



COMMISSIONER'S PRACTICE LT 4.0

SUPERSEDED

LAND TAX - PRIVATE RESIDENTIAL PROPERTY

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 4.0	29 October 2003	29 October 2003	25 May 2017

This Commissioner's practice addresses the exemption from land tax for private residential properties used as an individual's primary residence as defined in clause 1 of the Glossary to the *Land Tax Assessment Act 2002* ("the Act").

Background

Land tax is an annual charge based on all land within the State of Western Australia, except land that qualifies for exemption. The charge is based upon ownership and usage of land at midnight on 30 June each year and is raised for the forthcoming year.

Section 21 of the Act provides for an exemption for private residential property for an assessment year if, at midnight on 30 June in the financial year before the assessment year, it is owned:

- by an individual who uses it as his or her primary residence;
- by a husband and wife, at least one of whom uses it as his or her primary residence; or
- by persons who have lived in a de facto relationship with each other for at least 2 years, whether or not they still live on that basis, at least one of whom uses it as his or her primary residence.

However, if the property is also owned by another person or persons, it is exempt if each owner who does not use it for that purpose is an owner only because of a requirement by a financial institution for a guarantee of money advanced on the security of the property.

No exemption can apply if the property is held in trust, except where the land is held in trust for a disabled beneficiary and that beneficiary uses the land as their primary residence.

The Act provides for the continuation of an exemption after the death of a resident, for a period of one year. This continuing exemption is granted providing:

- the deceased's estate does not derive any rent or other income from the property from the date of death until the end of the year of assessment; and
- the property is owned by the executor or administrator of the deceased's estate.

Property owned by an executor or administrator will also be granted an exemption if:

- an individual has a life interest in the property or has a right under the terms of a will to reside in a property; and
- the individual uses the property as their primary residence.

Commissioner's Practice

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

1.1 Private residence

Caravans, sheds and other semi-permanent structures do not constitute a residence. However, a semi-permanent structure may be considered for exemption if the local government grants permission for the owner to reside in such a structure while a permanent residence is constructed.

1.2 Usage by the owner

The owner must be the user of the land. It is not sufficient for members of the owner's family to reside on the land. If some, but not all, of the owners reside on the land a partial exemption may apply.

1.3 Absence from property

Where an owner takes an extended absence from the property, an exemption may still apply providing:

- the owner's personal possessions remain within the property; and

- the owner has not established a new principal place of residence, whether owned or not.

Refer to other Commissioner's practices for further information regarding absence from property.

2. The Commissioner will grant an exemption where it is clearly apparent, based on information available to him/her, that the owner is using the property as his or her primary residence. Where a notice of assessment has been issued, the owner must apply for an exemption to be granted.
3. An exemption application will be accepted in most cases by telephone. However, where the circumstances conflict with information that was used as the basis of the assessment, the Commissioner may request a written application.
4. Where 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