



Office of State Revenue
NSW TREASURY

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Revenue Ruling No. LT 10

Exemption of Land Approved for Multiple Occupancy

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
LT 10	22 April 1988	01 January 1987	-	Current

Preamble

Under the Land Tax Management Act 1956, residential land or a strata lot used and occupied by the owner or one or more of several joint owners as their principal place of residence is exempt from land tax provided it meets certain criteria. The criteria includes the following conditions or restrictions:-

Residential land or a strata lot

- (a) the land or strata lot must have been continuously used by the owner solely for residential purposes since before 1 July immediately preceding the tax year;
- (b) the land or strata lot must not be owned by or jointly with a company, other than a trustee company acting in its representative capacity;
- (c) the owner or all of the joint owners who so use and occupy the land or lot must not be such an owner by reason only of being a trustee;

Residential land

- (d) the building on the land must be constructed or adapted for residential purposes but must not be comprised of strata lots;
- (e) there must not be on the land, in addition to the owner's residence, more than one flat, one suite of rooms, one flat or suite of rooms and a room, or two rooms from which income is derived;
- (f) the area of the land must not exceed ¹2100 square metres, or two hectares if subdivision of the land is prevented by an environmental planning instrument (a partial exemption is allowed where the area of the land exceeds these areas).

In recent years there have been a growing number of communal developments, where groups of people have built a number of homes on a single parcel of rural land. Many of these communities carry on subsistence farming and handicraft industries as an integral part of the lifestyle.

These communal or multiple occupancy developments are the principal places of residence of the people in the communities concerned, but they do not meet the criteria for exemption from land tax as their principal place of residence.

The Land Tax Management Act 1956 (the Principal Act) was therefore amended with effect from the 1987 tax year to provide an exemption for certain rural land used for multiple occupancy.

¹ Area limits were abolished from the 1997 tax year.

Ruling

Under section 10(1)(r1) of the Land Tax Management Act 1956, land which is approved for multiple occupancy, and occupied, in accordance with an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act 1979, is exempt from land tax. This exemption is effective from the 1987 land tax year.

The Environmental Planning and Assessment Act defines an "environmental planning instrument" to include a State environmental planning policy, a regional environmental plan, and a local environmental plan, as well as a former planning instrument referred to in clause 2 of Schedule 3 to the Miscellaneous Acts (Planning) Repeal and Amendment Act 1979.

State Environmental Planning Policy No. 15 titled "Multiple Occupancy of Rural Land" was published in the Government Gazette on 22 January 1988 to provide a framework for allowing multiple occupancy in certain areas of New South Wales, subject to strict planning controls. The new Multiple Occupancy Policy removed existing multiple occupancy clauses from local environmental plans.

The Policy describes multiple occupancy as a type of rural development where a group of people, not necessarily related to each other, live on a single property in several dwellings. The policy also states that farming is not necessarily intended as the primary source of income, but that the people involved usually have the desire to:

- (a) live as a community and build a number of dwellings in a rural setting on unsubdivided land as their main place of residence;
- (b) manage the land for communal purposes in an environmentally sensitive way;
- (c) pool their resources to develop communal rural living opportunities.

The Multiple Occupancy Policy applies to many local government areas in the coastal and tablelands parts of New South Wales, but it excludes the Newcastle, Sydney and Wollongong areas and the ACT and Kosciusko sub-regions. The municipalities and shires where it applies are listed in Schedule 1 to the Policy.

In order to qualify for exemption from land tax, a multiple occupancy property must be approved by the relevant local council, and it must continue to comply with the strict planning controls specified in the Multiple Occupancy Policy. The more important of these controls are:-

- (a) the land must consist of a single allotment, and subdivision of the land is prohibited except for such purposes as widening of roads, adjustment to boundaries or creating public reserves (legal titles giving separate entitlement to a small part of the land plus the sharing of common land is a form of subdivision and is therefore prohibited);
- (b) the minimum area of land is generally 10 hectares, although multiple occupancies on smaller blocks may be permitted if there are good planning grounds for such approval;
- (c) the maximum number of dwellings permitted is limited by formulas, e.g. on 10 hectares a maximum of four dwellings are permitted, on 200 hectares a maximum of 51 dwellings are allowed and a maximum of 80 dwellings are allowed on blocks of 360 hectares or more;
- (d) schools, community facilities and workshops may be permitted as long as they are intended primarily to serve the needs of people living on the land and are minor in nature.

If a property ceases to comply with the conditions laid down in the Multiple Occupancy Policy, it will cease to be exempt from land tax for the next tax year.

Some existing multiple occupancy-style developments have been created without development consent. Such developments will not qualify for an exemption from land tax unless they comply with the conditions laid down in the Policy, and local council approval to the development is obtained. The Department of Environment and Planning is available to advise people in this situation to help them comply with planning provisions.

R P Daley,
for Chief Commissioner of Land Tax.
22 April 1988