



COMMISSIONER'S PRACTICE LT 2.0

LAND TAX - NEWLY SUBDIVIDED RESIDENTIAL PROPERTY

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 2.0	29 October 2003	29 October 2003	18 August 2011

This Commissioner's practice addresses the assessment of newly subdivided private residential land under section 14 of the *Land Tax Assessment Act 2002* ("the Act").

Background

Land tax is payable in accordance with section 14 of the Act when private residential property is subdivided (as defined in Clause 3 of the Glossary of the Act) if:

- the property was exempt or partially exempt from land tax for any of the five financial years reckoned retrospectively from, and including, the financial year in which the land was subdivided; and
- the area of the property is greater than 2.0234 hectares.

Land tax is payable by the subdividing owner of the property on the unimproved value of the taxable portion of the property for each of the five financial years reckoned retrospectively from and including the financial year in which the land is subdivided.

The amount of land tax payable for each of those five financial years is assessed, at the rate applicable for that year under the *Land Tax Act 2002*, as if the taxable portion of the property were the only land of the subdividing owner on which land tax was payable for that year.

However, if land tax has already been levied on any part of the taxable portion of the property under another provision of the Act for any of those five financial years, then: if a partial exemption did not apply to that part of the taxable portion for the year no land tax is payable on that part for that year; or

- if a partial exemption applied to that part of the taxable portion, or an interest in it, for that year land tax is payable for that year on the part of the property to which the partial exemption applied.

The taxable portion of the property is the portion that remains after subtracting from the whole area of the property the greater of the following areas:

- the area of the lot or parcel or portion of land on which the private residence was situated at the time of the subdivision;
- 2.0234 hectares.

The unimproved value of the taxable portion of the property is the amount that bears to the unimproved value of the whole of the property the same proportion as the area of the taxable portion bears to the whole area of the land.

Section 47(3) of the *Taxation Administration Act 2003* provides that the Commissioner may approve a tax payment arrangement including conditions for the remission of interest.

Commissioner's Practice

1. A retrospective assessment is raised for the relevant five-year period, irrespective of when the current owner (ie. the owner at the time of the subdivision) acquired the land.
2. The Commissioner will offer the taxpayer the opportunity to pay the tax assessed by instalments.
3. Where approved by the Commissioner, an extension of time for payment of the land tax assessment will be allowed with the applicable interest remitted to nil.
4. The Commissioner will not raise a retrospective assessment when a subdivision occurs primarily for any of the following reasons:

4.1 The resumption of land

Where a subdivision has occurred solely for the purpose of the resumption of land by a statutory authority, then an assessment will not be made. Furthermore, an assessment will not be made where approval to subdivide has been given as part of a compensation measure for the original resumption.

4.2 The realignment of boundaries

Where a subdivision is carried out for the sole purpose of redefining the boundaries of existing lots and the area of the lots remains almost the same, an assessment will not be made.

4.3 *The merging of land*

Where the same owner holds two or more lots and they are merged to form one lot, an assessment will not be made.

4.4 *To identify owner's portion of land*

Where land is jointly owned and a subdivision occurs for the purpose of defining each owner's interest, and each owner receives an identifiable lot to the same proportion as they held in the original land, an assessment will not be made.

Date of Effect

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

Bill Sullivan
COMMISSIONER OF STATE REVENUE

29 October 2003