



## COMMISSIONER'S PRACTICE LT 10.0

**ARCHIVED – See CP LT 20**

### LAND TAX - EXEMPTION FOR LAND OWNED BY A RELIGIOUS BODY

#### Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 10.0	29 October 2003	29 October 2003	25 May 2017

This Commissioner's practice addresses the circumstances when the Commissioner will grant exemptions and when retrospective taxation on land owned by religious bodies will be applied.

#### Background

Section 32 of the *Land Tax Assessment Act 2002* ("the Act") provides that land is exempt for an assessment year if:

- at midnight on 30 June in the previous financial year it is owned by, vested in, or held in trust for a religious body; and
- it is in good faith reserved or used as a site for religious purposes, including a site for a church or a chapel, for public worship, for educational purposes or for the residence of a minister of the religious body.

However, if during an assessment year, reserved land is used for any other purpose or is sold, then land tax is payable on the land for the lesser of the following periods:

- the five financial years reckoned retrospectively from and including the assessment year;

- the number of financial years from, and including, the first financial year for which the land was exempt as a result of its use and ownership to and including the assessment year.

The amount of land tax payable for each financial year for which land tax is payable is assessed at the rate applicable for that year under the *Land Tax Act 2002*.

### **Commissioner's Practice**

1. In considering an application for exemption and reassessment for land tax, the Commissioner will consider the following criteria when making his determination.

#### 1.1 Ownership

The land must be owned by or for a religious body.

#### 1.2 Land usage

The land must be used, or reserved, for a religious or educational purpose or for the residence of a minister.

#### 1.3 Religious

In determining whether a body is religious, the Commissioner relies upon a High Court decision (*The Church of the New Faith v Commissioner of Payroll Tax* (Vic) 1983) where the Court found the two most important factors in defining religion are:

- belief in a supernatural being, thing or principle; and
- acceptance of canons of conduct which give effect to that belief, but which do not offend against the ordinary laws.

The Commissioner is unlikely to consider a body to be religious if membership is restricted, except in matters of belief and conduct.

2. Applications for exemption and reassessment should include:

2.1 a copy of the organisation's constitution; and

2.2 details of the usage of the land.

3. Where reserved land is sold or used for any other purpose, the land is subject to retrospective taxation as provided for by section 32(2). However, the Commissioner will not raise a retrospective assessment where:

3.1 a religious body sells land that has been reserved for a religious purpose and is exempt from land tax;

3.2 acquires other land within the same locality; and

- 3.3 uses or reserves the newly acquired land for the original religious purpose.
4. When considered necessary, the Commissioner will inspect properties and/or seek documentary evidence in order to be satisfied that an exemption from land tax is applicable.

**Date of Effect**

This Commissioner's practice takes effect from 29 October 2003.

Bill Sullivan  
COMMISSIONER OF STATE REVENUE

29 October 2003

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