



Exemption for Property used by a Person with a Disability

This Commissioner's practice identifies when a land tax exemption may be granted on private residential property used by a person with a disability.

Background

Trust property used by a disabled beneficiary

Section 26 of the *Land Tax Assessment Act 2002* (LTA 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 their primary residence.¹

If an exemption has been granted under section 26 of the LTA Act and the above no longer applies, the trustee must notify the Commissioner within 3 months after the relevant 30 June.²

Property used by a related disabled person

Section 26A of the LTA Act provides that private residential property is exempt for an assessment year if:

- at midnight on 30 June in the financial year before the assessment year a disabled person uses the property as their primary residence³ and
- the property is owned by one or more individuals, at least one of whom is related to the disabled person.

If an exemption has been granted under section 26A of the LTA Act and the above no longer applies, the individual must notify the Commissioner within 3 months after the relevant 30 June.⁴

Section 26A(3) of the LTA Act defines persons related to a disabled person as a parent, grandparent, brother, sister or child of the disabled person.⁵

Terms used

The term *disabled person* is defined in section 26A of the LTA 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. For the purposes of the exemption under section 26, a *disabled beneficiary* also includes a minor who is an orphan.

¹ See [Commissioner's Practice LT 4 'Primary Residence'](#).

² LTA Act s 26(2)(b).

³ See [Commissioner's Practice LT 4 'Primary Residence'](#).

⁴ LTA Act s 26A(7)(b).

⁵ In determining whether a person is related to a disabled person, an illegitimate or adopted person is to be treated as the legitimate child of that person's parents.

The term *disabled beneficiary* in relation to land held in trust is defined in the Glossary to the LTA Act as a person who has a beneficial interest in the trust and is a disabled person or is a minor who is an orphan.

Commissioner's Practice

Trust property used by a disabled beneficiary

1. When considering an application for exemption, evidence must be provided to satisfy the Commissioner 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 exemption must be made on Form [FLT26 'Residential Exemption Application: Trust Property used by a Disabled Beneficiary'](#)⁶ and should include:
 - 2.1 a copy of the trust deed or other documentation evidencing the establishment of the trust and that the disabled beneficiary is a beneficiary of the trust
 - 2.2 a duty endorsed⁷ copy of the document showing that the trustee acquired the property on behalf of the trust, for example, a contract of 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.

Property used by a related disabled person

3. When considering an application for exemption, evidence must be provided to satisfy the Commissioner that:
 - 3.1 a disabled person uses the property as their primary residence and
 - 3.2 it is owned by one or more individuals, at least one of whom is related to the disabled person.
4. An application for exemption must be made on [Form 26A 'Residential Exemption: Individual's Property used by a Related Disabled Person'](#)⁸ and should include supporting documentation as detailed in paragraph 2.3.

Additional information

5. The Commissioner may seek further documentation and information in relation to an application for exemption under these provisions.

⁶ Forms are available from the land tax publications page at www.wa.gov.au/service/financial-management/taxation-and-duty/find-land-tax-form-or-publication

⁷ A duty endorsed document is one on which a duty stamp is printed or to which a certificate of duty is attached.

⁸ Forms are available from the land tax publications page at www.wa.gov.au/service/financial-management/taxation-and-duty/find-land-tax-form-or-publication

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 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
LT 7.3	1 July 2019	1 July 2019	Current