



Newly Constructed Residences

This Commissioner's practice explains when a land tax exemption will be granted for land on which a private residence is being or has recently been constructed.

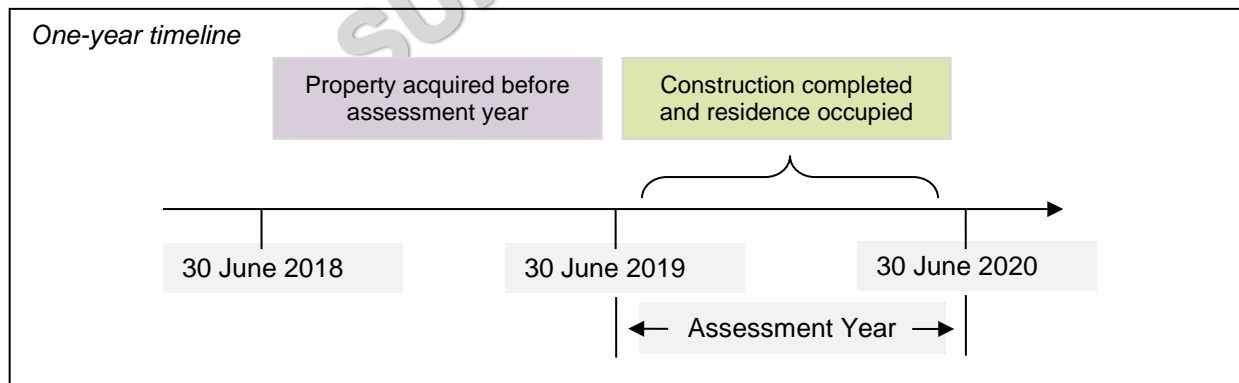
Background

Sections 24 and 24A of the *Land Tax Assessment Act 2002* ('LTA Act') provide an exemption for private residential property that, at midnight on 30 June prior to the assessment year, is unoccupied because the owner is constructing their primary residence on it.

One-year exemption

Section 24 of the LTA Act exempts private residential property for one assessment year if:

- (a) the construction of the private residence 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 their primary residence during the assessment year.

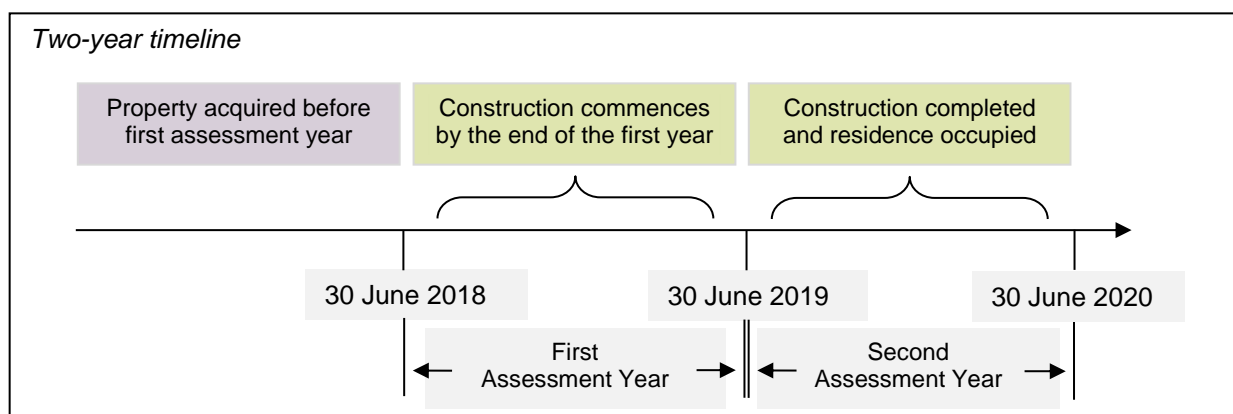


Two-year exemption

Section 24A of the LTA Act exempts private residential property for two consecutive assessment years if:

- (a) the commencement date for the construction of the private residence 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 their primary residence during the second assessment year.



Exclusions

Land is not exempt under sections 24 and 24A if:

- (a) it is held in trust; or
- (b) any income was derived from the property from the beginning of the first assessment year to the time when the property was first occupied; or
- (c) any other private residential property owned by the individual is exempt for either assessment year under another provision of the LTA Act because of its use as the owner's primary residence.¹ A partial exemption may apply in these circumstances.

Subdivided land²

When land is subdivided,³ the original ('parent') lot ceases to exist and new lots are created for land tax purposes.⁴

When private residential property is subdivided during the exemption period, the exemption requirements of section 24 or 24A cannot be satisfied in relation to the parent lot. However, section 28B allows a partial exemption to apply to that part of the parent lot that will become the new lot on which the primary residence is constructed.⁵ If two or more parent lots are amalgamated and the new lot is used as the owner's primary residence, the exemption will apply to all parent lots for the exemption period.

If the subdivision occurs in the first assessment year of a two-year exemption, section 28D provides that the exemption applies for the second assessment year to the new lots that satisfy the exemption requirements rather than to the parent lot.

¹ If exclusion applies, see [Commissioner's Practice LT 8 'Exemption if Moving from One Residence to Another'](#).

² The following paragraphs only apply in relation to determining whether private residential property is exempt under section 24 or 24A if the commencement date for the construction occurs on or after 1 July 2019.

³ LTA Act cl 3 of the Glossary explains when land is subdivided. Subdivision includes an amalgamation of land.

⁴ LTA Act cl 2(2) – 2(2B) of the Glossary.

⁵ LTA Act s 28B(2)(b).

Section 28E gives the Commissioner discretion to treat certain owners of the parent lot as owners of the new lots for the period between subdivision of the land and the registration of new certificates of title.

Terms used

Assessment year is the financial year for which the land tax is, or is to be, assessed.⁶

Commencement date is the date when the building contract is executed. For an owner-builder, this is the date when the building permit is granted under the *Building Act 2011*.⁷

Completion date is the date when the construction or refurbishment is completed to the point where the residence is ready for occupation.⁸

Exemption period is an assessment year or two consecutive assessment years (whichever is applicable).

Exemption provision is an exemption under section 24 or 24A of the LTA Act.

New lot is the lot that comes into existence as a result of a subdivision.⁹

Parent lot is the original lot that ceases to exist following subdivision.¹⁰

Primary residence is a person's sole or principal place of residence.¹¹

Private residence is a building that is occupied, or fit to be occupied and intended by the owner to be occupied, as a place of residence.¹²

Private residential property is a lot or parcel of land on which a private residence is being or has been constructed. It is also an interest in a home unit.¹³

Commissioner's Practice

1. Apply for a one-year exemption using Form [FLT 21 'Application for Residential Exemption'](#).

The application can only be made once the owner has occupied the residence. Supporting documents, including those evidencing proof of occupancy, may be requested.

2. Apply for a two-year exemption using Form [FLT 24A 'Application for Two Year Residential Exemption: Newly Constructed or Refurbished Private Residence'](#).

The application must be made after the commencement date. Supporting documents identified in the application form must be provided.

3. A two-year exemption will be granted for the first two assessment years in anticipation the residence will be completed and occupied within the second assessment year. If the residence is not completed (or, once completed, is not

⁶ LTA Act cl 1 of the Glossary.

⁷ LTA Act cl 1 of the Glossary.

⁸ LTA Act cl 1 of the Glossary.

⁹ LTA Act cl 3 of the Glossary.

¹⁰ LTA Act cl 2(2) of the Glossary.

¹¹ LTA Act cl 1 of the Glossary. See also Commissioner's Practice [LT 4 'Primary Residence'](#).

¹² LTA Act cl 1 of the Glossary. See also Commissioner's Practice [LT 4 'Primary Residence'](#).

¹³ LTA Act cl 1 of the Glossary. See also Commissioner's Practice [LT 4 'Primary Residence'](#).

occupied) in the second assessment year, the exemption will be rolled forward and a liability raised for the first assessment year.

4. A partial exemption will be granted if:
 - 4.1 the land is owned jointly, and not all joint owners use the land as their primary residence; or
 - 4.2 the land is owned jointly, and one or more of the joint owners are entitled to a residential exemption on other land that they own during the exemption period; or
 - 4.3 the land is partially used for a non-exempt purpose (such as for a business).
5. The owner must notify the Commissioner of their intention to subdivide or amalgamate at the time of application. If the new plan is not yet available, the owner must provide a sketch, aerial photo or architectural/building plan that indicates the area of the parent lot that will become the new lot on which the primary residence will be constructed.
6. If the land is subdivided or amalgamated during the exemption period, the Commissioner will apply the relevant provisions in sections 28B, 28D and 28E considering:
 - 6.1 the number of owners;
 - 6.2 the date the subdivision is effected;
 - 6.3 the number of new lots that result;
 - 6.4 the area of the new lots;
 - 6.5 the uses of the new lots; and
 - 6.6 the date the new certificates of title are issued.
7. An application for the Commissioner to exercise discretion to treat certain owners of the parent lot as owners of the new lots for the period between subdivision and the registration of new certificates of title can be made if:
 - 7.1 a liability is raised during the period between subdivision and the registration of new certificates of title; and
 - 7.2 the registration of the certificates of title changes or will change the ownership of the new lots.

This will raise a liability against the land ownership as determined by the registration of the new certificates of title, rather than the land ownership previously determined by the subdivision.

8. The application must be made in writing and must include:
 - 8.1 the land identification of the relevant new lots;
 - 8.2 for each new lot – a statement detailing the ownership that has resulted or will result from the new certificates of title;
 - 8.3 if the new certificates of title have been registered – the date they were registered; and

- 8.4 if the new certificates of title have not been registered – evidence of the new ownership, such as a Form 22 ‘Disposition on Subdivision’¹⁴ or contractual agreement.
9. The Commissioner may issue assessments before new certificates of title have been registered if evidence is submitted that demonstrates the new ownership.
10. Following completion and occupation of the new residence for which a two-year exemption was granted, the Part B Confirmation Form¹⁵ should be submitted and the entitlement to the exemption will be reviewed. If the Commissioner is unable to confirm that the requirements of the exemption have been met, the exemption may be removed and a reassessment issued for the relevant assessment years.
11. The Commissioner may seek documentary evidence and/or inspect properties to verify all exemption requirements have been met.

Date of Effect

This Commissioner's practice takes effect from 1 July 2019.

Nicki Godecke
 COMMISSIONER OF STATE REVENUE
 1 July 2019

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 2018
LT 5.3	1 July 2019	1 July 2019	30 June 2020

¹⁴ Available from Landgate at <https://www0.landgate.wa.gov.au/for-individuals/forms-and-fees/survey-and-strata-forms>

¹⁵ This form is provided with the exemption approval letter.