

Guideline

Land Tax and apportionment of principal residence land in Tasmania as from 1 July 2017

Land Tax Act 2000

1. About Land Tax

Under the *Land Tax Act 2000* (the Act), properties are assessed for land tax at 1 July each year based upon their ownership and use on that date. Where a land tax liability is incurred, it is payable to the Commissioner of State Revenue.

Whilst land classified as principal residence land is not ordinarily subject to land tax, section 26 of the Act provides that, where that land is also used for purposes other than being the principal residence of the owner or a related person, the Commissioner is required to apportion the land value of the land between principal residence land (not ordinarily taxable) and general land (taxable). Land tax is then payable in respect of any part of the land used exclusively for other purposes as though it were general land.

2. How is apportionment applied to principal residence land?

With effect from 1 July 2017, section 26 of the Act was amended to provide a single basis for the apportionment of principal residence land that is also used for other purposes.

Prior to 1 July 2017, three separate limbs of apportionment applied, depending upon whether the principal residence dwelling or the land outside that dwelling was used for other purposes. This guideline deals only with apportionment post 1 July 2017.

3. When is principal residence land used for other purposes?

Land classified as principal residence land is taken to be used for principal residence purposes provided it is not used in a manner inconsistent with principal residence use.

Generally, where exclusive possession of part of principal residence land has been conferred upon another or part of principal residence land is used exclusively for a business or commercial use, that area is used for other purposes and may be liable to attract land tax.

See the Commissioner's Fact Sheet entitled "[Land Tax and Residential Land in Tasmania](#)" for more information.

4. How is apportionment calculated?

Apportionment between principal residence land and general land is calculated based upon the "land area" of the property used for principal residence purposes and other purposes.

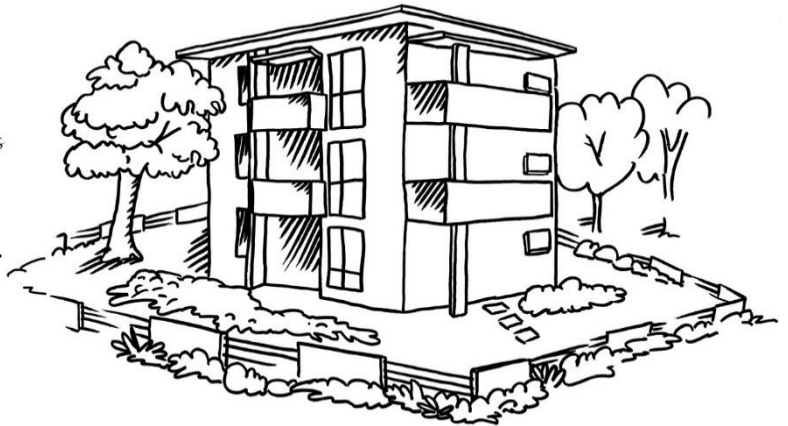
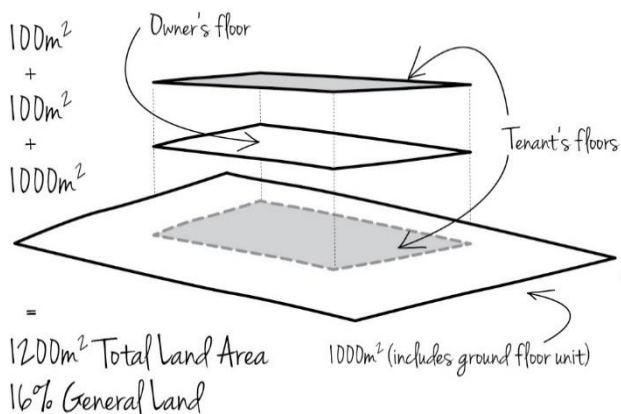
The term "land area" has been defined for the purposes of section 26 of the Act to include the floor areas of any structures on the land above or below ground level (but not including the ground floor), as well as the area of the land itself. This means that, in addition to the physical land area of the land, the floor areas of any suspended floors above or below ground level are included in the calculations, such that all usable floor areas of the property are taken into account.

In circumstances where part of principal residence land is used both for principal residence purposes and other purposes (e.g. common floor area), that area is taken to be used for principal residence purposes and is not liable to taxation.

5. How does principal residence land apportionment work in practice?

Scenario 1

The below example demonstrates how apportionment would apply in the case of a block of flats where the owner of the building resides in one of the flats.



Physical land area	1 000m ²
Ground floor unit	100m ²
First floor unit	100m ²
Second floor unit	100m ²

Scenario

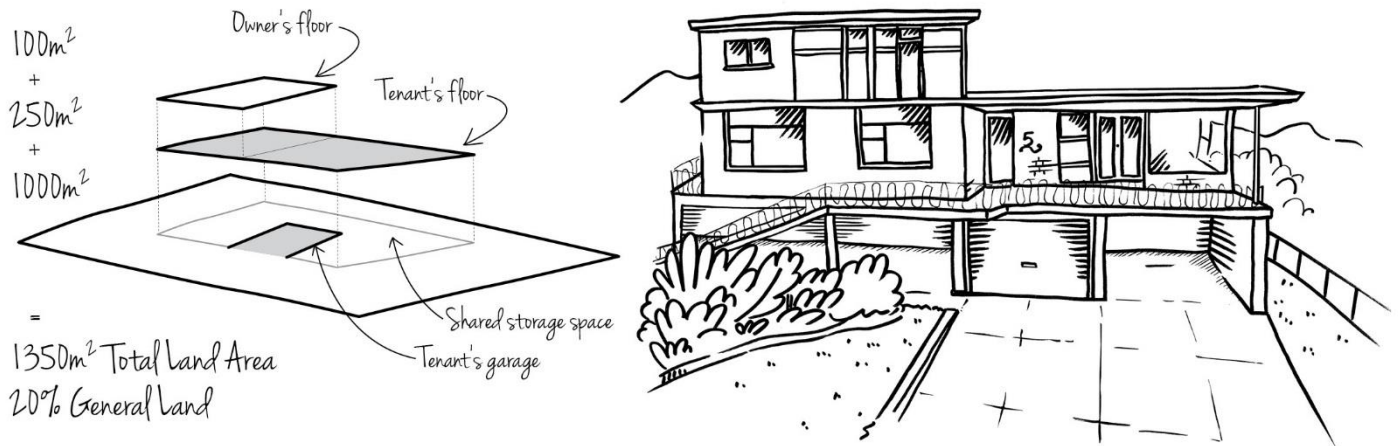
- The building comprises three flats that respectively occupy the ground floor, first floor and the second floor of the building.
- The owner uses the flat on the second floor as their principal residence.

The total “land area” (for the purposes of apportionment) in this example is 1 200m², being 1 000m² physical land area plus 100m² × 2 for the floor areas of the first and second floor units (the ground floor unit is included in the physical land area). NOTE: the garden area is used by both the owner and the tenants. As the tenants do not have exclusive use of any area of the garden, it is taken to be used for principal residence purposes.

Having ascertained the total land area, it is necessary for apportionment purposes to determine the percentage of the property’s land area used for other purposes. This is done by dividing the area used for other purposes by the total land area. The area used for other purposes is 200m² and the total land area is 1 200m². Accordingly, the land area apportioned to general land in this example is 16 per cent (200/1200).

Scenario 2

The below example demonstrates how all usable land areas are taken into account in the apportionment calculations:



Physical land area	1 000m ²
Open storage space beneath dwelling	225m ²
Garage	25m ²
First Floor	250m ²
Second Floor	100m ²

Scenario:

- Tenant has exclusive use of self-contained flat occupying the entirety of the first floor.
- Open storage space beneath dwelling is used by both the owner and tenant.
- The garage is used exclusively by the tenant.
- Owner's residence is located on second floor.

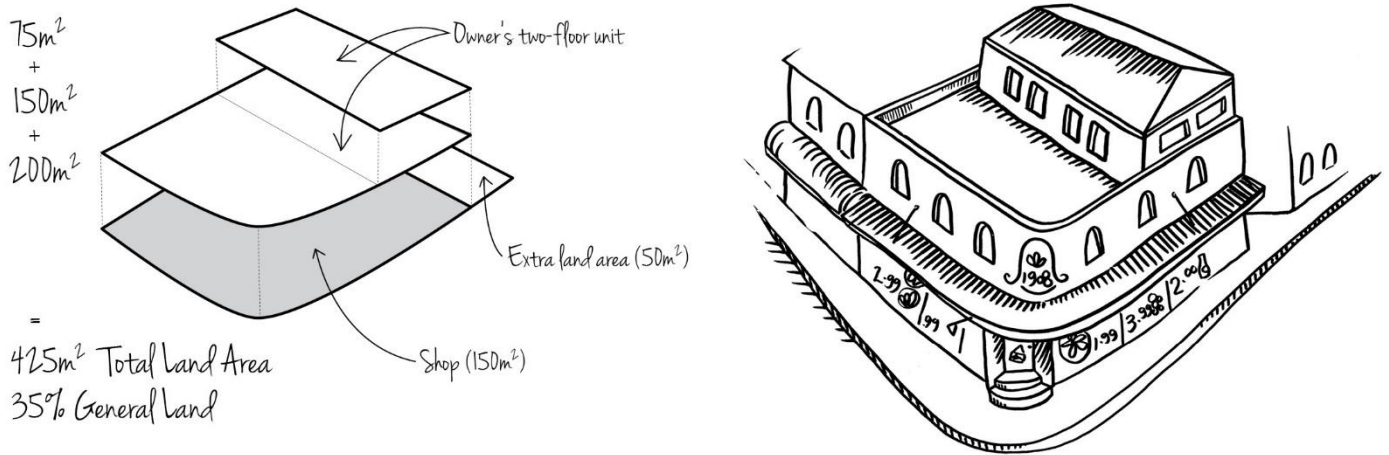
The total "land area" (for the purposes of apportionment) in this example is 1 350m²; being 1 000m² of the physical land area plus 350m² for the additional floor areas of the building above ground level.

Having ascertained the total land area, it is necessary for apportionment purposes to determine the percentage of the property's land area used for other purposes. This is done by dividing the area used for other purposes by the total land area. The area used for other purposes (the first floor and the garage) is 275m² and the total land area is 1 350m². Accordingly, the land area apportioned to general land in this example is 20 per cent (275/1350).

NOTE: If the building was not elevated (e.g. did not have a usable space and garage underneath the building), the floor area of the first floor would be included in the physical land area. In this event, the land area for the purposes of the calculations would be 1 100m²; in which case the land area apportioned to general land would be 22 per cent (250/1 100).

Scenario 3

The below scenario identifies how apportionment occurs in the case of principal residence land that contains a corner store at ground level and the owner's residence above:



Physical land area	200m ²
Unit	225m ² over the top 2 floors (150m ² for 1 st floor & 75m ² for 2 nd floor)
Shop	150m ² (Ground floor)

Scenario:

- The building occupies 150m² of 200m² of the physical land area.
- The owner of the property runs a corner store from the ground floor of the building.
- The store takes up the whole of the ground floor.
- There is no usable floor area below ground floor.
- The owner uses the top 2 floors of the building as their principal residence.

The total "land area" (for the purposes of apportionment) in this example is 425m²; being 200m² of the physical land area plus 225m² for the additional floor areas of the building above ground level.

Having ascertained the total land area, it is necessary for apportionment purposes to determine the percentage of the property's land area used for other purposes. This is done by dividing the area used for other purposes by the total land area. The area used for other purposes (the ground floor store) is 150m² and the total land area is 425m². Accordingly, the land area apportioned to general land in this example is 35 per cent (150/425).

About the information in this guideline

This guideline is **not** a definitive statement of the law.

This document is the interpretation of the law applied by the State Revenue Office and has been prepared to assist land owners understand their land tax obligations. The interpretation applied by this fact sheet cannot override the provisions of the relevant legislation such that, if the interpretation identified herein is found to be incorrect or contrary to the law, the Commissioner of State Revenue cannot be prevented from administering the law correctly.

For professional guidance about your specific circumstances, please seek advice from your taxation or legal advisor.

For additional information about land tax, please go to www.sro.tas.gov.au/landtax.

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