



## COMMISSIONER'S PRACTICE

### LT 1.2 SUPERSEDED

## LAND TAX – PRIVATE RESIDENTIAL PROPERTY: TWO OR MORE LOTS OF LAND USED AS A SINGLE PROPERTY

This Commissioner's practice addresses the method of assessment of two or more lots of land, established and used by the individuals who reside there, as one integrated area that constitutes their place of residence.

### Background

The *Land Tax Assessment Act 2002* ('LTA Act') provides for an exemption from land tax on land that is used by the land owner as their primary residence as at midnight on 30 June in the financial year before the assessment year, except where the land is held in trust.

The term *lot* is defined in clause 2(1) of the Glossary to the LTA Act ('the Glossary'), while *parcel* is defined as meaning two or more lots of land that are treated as a single property.

Clauses 2(3) to 2(6) of the Glossary set out the factors the Commissioner of State Revenue ('the Commissioner') will have regard to when determining whether to treat two or more lots of land as a parcel for valuation and assessment, including:

- if two or more lots of land in the same ownership have common boundaries; and
- if the Commissioner is satisfied the lot or lots on which the private residence is constructed (the 'home lot') and each other lot (the 'other lots') are established and used by the individuals who reside there as one integrated area that constitutes the place of residence with consideration of:
  - the nature, extent and degree of permanence of any structures or other improvements on the other lots;
  - the degree of physical separation of, and the means of access between, the home lot and the other lots;
  - whether the appearance and physical characteristics of the home lot and the other lots, taken together, are those of one integrated area;
  - the extent to which the home lot and the other lots are collectively or separately provided for in terms of matters such as fencing, means of access and egress, and provision of water, power and other utilities;
  - whether the other lots are used for residential purposes or whether the use is of an ongoing nature, rather than temporary or transient;
  - whether the use of the home lot and the use of the other lots, taken together, constitutes the use of all of the lots as one integrated place of residence;

- how often the other lots are used and by whom;
- the extent to which the activities undertaken on the other lots could be undertaken at the home lot in the absence of the other lots;
- the relative size of the lots; and
- any other matters the Commissioner considers relevant.

Under section 21(1) of the LTA Act, private residential property (except property held in trust) is exempt for an assessment year if, at midnight on 30 June in the financial year before the assessment year, it is owned:

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

*Primary residence*, in relation to an individual, means the individual's sole or principal place of residence.

*Private Residence* means a building or part of a building that was occupied, or fit to be occupied and intended by the owner to be occupied, as a place of residence of one or more individuals, except for the circumstances identified in the Glossary.

*Private residential property* is defined as:

- a lot of land on which there is a private residence; or
- a parcel of land on which there is a private residence constructed so that part of the residence stands on each of the lots of land that constitute the parcel; or
- an interest in a home unit; or
- for the purposes of sections 24, 24A, 27, 27A and 28 of the LTA Act — a lot of land on which a private residence is being or has been constructed.

### **Commissioner's Practice**

1. Where a residence is constructed on one lot, adjoining lots will be treated as a single parcel if the private residence is constructed so that it sits partly upon each lot or the Commissioner is satisfied the lots have been developed in such a manner as to form an integral part of the residence. Substantial physical structures, such as a brick garage with concrete driveway allowing access to the home lot from the road, or an underground swimming pool with landscaped gardens, are likely to be accepted as indicative of integrated lots. The requirement that the lots in question are established and used as one integrated area necessitates a degree of permanence.<sup>1</sup>

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<sup>1</sup> J M Bestall and Commissioner of State Revenue (2005) WASAT 32.

2. Two or more lots will not be treated as a single parcel if the other lot or lots contain a separate residence<sup>2</sup> unless paragraph 1 also applies to the lots.
3. Consideration will be given to whether the lots are separated by a dividing fence and, if so, whether there are gates or other means of ready and convenient access between the lots in order to ascertain whether the lots are being used as a single integrated area.
4. An application for residential exemption for two or more lots to be treated as a parcel must be made on form FLT21 '[Residential Exemption Application](#)' and must address the factors set out in the background of this Commissioner's practice.
5. The application must be accompanied by a detailed sketch of the lots, showing the position and approximate dimensions of all buildings and their uses, all internal and external fences, paths, driveways and any other improvements. The portion of the land that is used for the owner's primary residence and any area used for any other purpose should be clearly marked.
6. The Commissioner may inspect properties and/or seek documentary evidence in order to make a determination.

#### **Date of Effect**

This Commissioner's practice takes effect from 26 May 2017.

Nicki Suchenia  
 COMMISSIONER OF STATE REVENUE

26 May 2017

#### **Commissioner's Practice History**

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 1.0	29 October 2003	29 October 2003	11 November 2010
LT 1.1	12 November 2010	12 November 2010	25 May 2017
LT 1.2	26 May 2017	26 May 2017	19 December 2019

<sup>2</sup> Young and Commissioner of State Revenue (2005) WASAT 296.