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Public Ruling Land Tax Act:

PRINCIPAL PLACE OF RESIDENCE CONCESSION – HOUSE DEMOLISHED OR VACANT DUE TO RENOVATIONS

A Public Ruling, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. The *Land Tax Act 1915* (the Land Tax Act) provides an exemption or deduction (concession) for land comprising of one parcel¹ that is used as a person's principal place of residence (PPR).²
2. Section 3E(1) of the Land Tax Act provides that land is not used as the PPR of a person unless:
 - (a) the land and no other land is continuously used for residential purposes by the person (whether alone or with other persons) for the period of six months immediately preceding the relevant 30 June or
 - (b) in any other case—the Commissioner is satisfied that the land is used as the PPR of the person (whether alone or with other persons).³
3. This Public Ruling provides clarification as to the circumstances under which a parcel of land will be considered to be a person's PPR where:
 - (a) that person was temporarily residing elsewhere as at 30 June of the relevant year and
 - (b) the reason for the temporary absence was due to the demolition of the old home and construction of a new home or due to renovations to an existing home necessitating the vacating of the premises.

¹ A parcel means an area of land that is the subject of a separate valuation made by the Chief Executive under the *Valuation of Land Act 1944*: s.2 of the Land Tax Act.

² For example, ss.13(1)(h), 11(6A) and (6D), 11BA(2), (3) and (4), 11C(2A) and (2B) of the Land Tax Act.

³ Section 3E(1A)–(5) of the Land Tax Act provides further clarification regarding whether land is used as a person's PPR. Section 3E(1)(a) of the Land Tax Act is subject to s.3EAA.

4. For further information about the PPR concession refer to Public Ruling LTA003E.1—*When land is used as a principal place of residence* and Public Ruling LTA003EA.1—*The land tax concession for a principal place of residence*.

Ruling and explanation

5. Where the circumstances detailed in paragraph 3 apply, the Commissioner will be satisfied that the land is used as the person's PPR for the relevant year provided that the following conditions are met:
- (a) the person resided on the land as their PPR for a period of time during the six months immediately preceding 30 June of the relevant year and
 - (b) the person recommenced, or intends to recommence, residing on the land as their PPR by the following 30 June and
 - (c) the person lodged, or will lodge, a PPR claim for the land for the year relating to the following 30 June.
6. With regard to establishing the matters detailed in paragraph 5, the following evidence is to be provided to the Commissioner:
- (a) evidence of the building work or renovations (e.g. Council approval)
 - (b) a statutory declaration by the person declaring (where applicable):
 - (i) that the person has resided upon the land as their PPR and stating the date on which such occupation commenced
 - (ii) details of any use of the land other than as the person's PPR⁴
 - (iii) the date on which the person ceased to reside upon the land as their PPR
 - (iv) the reasons for ceasing to reside upon the land as their PPR
 - (v) either:
 - that the person has re-occupied the land as their PPR after construction or renovation was completed and stating the date on which such occupation recommenced or
 - their intention to re-occupy the land again as their PPR by the following 30 June
 - (vi) any other relevant facts.
7. If the person has not recommenced residing upon the land as their PPR at the time of providing the Commissioner with the statutory declaration referred to above, the person must provide a written undertaking to notify the Commissioner within one month if either of the events contemplated in paragraph 8 occurs.

⁴ For information regarding use of land for a non-PPR purpose refer to Public Ruling LTA003EA.1—*The land tax concession for a principal place of residence*.

LTA(1915)003E.2.2

8. If the person:
- (a) did not recommence residing upon the land as their PPR by 30 June of the year immediately following the financial year in which use of the land as their PPR ceased or
 - (b) sells or leases the land before the person uses the land again as their PPR
- the PPR deduction will be disallowed from the 30 June immediately following when occupation of the land as the person's PPR ceased and an assessment will be made.
9. Where the person recommences residing on the land by the following 30 June, the person must lodge a new Exemption/Deduction Claim Form – Principal Place of Residence with the Commissioner within one month after 30 June.

Example 1

X owns a number of parcels of land in Queensland, including a home and land purchased in October 2008. That home was occupied as X's PPR. In May 2009 X moved out and resided at another address while X's old home was demolished and a new home was built. X intended moving back in September 2009 when the new home was due to be completed.

In respect of X's land holdings as at 30 June 2009, X claims the deduction in s.11(6A) of the Land Tax Act (the PPR deduction) on the above property and provides a copy of the building approval along with a statutory declaration covering the matters detailed in paragraph 6.

The Commissioner will be satisfied that the land is X's PPR as at 30 June 2009. The assessment of land tax for the 2009–10 financial year, based on X's land holdings as at 30 June 2009, will reflect the PPR deduction in respect of the property.

Example 2

The same facts as Example 1, however, X subsequently decided not to move back in until September 2010.

The Commissioner will not be satisfied that the land was X's PPR as at 30 June 2009 or 30 June 2010. An assessment or reassessment, as the case may be, will issue for both the 2009–10 and 2010–11 financial years without the benefit of the PPR deduction for that property. Penalty tax and/or unpaid tax interest may be applicable.

Example 3

The same facts as Example 1, however, X subsequently decided not to re-occupy the land and sold the land with its newly constructed house in October 2009.

The Commissioner will not be satisfied that the land was X's PPR as at 30 June 2009. A reassessment of land tax will issue for the 2009–10 financial year without the benefit of the PPR deduction for the property.

Date of effect

10. This Public Ruling takes effect from 30 June 2009.

References

Public Ruling	Issued	Dates of effect	
		From	To
LTA003E.2.2	3 July 2009	30 June 2009	29 June 2010
LTA003E.2.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Practice Direction LT 9.2	18 July 2006	18 July 2006	23 February 2009

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Withdrawn