



COMMISSIONER'S PRACTICE LT 8.0

LAND TAX - REBATE IF MOVING FROM ONE RESIDENCE TO ANOTHER

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 8.0	29 October 2003	29 October 2003	24 November 2005

This Commissioner's practice addresses the granting of a rebate of land tax where two residences are owned at 30 June in transitional circumstances.

Background

The *Land Tax Assessment Act 2002* ("the Act") provides for an exemption from land tax on land that is used by the owner as his or her primary residence as defined in clause 1 of the Glossary to the Act.

Section 27 of the Act provides for a rebate of land tax for an assessment year if:

- the property is exempt from land tax for the assessment year as a result of its use by an individual at midnight on 30 June in the previous financial year as his or her primary residence;
- at midnight on 30 June in the financial year before the assessment year the owner also owned a second private residential property that would have been exempt or eligible for exemption under Division 2 of Part 3 of the Act for the assessment year if the individual had used the second property instead of the exempt property as his or her primary residence;
- the owner became the owner of either the exempt property or the second property during the financial year before the assessment year;
- the same individual used the second property as his or her primary residence either in the financial year before the assessment year (before using the exempt property for that purpose), or in the assessment year (after using the exempt property for that purpose);

- during the assessment year the owner sold or otherwise disposed of whichever of the 2 private residential properties the owner had first acquired, and delivered possession to the new owner in that year; and
- while the owner owned both properties, nobody derived any income from whichever property was not being used as the primary residence of the individual.

The owner may apply for the rebate, in the approved form:

- after the sale or other disposition and delivery of possession of the first-acquired property; and
- not later than three months after the end of the assessment year, or three months after the issue of the assessment notice, whichever is the later.

The amount of the rebate is the amount by which the liability of the owner would have been reduced if the second private residential property had been exempt for the assessment year because of its use by the individual as his or her primary residence.

All of the above qualifications have to be satisfied before a rebate under section 27 of the Act may be granted. An application may not be made before the sale and delivery of possession of the original home to the purchaser.

Commissioner's Practice

1. Where an application for a rebate is received from a landowner who does not immediately qualify for the rebate because construction of a new residence, or refurbishment of an existing dwelling, is not yet completed, the Commissioner will defer the demand for payment of the land tax assessment, providing;
 - the land tax assessment is for a single taxable lot or parcel;
 - construction, or renovation, of the residence has begun; and
 - the owner intends to move into the completed residence prior to the following 30 June.
2. Upon occupying the new residence, the owner is required to notify the Commissioner and finalise the application for a rebate. Should the Commissioner not be notified by the following 30 June that the owner is now in residence, payment of the land tax assessment will become due.
3. The Commissioner will consider an application for a rebate where the ownership of the two private residences is not identical. It is sufficient for one owner to have an interest in both residences for a rebate to apply. Should one of the owners of the new home be entitled to a residential exemption on any other land for the year of assessment, a partial rebate will be given, in accordance with section 18 of the Act.

4. Where considered necessary, the Commissioner will inspect properties and/or seek documentary evidence to verify completion of conditions.

Date of Effect

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

Bill Sullivan
COMMISSIONER OF STATE REVENUE

29 October 2003