



Office of State Revenue
NSW TREASURY

ABN: 77 456 270 638

Revenue Ruling No. LT14

Retirement Villages - Liability for Land Tax

PREAMBLE

There are a number of ways in which retirement villages may be developed. The conventional method is to construct a village on land without creating separate titles to individual units. This is generally the method used for retirement villages operated by charitable institutions and religious societies.

However, in the case of commercial developments, retirement villages are often developed under Strata Titles legislation so that individual units can be sold to retirees. In addition, prior to the enactment of Strata titles legislation, it was possible for commercial developers to sell rights to individual units by developing retirement units under the former Companies Act [now the Companies (N.S.W) Code].

The purpose of this ruling is to outline the liability for land tax under these various methods of development.

RULING

Developments by an Owner/Operator

1. Individual units in retirement villages which are developed on land by the owner of the land are generally leased to retirees by the owner/operator of the village. In such cases the owner may be entitled to an exemption under section 10(1) of the Land Tax Management Act 1956.
2. For example, a charitable institution is entitled to an exemption under section 10(1)(d) and a religious society is entitled to an exemption under section 10(1)(e), provided the land is not being used solely or principally by another person (or other persons) who would not be exempt if that person (or those persons) owned it. Where a village is owned and operated by a charitable institution or a religious society which is entitled to an exemption, the owner/operator, not the individual retirees, is regarded as the principal user of the land and the land is therefore exempt.
3. If a retirement village is owned by a non-exempt body, the owner is liable for land tax if the total adjusted value of the land on which the village is located together with any other land owned by that body is equal to or greater than the applicable threshold value.

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Developments under the Strata Titles Act

4. Where a retirement village is developed under the Strata Titles Act 1973, the developer has the choice of either selling units or leasing them.
5. Where the owner/developer sells a unit to a retiree, and the unit is used as the retiree/owner's principal place of residence, the relevant lot in the strata plan is exempt from tax under section 10(1)(r) of the Land Tax Management Act 1956 if the following conditions are met:-
 - (a) the strata lot must have been continuously used by the owner solely for residential purposes since before 1 July immediately preceding the tax year; (in certain circumstances where this condition cannot be satisfied, for example where the retirement unit was purchased on or after the first day of July preceding the tax year, an exemption would still apply if the Chief Commissioner is satisfied that the particular strata lot is used and occupied as the retiree/owner's principal place of residence).
 - (b) the 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 strata lot must not be such an owner by reason only of being a trustee.
6. Where the developer retains ownership of the units, and leases them to retirees, some or all of the units may be exempt depending on the circumstances. For example, if the owner is a Religious Society or a Charitable institution, and a strata lot is used by a person as that person's principal place of residence and would be exempt if that person owned it, the owner is not liable for land tax in respect of that strata lot.
7. If all or any of the units are not exempt, the owner is liable for land tax if the total adjusted value of all taxable land owned reaches the applicable taxable threshold.

Developments Under the Companies (N.S.W.) Code

8. Prior to the enactment of the Strata Titles legislation, it was possible to develop retirement units under the former Companies Act [now the Companies (N.S.W.) Code]. In this type of development, the exclusive right to occupy a particular unit is attached to the ownership of a particular share or group of shares.
9. For land tax purposes the company, as owner of the land, is liable for land tax where the total adjusted value of land owned, aggregated with the adjusted value of land owned by a related company (if any) reaches the taxable threshold.

10. Where the owner/developer sells shares giving the right to occupy a particular residential unit, a reduction in the company's tax liability is allowed under section 3A or 3B of the Land Tax Act 1956 for those units that are used as the principal place of residence of the shareholders. Revenue Ruling LT13 deals with the application of these sections.

R. P. DALEY,
for Chief Commissioner of Land Tax.
10 June, 1988.