause a deferral arrangement to cease is a sale of the land or, or more specifically a transfer of the land upon settlement, a durable transaction.

2.22 Now, most durable transactions will cause the deferral arrangement to cease.

2.26 There are a couple of exceptions. For example, some development agreements might give rise to economic entitlement duty for the developer, but they don't cause the owners develop, the owner's deferral arrangement to cease. So it'd be interesting to see if we see a few more development agreements encouraged by this scenario.

2.46 But as a general rule, classic sale of land, that's going to cause your deferral to cease.

2.51 Another key event which can cause a deferral to cease is a landholder duty event in respect to the taxpayer. And to give you a simple example of that, if you think of a company that holds the land there's a rezoning of the land, the company elects to make a deferral. And then for example, two years later, a third party comes along and buys an interest of 50 percent or more in the company.

3.16 Now that's a landholder duty event, and that will cause the deferral arrangement of the company to cease.

3.23 When you have a cessation of your deferral arrangement, the tax liability and any accrued interest will be payable within 30 days.

3.33 So it's very important for practitioners to make sure that their client is aware of the consequence of the deferral and the events, which can cause a deferral to cease.

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