



COMMISSIONER'S PRACTICE LT 7.2 SUPERSEDED

LAND TAX – EXEMPTION FOR TRUST PROPERTY USED BY DISABLED BENEFICIARY

This Commissioner's practice addresses the circumstances when an exemption from land tax will be granted on private residential land held in trust for a disabled beneficiary.

Background

Section 26 of the *Land Tax Assessment Act 2002* ('the Act') provides that private residential 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 by a trustee who holds the land in trust for one or more disabled beneficiaries; and
- at least one disabled beneficiary of the trust uses the property as his or her primary residence.

The term *disabled beneficiary* is defined in the Glossary to the Act as a person who:

- is qualified for a disability support pension under Part 2.3 of the *Social Security Act 1991* (Cth) ('the SSA'), whether or not the person receives that pension; or
- is under 16 years of age and is cared for by a parent or guardian, within the meaning given in the SSA, who is qualified for a carer payment under Part 2.5 of that Act in respect of that care, whether or not the person receives that payment; or
- is a minor who is an orphan.

Where an exemption has been granted under section 26 of the Act, section 26(2)(b) provides that, as at 30 June in the financial year before the assessment year:

- if the trustee does not hold the land in trust for one or more disabled beneficiaries; or
- there is not at least one disabled beneficiary using the property as his or her primary residence,

the trustee must notify the Commissioner to that effect within 3 months of that date.

Commissioner's Practice

1. When considering an application for exemption, the Commissioner must be satisfied that:
 - 1.1 a trust exists and the person residing on the land is a beneficiary of that trust;
 - 1.2 the property was purchased or otherwise acquired as an asset of the trust; and
 - 1.3 the beneficiary is a disabled beneficiary.
2. An application for an exemption must be made on the ['Application for Residential Exemption for Trust Property used by a Disabled Beneficiary'](#) form¹ and should include:
 - 2.1 where applicable, a copy of the trust deed or other documentation evidencing the establishment of the trust;
 - 2.2 a duly endorsed² copy of the document showing that the trustee acquired the property on behalf of the trust, for example, a contract for sale or a declaration of trust; and
 - 2.3 a copy of a Pensioner Concession Card or a letter issued by Centrelink stating that the person is:
 - 2.3.1 qualified for a disability support pension under Part 2.3 of the SSA; or
 - 2.3.2 under 16 years of age and is cared for by a guardian or parent within the meaning of the SSA and who is qualified for a carer payment under Part 2.5 of that Act in respect of the care.
3. The Commissioner may seek further documentation, information and corroboration in relation to any application for exemption under these provisions.

Date of Effect

This Commissioner's practice takes effect from 26 February 2016.

Nicki Suchenia
COMMISSIONER OF STATE REVENUE

26 February 2016

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

² A duly endorsed document is one on which a duty stamp is printed or to which a certificate of duty is attached.

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
LT 7.0	29 October 2003	29 October 2003	30 June 2008
LT 7.1	12 November 2010	1 July 2008	25 February 2016
LT 7.2	26 February 2016	26 February 2016	30 June 2019

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