

Principal Place of Residence Exemption – Substantial Business Activity

Land Tax Act 2005 Revenue Ruling LTA 001

Revenue Ruling LTA.001 was ceased on 5 December 2012 due to the issue of Revenue Ruling LTA.001 (Version 2) which applies from 5 December 2012

Preamble

The principal place of residence (PPR) exemption provided by section 54(1)(a) of the *Land Tax Act 2005* (the Act) applies to land owned by a natural person who uses and occupies the land as his/her principal place of residence. Section 54(1)(b) of the Act extends the PPR exemption to land owned by a trustee of certain types of trusts if its beneficiary, who is a natural person, uses and occupies the land as his/her principal place of residence.

However, where a substantial business activity occurs on the land, section 62 of the Act limits the PPR exemption to the extent of the land that is used for residential purposes. The purpose of this Revenue Ruling is to explain the factors set out in section 62(2) of the Act which the Commissioner of State Revenue Office (the Commissioner) must consider in determining whether substantial business activity is conducted on PPR land.

Ruling

The existence of any one of the factors set out in section 62(2) of the Act is sufficient for the Commissioner to determine that a substantial business activity is being conducted on the land that is also being used as one's PPR (PPR land). The relevance and weight to be given to each factor will depend on the circumstances of each case.

The factors that the Commissioner must consider in determining whether a substantial business activity is being carried out on PPR land include (but not limited to):

- a) If paid employees or contractors (other than those who are relatives of, and usually reside with, the owner) are engaged in the business activities carried out on the land

Where remunerated employees or contractors (who are not related to the owner) are engaged in the business activity, the Commissioner would generally consider that there is substantial business activity on the PPR land.

- b) Amount of income that is derived from the business activity carried out on the land

The Commissioner would generally consider that substantial business activity occurs on the PPR land if the gross income derived from the business activity undertaken on the land for the most recently completed financial year (preceding the year of assessment) is \$30,000 or more.

- c) Proportion of the land that is used (or allocated) for business purpose

The Commissioner would generally consider that substantial business activity occurs on the land if more than 30 per cent of the land, or 30 per cent of the area of a building on the land, is used to conduct the business activity. The operation of a home office which is only being used for the purpose of keeping accounts and records of business activities which are conducted elsewhere, is unlikely to constitute a substantial business activity for the purposes of section 62 of the Act.

In addition to the above, the Commissioner could also consider any other factors that could indicate that a substantial business activity is being carried out on PPR land.

This Revenue Ruling covers land subject to land tax for the 2006 land tax period and onwards.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.001.