



COMMISSIONER'S PRACTICE

LT 5.2 SUPERSEDED

LAND TAX - NEWLY CONSTRUCTED RESIDENCES

This Commissioner's practice addresses circumstances when an exemption from land tax will be granted for private residential property on which there is a private residence that is being constructed.

Background

Sections 24 and 24A of the *Land Tax Assessment Act 2002* ('the Act') provide an exemption for private residential property (other than property held in trust) on which a private residence is being constructed and the private residence is not complete at midnight on June 30 of the financial year before the assessment year.

Under section 24 of the Act, private residential property is exempt for an assessment year if:

- (a) the construction of the private residence that forms part of the property is completed during the assessment year; and
- (b) at midnight on 30 June in the previous financial year, the individual owned the land on which the private residence is constructed; and
- (c) the individual is the first occupant of the private residence; and
- (d) the individual uses the private residence as his or her primary residence during the assessment year.

Under section 24A of the Act, private residential property is exempt for two consecutive assessment years if:

- (a) the commencement date for the construction of the private residence that forms part of the property is:
 - (i) in the first assessment year; or
 - (ii) in any previous financial year and part of the construction is carried out in the first assessment year; and
- (b) the completion date for the construction is in the second assessment year; and
- (c) at midnight on 30 June immediately before the first assessment year, the individual owned the land on which the private residence is constructed; and
- (d) the individual is the first occupant of the private residence; and
- (e) the individual uses the private residence as his or her primary residence

during the second assessment year.

Section 24(2) and 24A(2) of the Act provide that the property will not be exempt if:

- (a) the individual or any other person derived any income from the property in the period between the beginning of the first assessment year and the time when the property was first occupied; or
- (b) any other private residential property owned by the individual is exempt for either assessment year under another provision of the Act as a result of its use as the owner's primary residence.

Terms used as defined in the Glossary to the Act

The *commencement date* for the construction or refurbishment of a private residence is defined as being:

- (a) if the residence is to be constructed or refurbished under a building contract – the date when the contract is made; or
- (b) if the residence is to be constructed or refurbished by an owner-builder – the date when the building permit for the work is granted under the *Building Act 2011*.

The *completion date* for the construction or refurbishment of a private residence is the date when the construction or refurbishment is completed to the point where the residence is ready for occupation.

Primary residence is defined as an individual's sole or principal place of residence.

Private residential property is defined as including:

- (a) a lot of land on which there is a private residence; or
- (b) 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
- (c) an interest in a home unit.

Commissioner's Practice

1. An application under section 24 of the Act should only be made once the owner has occupied the private residence.
2. An application under section 24A of the Act can only be made after the commencement date for the construction.
3. An exemption under section 24A of the Act will be allowed for the first two assessment years in anticipation that the residence will be completed and occupied within those two assessment years. If that does not occur, the exemption will be rolled forward and an assessment made for the first assessment year.

4. Following occupation of the new residence, the owner must notify the Commissioner and finalise the application for exemption by submitting a Part B Confirmation Form.¹ Failure to lodge the form may result in the exemption being removed and a land tax liability being incurred.
5. The Commissioner may inspect properties and/or seek documentary evidence to verify completion of construction and owner occupation.
6. A partial exemption may be allowed in circumstances where not all of the owners use the land as their primary residence or where the land is used for both residential and non-residential purposes.

Date of Effect

This Commissioner's practice takes effect from 30 October 2015.

Nicki Suchenia
 COMMISSIONER OF STATE REVENUE
 30 October 2015

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 5.0	29 October 2003	29 October 2003	24 November 2005
LT 5.1	25 November 2005	25 November 2005	29 October 2015
LT 5.2	30 October 2015	30 October 2015	30 June 2019

¹ Forms are available from the Office of State Revenue website at www.osr.wa.gov.au.