



Newly Constructed or Refurbished 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 or refurbished.

Background

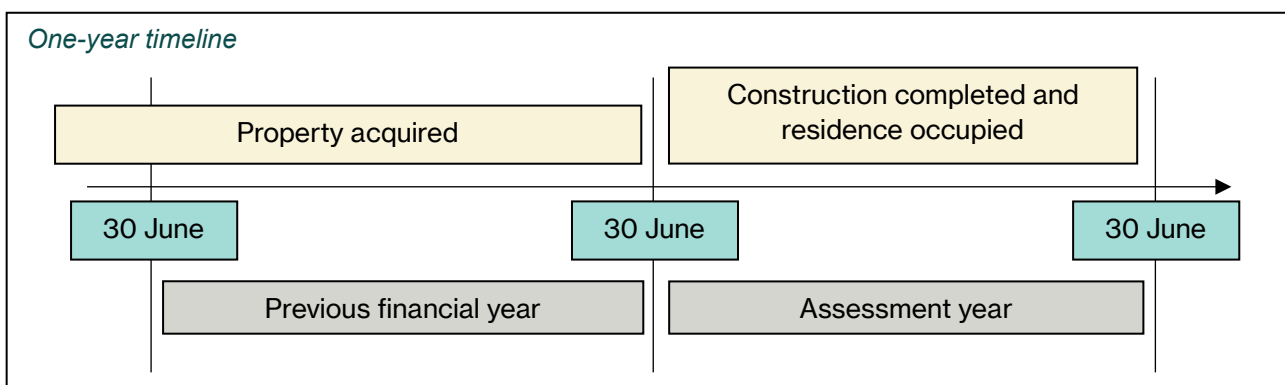
The *Land Tax Assessment Act 2002* (LTA Act) provides an exemption for private residential property that, at midnight on 30 June prior to the assessment year, is unoccupied because the owner is constructing their primary residence¹ or is carrying out a refurbishment² on it.

Construction

One-year exemption

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

- the construction of the private residence is completed during the assessment year and
- at midnight on 30 June in the previous financial year, the individual owned the land on which the private residence is constructed and
- the individual is the first occupant of the private residence and
- the individual uses the private residence as their primary residence during the assessment year.



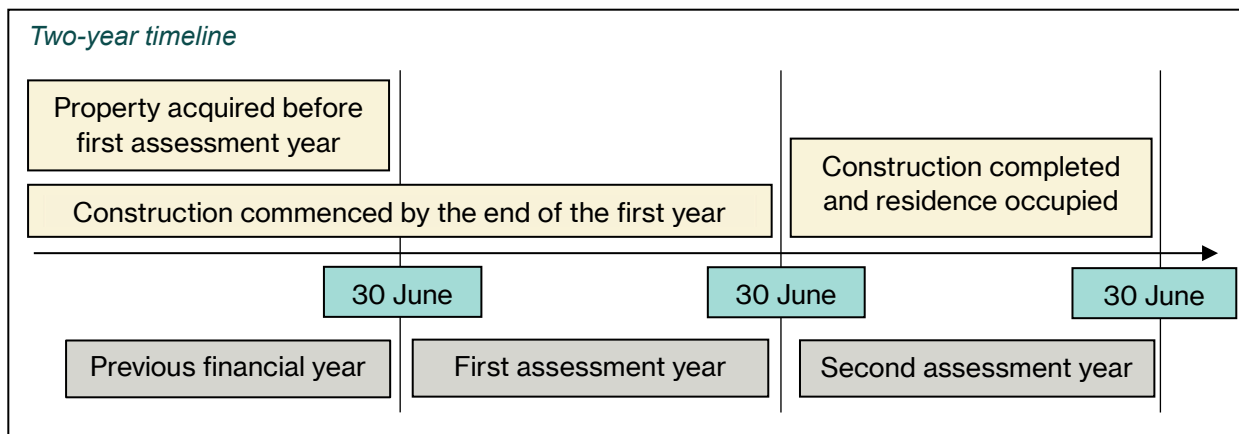
¹ LTA Act s 24 and s 24A.

² LTA Act s 25 and s 25A.

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.

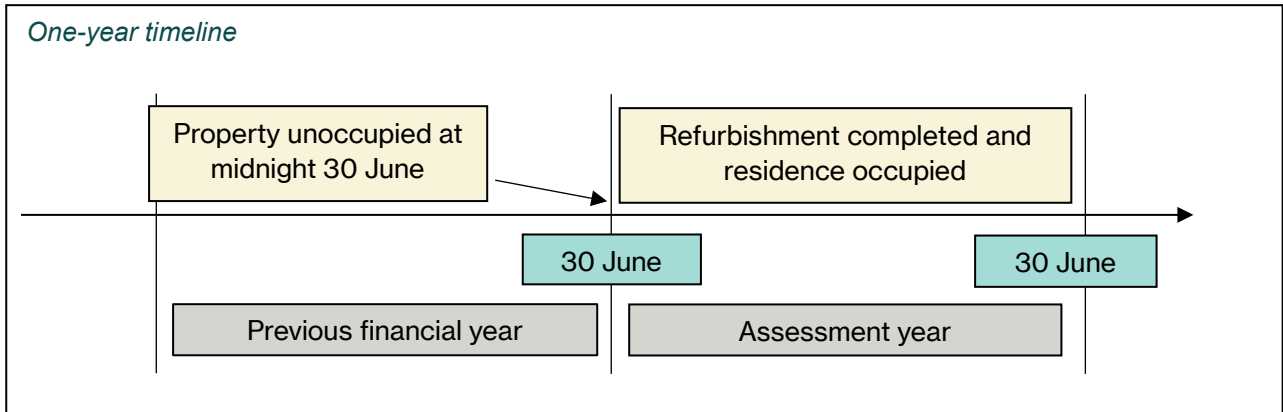


Refurbishment

One-year exemption

Section 25 of the LTA Act exempts private residential property for one assessment year if:

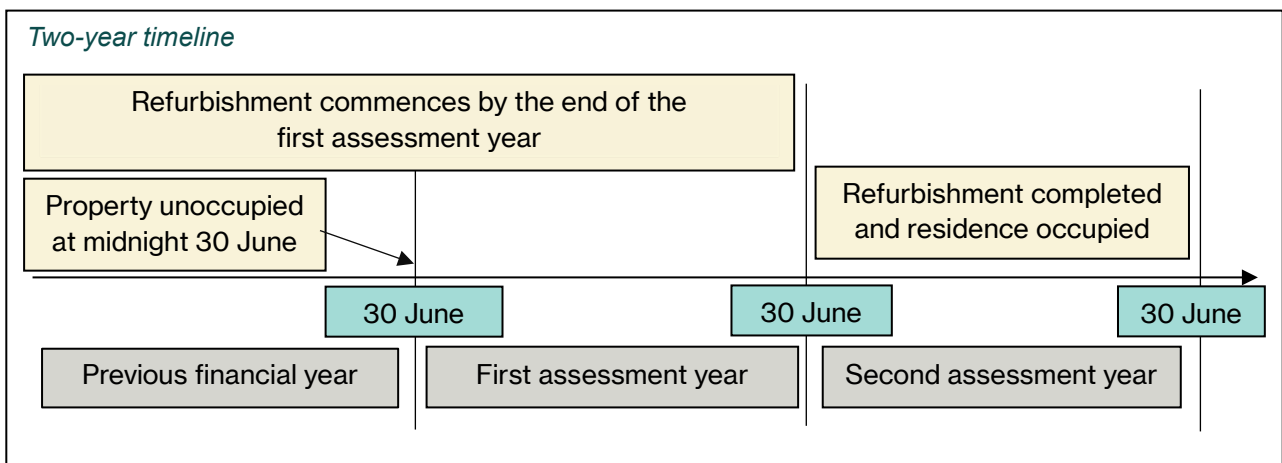
- (a) the property is owned by an individual and
- (b) at midnight on 30 June in the previous financial year, the private residence that forms part of the property was unoccupied because the individual had ceased occupation, or had not taken up occupation, to enable the private residence to be refurbished and
- (c) the individual takes up occupation of the private residence during the assessment year and is the first occupant since the refurbishment.



Two-year exemption

Section 25A of the LTA Act exempts private residential property for two consecutive assessment years if:

- (a) the property is owned by an individual and
- (b) the commencement date for the refurbishment of the private residence is:
 - (i) in the first assessment year or
 - (ii) in any previous financial year and part of the refurbishment is carried out in the first assessment year and
- (c) the completion date for the refurbishment is in the second assessment year and
- (d) at midnight on 30 June immediately before the first assessment year, the private residence was unoccupied because the individual had ceased occupation, or had not taken up occupation, to enable the private residence to be refurbished and
- (e) the individual is the first occupant of the private residence since the refurbishment and
- (f) the individual uses the private residence as their primary residence during the second assessment year.



Extended exemption

If the commencement date for the construction or refurbishment of property is on or after 1 July 2020 and before 1 July 2023, it may be exempt from land tax for three years if the owner meets the requirements for the two-year exemption except that:

- (a) the completion date for the construction/refurbishment is in the third assessment year or a subsequent financial year and
- (b) the owner uses the property as their primary residence before the end of the financial year immediately following the financial year construction/refurbishment is completed.

The Commissioner may exempt a fourth assessment year if there was a delay in completing construction due to exceptional circumstances that were beyond the owner's control and that could not have been reasonably avoided by the owner. Exceptional circumstances can include the builder failing to start or ceasing work on the residence but do not include a building materials or labour shortage.

Exclusions

Land is not exempt if:

- (a) it is held in trust or
- (b) the property is sold or otherwise disposed of before it is occupied or
- (c) any other private residential property owned by the individual is exempt for any relevant assessment year under another provision of the LTA Act because of its use as the owner's primary residence³ or
- (d) any income was derived from the property from the beginning of the first assessment year to the time when the property was first occupied.

Subdivided land⁴

When land is subdivided,⁵ the original (parent) lot ceases to exist and new lots are created.⁶

When private residential property is subdivided during the exemption period, the exemption requirements 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.⁷ 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.

³ If exclusion applies, see [Commissioner's Practice LT 8 'Exemption if Moving from One Residence to Another'](#).

⁴ 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.

⁵ LTA Act cl 3 of the Glossary explains when land is subdivided. Subdivision includes an amalgamation of land.

⁶ LTA Act cl 2(2) – 2(2B) of the Glossary.

⁷ 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.⁸

Commencement date is either the date when the building contract is made, or the date when the building permit is granted under the *Building Act 2011* for an owner-builder.⁹

Completion date is the date when the construction or refurbishment is completed to the point where the residence is ready for occupation.¹⁰

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

New lot is the lot that comes into existence as a result of a subdivision.¹¹

Parent lot is the original lot that ceases to exist following subdivision.¹²

Primary residence is a person's sole or principal place of residence.¹³

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.¹⁴

Private residential property is a lot or parcel of land on which a private residence is being or has been constructed.¹⁵

Refurbishment means to: 'furbish again; renovate; polish up again; brighten.'¹⁶

Commissioner's practice

1. Apply for a one-year exemption using Form [FLT 21 'Application for Residential Exemption'](#).
 - 1.1 The application can only be made once the owner has occupied the residence.
 - 1.2 Supporting documents, including those evidencing proof of occupancy, may be requested.
2. For a refurbished residence, supporting documents should include evidence to demonstrate that the applicant was not occupying the property while the work was carried out. An application for a two-year exemption can only be made after the commencement date for the construction or refurbishment of the property. The application must be made using Form [FLT 24A 'Application for Two Year Residential Exemption: Newly Constructed or Refurbished Private Residence'](#) and must include a copy of the building contract ('Schedule of Particulars' only). For owner-builders, a copy of the building permit issued by the Local Government Authority must accompany the application.

⁸ LTA Act cl 1 of the Glossary.

⁹ LTA Act cl 1 of the Glossary.

¹⁰ LTA Act cl 1 of the Glossary.

¹¹ LTA Act cl 3 of the Glossary.

¹² LTA Act cl 2(2) of the Glossary.

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

¹⁴ LTA Act cl 1 of the Glossary.

¹⁵ LTA Act cl 1 of the Glossary.

¹⁶ *Macquarie Dictionary* (at 14 May 2019), 'refurbish'.

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, the residence is not occupied) in the second assessment year, the exemption will be rolled forward and a liability raised for the first assessment year.
 - 3.1 Following completion and occupation, the Part B Confirmation Form¹⁷ should be submitted and the entitlement to the exemption will be reviewed.
 - 3.2 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.
4. Apply for an extended exemption using Form [FLT 24A](#).
 - 4.1 The application can be made at any time if your building contract or building permit is dated between 1 July 2020 and 30 June 2023.
 - 4.2 A copy of the building contract or building permit must be provided with the application.
5. If an extended exemption has been granted for a third year, the Commissioner may exercise discretion to exempt the property from land tax for a fourth year if the owner provides evidence there has been a delay in construction due to exceptional circumstances outside their control and that they could not reasonably have avoided the delay. Examples of exceptional circumstances include:
 - 5.1 the builder ceased operating or
 - 5.2 the builder did not commence or complete construction/refurbishment.Examples of when delays could have been reasonably avoided include:
 - 5.3 an owner's builder becoming insolvent would not be within the owner's control. However, a disagreement between an owner and builder over pricing under the building contract would not constitute exceptional circumstances outside the owner's control.
 - 5.4 an owner could have reasonably avoided the delay if the builder under the building contract absconded before commencing work on the property, but a second builder offered to complete the contract.

The delay must be caused by something more significant than solely a building materials or labour shortage.

¹⁷ This form is provided with the exemption approval letter.

6. A partial exemption will be granted if:
 - 6.1 the land is owned jointly, and not all joint owners use the land as their primary residence or
 - 6.2 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
 - 6.3 the land is partially used for a non-exempt purpose (such as for a business).
7. The Commissioner may seek evidence and/or inspect properties to verify all exemption requirements have been met.

Subdivided land

8. 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 or is being refurbished.
9. 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:
 - 9.1 the number of owners
 - 9.2 the date the subdivision is effected
 - 9.3 the number of new lots that result
 - 9.4 the area of the new lots
 - 9.5 the uses of the new lots and
 - 9.6 the date the new certificates of title are issued.
10. 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:
 - 10.1 a liability is raised during the period between subdivision and the registration of new certificates of title and
 - 10.2 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.
11. The application must be made in writing and must include:
 - 11.1 the land identification of the relevant new lots
 - 11.2 for each new lot – a statement detailing the ownership that has resulted or will result from the new certificates of title
 - 11.3 if the new certificates of title have been registered – the date they were registered and

11.4 if the new certificates of title have not been registered – evidence of the new ownership, such as a Form 22 ‘Disposition on Subdivision’¹⁸ or contractual agreement.

12. The Commissioner may issue assessments before new certificates of title have been registered if evidence is submitted that demonstrates the new ownership.

Date of effect

This Commissioner's practice takes effect from 5 December 2023.

Chris McMahon
COMMISSIONER OF STATE REVENUE

16 April 2024

Document 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
LT 5.4	24 July 2020	1 July 2020	4 December 2023
LT 5.5	16 April 2024	5 December 2023	Current

¹⁸ Available from Landgate at <https://www0.landgate.wa.gov.au/for-individuals/forms-and-fees/survey-and-strata-forms>