

EXPLANATORY MEMORANDUM

LAND TAX ASSESSMENT AMENDMENT (BUILD-TO-RENT) BILL 2023

The Land Tax Assessment Amendment (Build-to-Rent) Bill 2023 amends the *Land Tax Assessment Act 2002* (LTA Act) to introduce a 50 per cent land tax exemption for land used for a new build-to-rent development. The exemption will apply to eligible build-to-rent developments from the 2023-24 assessment year.

Land tax is payable for an assessment year (financial year) on all land in Western Australia that is not exempt.¹

In the 2022-23 State Budget, the Government announced a 50 per cent land tax concession for land containing an eligible new build-to-rent development. A build-to-rent development is a housing development constructed for the purpose of providing multiple dwellings for lease under residential tenancy agreements.

Although announced as a concession, the tax relief for build-to-rent developments is achieved by an exemption of up to 50 per cent of the taxable value of the land, which results in less land tax being payable.

Eligibility requirements

A build-to-rent development must meet the following requirements to qualify for the exemption.

- The land containing the development must be owned by the same owner or group of owners and managed by one management entity.
- The development must have been constructed or substantially renovated for the purpose of providing at least 40 self-contained dwellings for lease under a residential tenancy agreement.
- The dwellings in the development must become able to be lawfully occupied between 12 May 2022 and 30 June 2032.
- The dwellings must be available to rent for a term of at least three years, although residents can choose a shorter lease term.
- The dwellings cannot be restricted to certain classes of person unless it is necessary to ensure public health or safety, if the dwellings are social housing, or in prescribed circumstances.

How the exemption will apply

The exemption applies for 20 consecutive assessment years from the first year the development meets the requirements. The exemption will cease to apply if the land no longer meets the criteria.

¹ LTA Act section 5.

After it qualifies for the exemption, a build-to-rent development may be expanded through the building of additional build-to-rent dwellings. An expansion may contain less than 40 dwellings and still qualify for the exemption if it meets all other requirements. The expanded development will receive a separate exemption from any previous stage.

Non-exempt areas

If parts of a build-to-rent development are also used for unrelated purposes, such as commercial activities or unrelated residential accommodation, the 50 per cent exemption is proportionally reduced. For example, if a building's floor area is equally used for build-to-rent accommodation and commercial activities, the 50 per cent exemption is reduced to 25 per cent. This ensures the exemption only applies to developments used for the purpose of providing build-to-rent accommodation.

Land partially used for development

If a lot or parcel of land contains a build-to-rent development, the exemption only applies to the part of the lot or parcel containing the development. For example, a lot of land containing an eligible build-to-rent development and an unrelated commercial development will only receive the exemption for the part of the land containing the build-to-rent development.

Retrospective removal of exemption

If a build-to-rent development ceases to qualify for the exemption within the first 15 years, the owner is required to pay the land tax that was not assessed for the years the exemption applied. This provides an incentive for build-to-rent accommodation to be offered for a significant period, providing increased tenure security for tenants.

Part 1 – Preliminary

Clause 1: Short Title

This clause provides that the short title of this Act is the *Land Tax Assessment Amendment (Build-to-Rent) Act 2023*.

Clause 2: Commencement

This clause provides the commencement dates for this Bill.

Paragraph (a) provides that clauses one and two of the Act come into operation on the day on which Royal Assent is received.

The rest of the Act introduces the exemption for build-to-rent developments. Paragraph (b) provides that this part of the Act comes into operation on 1 July 2023.

Clause 3: Act amended

This clause provides that this Act amends the *Land Tax Assessment Act 2002*.

Clause 4: Section 15B inserted

New section 15B provides that if land ceases to qualify for the build-to-rent exemption during the first 15 years of it being applied, the land tax that would have been payable if the exemption had not applied must be paid to the Commissioner of State Revenue (the Commissioner).

Section 15B achieves this by retrospectively applying tax for the years the land received the exemption. This encourages developments to continue providing build-to-rent accommodation for at least 15 years.

If land becomes ineligible for the exemption after the 15th year of being exempt, it will no longer be entitled to the exemption. However, retrospective land tax will not be charged for the years that the land was exempt as the minimum policy obligations for providing build-to-rent accommodation will have been met.

Example one – Retrospective land tax

A build-to-rent development first receives the exemption in the 2023-24 assessment year. The development must continue to satisfy the exemption requirements until and including the 2037-38 assessment year.

If the development ceased to qualify for the exemption in January 2030, the land will not receive the exemption from the 2030-31 assessment year onwards because it did not meet the exemption requirements on 30 June 2030.

Land tax will be retrospectively assessed for the assessment years in which the land received the exemption (2023-24 to 2029-30).

Subsection (1) provides the circumstances when former build-to-rent development land is retrospectively assessed for land tax.

Retrospective tax will apply if within the first 15 years of the build-to-rent exemption applying, the development is no longer eligible, or land used for the development becomes excluded land (such as vacant or commercial land).

Retrospective land tax will also apply if only part of the land ceases to qualify for the exemption.

For example, a build-to-rent development is comprised of two buildings, one containing 40 build-to-rent residences and one containing 10 build-to-rent residences. If the 10 residences in one building are later sold to private owner-occupiers, retrospective land tax applies to the part of the land containing the former build-to-rent building for the assessment years the land received the exemption.

Subsection (2) provides the owner must pay land tax assessed under section 15B. It also provides that land tax is payable for the assessment years the land was subject to the build-to-rent exemption.

Subsection (3) provides that:

- the land tax payable will be assessed at the rate that applied for the relevant financial year under the *Land Tax Act 2002*; and
- for the purposes of calculating the retrospective amount, the development land will be treated as if it is the only land owned by its owner.

Land tax is normally calculated on the aggregated value of all land held by the same owner, which results in a higher amount of land tax applying. Land retrospectively assessed under this section will not be aggregated with any other land held by its owner.

Subsection (4) provides that development land for which the Commissioner has made a determination under section 39J(3) is taken to be subject to an exemption for the purposes of section 15B(1).

Under proposed section 39J(3), the Commissioner may determine that a development which temporarily does not meet the exemption requirements is exempt from land tax for an assessment year. For example, fire damage causes several dwellings to be uninhabitable and results in the development dropping below the required 40 dwellings available for rent.

Subsection (4) ensures retrospective land tax is not applied to developments due to the circumstances giving rise to the temporary exemption.

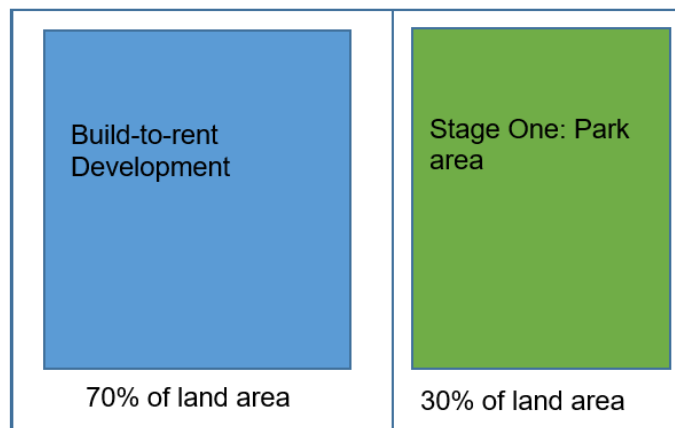
Subsection (5) provides a reduction in the retrospective land tax for any land tax already paid on the land or part of the land.

Example two – Reduction in retrospective land tax

1. Exemption is applied

A build-to-rent development receives the exemption in the 2024-25 assessment year.

During this time, 30 per cent of the land is used for a park. However, as the park is not excluded land, the whole development parcel receives the exemption.

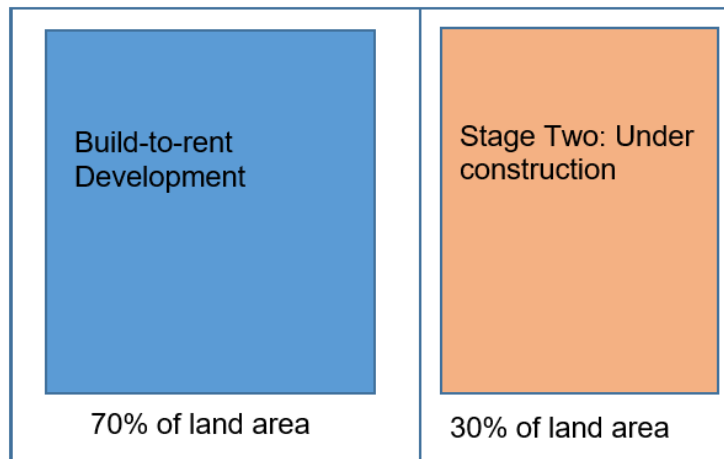


The taxable value of the land is \$5,000,000.

The exemption reduces the taxable value of the land by 50 per cent to \$2,500,000. Land tax, (including Metropolitan Region Improvement Tax), of \$24,630 is assessed for the 2024-25 assessment year.

2. Change in land use

Before 30 June 2025, the park is cleared to begin construction on a commercial development. The 30 per cent of the land which has been cleared is now excluded land for the purposes of the exemption.



This portion of the land will not receive the exemption from the 2025-26 assessment year onwards because it was excluded land on 30 June 2025. Land tax will also be retrospectively reassessed for this part of the land for the 2024-25 assessment year.

3. Retrospective land tax

The retrospective land tax is charged for the 30 per cent of the land as if it is the only land owned by its owner.

The taxable value of this portion of the land is 30 per cent of the land's unimproved value:

$$\begin{aligned} &= 0.3 \times 5,000,000 \\ &= 1,500,000 \end{aligned}$$

Land tax payable on a taxable value of \$1,500,000 is \$7,930. However, land tax already paid for this part of the land is deducted from the tax assessed.

4. Land tax already paid

The portion of land tax already paid for the 2024-25 assessment year that applies to the ex-park land is also calculated as if the owner only owned that land.

During the 2024-25 assessment year the value of the ex-park land (\$1,500,000) was reduced by 50 per cent due to the exemption:

$$\begin{aligned} &= 0.5 \times 1,500,000 \\ &= \$750,000 \end{aligned}$$

Land tax of \$1,755 applies to the ex-park land assessed on a single ownership basis. This amount will be deducted from the total retrospective land tax assessed.

5. Total retrospective land tax

The total retrospective land tax payable for the ex-park land is \$6,175 (\$7,930 minus the land tax already paid of \$1,755).

Subsection (6) provides an exception to the usual time limits on reassessments.

Under section 17(4) of the *Taxation Administration Act 2003*, the Commissioner cannot make a reassessment more than five years after the date of an original assessment except in certain circumstances.

Subsection (6) provides that the Commissioner may retrospectively assess land tax under section 15B even if has been more than five years since the original land tax assessment. This ensures the applicable retrospective land tax can be calculated if the development ceases to be an eligible development within 15 years.

Clause 5: Part 3 Division 4B inserted

This clause inserts a new exemption for land used for build-to-rent developments.

Division 4B – Land used for build-to-rent developments

39E. Terms used

Section 39E defines the following terms:

community title lot is defined in the LTA Act to mean a lot defined in a scheme plan or amendment of a scheme plan under the *Community Titles Act 2018* where the land the subject of the scheme plan is subdivided in accordance with that Act.

excluded land is land not used for exempt development or a purpose solely related to exempt development that is –

- (a) vacant land or land used for residential, commercial, professional, industrial or mixed development purposes unless used for a build-to-rent development or related purposes; or
- (b) land on which clearing or other work is undertaken for the purpose of developing land which cannot be used by tenants; or
- (c) land used for prescribed purposes. This is included to allow the Government to prescribe specific uses of land which are excluded from the exemption if required in future; or

(d) land that the Commissioner considers is not used for the purposes of an exempt development. This ensures the Commissioner can exclude land if it is reasonable to believe it is not being used for the purposes of operating a build-to-rent development.

Excluded land will include land not accessible by build-to-rent tenants or commercial uses (shops, cafes or gyms) which are not solely for build-to-rent tenants. Land used for these purposes will not be eligible for the exemption.

exempt build-to-rent development means a development that is eligible for the build-to-rent exemption.

exempt development means an eligible development or an expansion of that development.

exempt expansion build-to-rent development means a development that meets the exemption requirements in section 39F(3).

An exempt expansion build-to-rent development is part of a development which meets build-to-rent requirements and is on the same parcel of land as an existing exempt build-to-rent development.

exemption percentage is the percentage specified under section 39I(2). This is 50 per cent for developments used solely for build-to-rent residences, with a lower percentage for developments that are only partly used for build-to-rent residences.

residential tenancy agreement has the meaning given in section 3 of the *Residential Tenancies Act 1987*.

The term is defined as an agreement, whether it is in writing or is express or implied, under which a person for valuable consideration grants any other person a right to occupy residential premises for the purpose of residence.

social housing premises has the meaning given in section 71A of the *Residential Tenancies Act 1987*.

The term means residential premises let by a social housing provider under a social housing tenancy agreement. It does not include specific premises or agreements excluded by regulation.

A social housing provider is the Housing Authority or another prescribed body or person. A social housing tenancy agreement is a residential tenancy agreement (as defined above) for social housing premises.

strata lot is defined in the LTA Act to mean a lot defined in a scheme plan or amendment of a scheme plan under the *Strata Titles Act 1985* where the land the subject of the scheme plan is subdivided in accordance with that Act.

39F. Requirements for exemption relating to build-to-rent development

Section 39F provides the exemption requirements for a build-to-rent development or build-to-rent expansion.

Subsection (1) provides the requirements a build-to-rent development must meet to receive the exemption.

Subsection (1)(a) requires land used for a build-to-rent development to be owned by the same owner or jointly by a group of owners.

To own land jointly a group of owners must each have an interest in all the land, although their interests need not be equal. For example, A holds a 60 per cent interest, B holds a 30 per cent interest and C owns a 10 per cent interest in land used for a build-to-rent development as tenants in common. These owners are considered to own the land jointly.

No owner of the land, either individually or with another owner, can be entitled to a specific part of the land to which one or more other co-owners are not entitled. For example, a build-to-rent development is contained in land subject to 50 strata titles. A owns 30 lots, B 10 lots and C owns 10 lots. These parties are not considered to own the development jointly and cannot receive the exemption.

A build-to-rent development may be sold or otherwise change ownership and still qualify for the exemption if it continues to meet the exemption requirements.

Subsection (1)(b) requires that a build-to-rent development must provide at least 40 self-contained dwellings for rent. The building or buildings in the development may also be used for other purposes, such as commercial shops or cafes, or unrelated residential accommodation.

Subsection (1)(c) provides that a build-to-rent development must be one or more buildings either constructed or substantially renovated for the purposes of build-to-rent accommodation.

Substantial renovation requires that the whole or a substantial part of a building must be redeveloped from one use, such as commercial tenancies, to the new use of providing build-to-rent accommodation. An existing residential building or aged care facility cannot simply be renovated and qualify for the exemption.

Minor works made to a building, such as those which are small in scale or scope and do not require major structural changes, do not constitute substantial renovation.

Subsection (1)(d) provides the timeframe in which the dwellings in a build-to-rent development must be completed. The dwellings in the build-to-rent development must become lawfully able to be occupied on or after 12 May 2022 and by 30 June 2032. This ensures that only developments which become operational during this period qualify for the exemption.

The date dwellings are 'able to be lawfully occupied' may be the date an occupancy permit is granted under the *Building Act 2011*, if an occupancy permit is required for the dwelling to be used or occupied. The Commissioner may also consider other relevant information, such as a building certificate, to determine if a dwelling is lawfully able to be occupied.

This subsection also requires that the 40 or more dwellings become occupiable within five years of each other. This encourages the availability of build-to-rent dwellings within a reasonable timeframe.

Example three – Lawful occupation date of dwellings

A build-to-rent development containing 40 dwellings begins construction in January 2023. The first dwelling in the development becomes lawfully occupiable on 1 August 2024.

To qualify for the exemption, the final dwelling in the development must become lawfully occupiable by 31 July 2029.

Subsection (1)(e) provides that the dwellings in the build-to-rent development must be rented or available to be rented for a term of at least three years. This ensures tenants of a build-to-rent development are given the option of a longer lease period for greater security.

Exceptions to the three-year lease requirement are set out in section 39G(1).

Subsection (1)(f) requires there to be no restrictions on the persons who occupy the dwellings in a build-to-rent development, unless permitted by section 39G(2). This means the dwellings must be available to the public and an exemption will not apply to a development if its dwellings are only available to a specific class of persons such as students, retirees or certain professionals.

Section 39G(2) allows a build-to-rent development owner to restrict the classes of persons occupying their dwellings if it is necessary to ensure public health or safety, if the dwellings are social housing, or in prescribed circumstances. This provides a development owner flexibility to restrict which tenants occupy the development in limited circumstances or in circumstances which align with Government housing policy.

Subsection (1)(g) requires the same management entity to be responsible for providing management services to the whole build-to-rent development.

A management entity will generally provide services such as cleaning and general maintenance of the development's building or buildings. The management entity may be different to the owner(s) of the land and the owner(s) may outsource the provision of the management services, but only to a single entity.

Subsection (2) clarifies that making minor works to a building does not constitute **substantial renovation** for the purposes of qualifying for the exemption. A building being substantially renovated requires a change of use from non-residential to residential purposes.

Subsection (3) provides the requirements for an expansion build-to-rent development to receive an exemption.

An expansion build-to-rent development is a development built on the same parcel of land as an existing build-to-rent development. The existing development is effectively expanded by building additional build-to-rent dwellings.

An expansion that meets the exemption requirements will receive a 20-year exemption – this applies separately to the exemption for the original build-to-rent development.

An expansion build-to-rent development does need to provide a minimum of 40 dwellings to qualify for the exemption. This is because the expansion is considered with the original build-to-rent development, which has at least 40 dwellings.

Example four – Expansion build-to-rent development

A build-to-rent development contains 80 dwellings and first receives the exemption in the 2023-24 assessment year. The development is eligible to receive a 50 per cent exemption for up to 20 years, ending after the 2042-43 assessment year.

In 2030-31 the development is expanded through construction on the same land of an additional building containing a further 30 build-to-rent dwellings. The expansion build-to-rent development qualifies to receive the exemption from the 2031-32 assessment year.

The land containing the expansion is eligible to receive a separate 50 per cent exemption for up to 20 years ending after the 2050-51 assessment year.

Subsection (3)(a) requires land used for an expansion build-to-rent development to be owned by the same owner or jointly by a group of owners. This is the same as the subsection (1)(a) requirement for original build-to-rent developments.

An expansion build-to-rent development may be sold or otherwise change ownership and still qualify for the exemption if it continues to meet the exemption requirements.

Subsection (3)(b) requires the expansion build-to-rent development to provide self-contained dwellings for rent. The expansion is not required to provide a minimum of 40 dwellings because the original build-to-rent development already provided these.

The building or buildings containing the development may also be used for other purposes, such as commercial shops or cafes, or unrelated residential accommodation.

Subsection (3)(c) requires that an expansion build-to-rent development must be located on the same lot or parcel as an existing build-to-rent development. This ensures the exemption can only apply to genuine expansions of an existing development and not to unrelated developments.

Under the LTA Act the term 'lot' means a defined portion of land.² A 'parcel' means two or more lots of land that are treated as a single property under the Act.³

Subsection (3)(d) provides the expansion build-to-rent development must meet the same requirements as a build-to-rent development to qualify for the exemption. This means it must:

- be one or more buildings either constructed or substantially renovated for the purposes of build-to-rent accommodation; and
- have its dwellings become lawfully able to be occupied on or after 12 May 2022 and by 30 June 2032, and within a five-year period of each other; and
- have its dwellings rented or available to be rented for a term of at least three years; and
- have its dwellings available to rent to the general public; and
- have the same management entity responsible for providing management services to the whole expansion build-to-rent development.

39G. Exceptions to leasing restrictions for exempt development

Section 39G provides exceptions to the leasing requirements a development must meet to receive the exemption.

Subsection (1) provides exceptions to the three-year lease requirements for a build-to-rent development or expansion to receive the exemption (set out in section 39F).

² LTA Act Clause 2.

³ LTA Act Glossary.

Subsection (1)(a) provides a dwelling may be rented for less than three years at a tenant's request. This provides tenants the option of a shorter lease term.

Subsection (1)(b) provides a dwelling may be rented for less than three years if the expiry of the 20-year exemption is less than three years away. For example, if a tenant signs their lease during the nineteenth year of the exemption, the owner would not need to offer a three-year lease because the exemption will not exist after the first year of the lease.

Subsection (2) allows the classes of persons occupying build-to-rent dwellings to be restricted if necessary to ensure public health or safety, if the dwellings are social housing, or in prescribed circumstances.

This provides a development owner flexibility to restrict which tenants occupy their dwelling in narrow circumstances or in circumstances which align with Government housing policy.

39H. Managing entities for exempt development

Under section 39F(1)(g), the same management entity must provide the management services to the whole of a build-to-rent development. Section 39H clarifies this requirement.

Subsection (1) provides the entity managing a build-to-rent development does not need to be the owner of the land used for the build-to-rent development.

Subsection (2) provides the management entity for a build-to-rent development does not need to be the same entity managing an expansion build-to-rent development on the same land.

If land contains both a build-to-rent development and one or more expansion build-to-rent developments, different entities may manage the individual developments.

39I. Exemption for build-to-rent developments

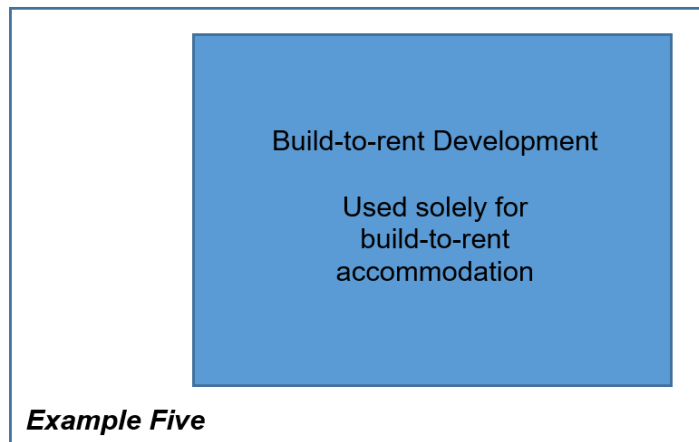
Section 39I provides the exemption for land used for a build-to-rent development.

Subsection (1) provides that land is exempt, to the extent of the percentage set out in subsection (2), if at midnight on 30 June in the previous financial year it is used for an eligible build-to-rent development.

Subsection (2) provides that land is exempt to the extent of 50 per cent, or other percentage calculated under section 39K, of the taxable value of the land. Section 39K sets out how a partial exemption is to be calculated for a development which is only partly used for build-to-rent accommodation.

Example five – Exempt development

A development used for only build-to-rent accommodation is eligible for a 50 per cent exemption.



The taxable value of the land containing the development is \$6,000,000.

The 50 per cent exemption is applied to the taxable value of the land:

$$= 6,000,000 \times 0.5$$

$$= \$3,000,000$$

The taxable value of the land after applying the exemption is \$3,000,000.

Subsection (3) provides that the exemption does not apply to any part of a lot or parcel of land that is excluded land, such as vacant land or unrelated commercial land. This ensures the exemption only applies to land used for the purposes of a build-to-rent development.

39J. Limits on eligibility for build-to-rent exemption

Section 39J provides that the maximum period for a build-to-rent exemption is 20 assessment years. It also provides the Commissioner a power to determine that a development be treated as exempt if it temporarily fails to meet the exemption requirements.

Subsection (1) provides the exemption applies for a maximum of 20 assessment years after the land first became exempt. After the 20th year, a development can no longer receive the exemption and cannot receive it in future years.

Subsection (2) provides that once a development does not meet the eligibility requirements, the exemption no longer applies. This means the exemption must apply continuously and cannot be split over several periods. A development which ceases to qualify for the exemption cannot requalify in a later year.

Subsection (3) allows the Commissioner to determine that land is to be treated as exempt for an assessment year if a development temporarily does not meet the exemption requirements if satisfied that:

- (a) the development was exempt in the previous assessment year;
- (b) the reasons the development cannot meet the requirements are temporary; and
- (c) it is reasonable to do so in the circumstances.

For example, fire or flood damage may mean a development cannot provide dwellings for rent for three-year periods, or that the number of rentable dwellings drops below 40, as at 30 June. Although the development would not meet the exemption requirements for the following assessment year, the Commissioner can determine the land is to be treated as exempt for that year if satisfied the damage will be repaired to allow the exemption conditions to be met again.

The purpose of this discretion is to prevent developments from losing their exemption due to uncontrollable or unforeseen circumstances.

Subsection (4) provides the Commissioner can make a determination on their own initiative or on the application of the development owner(s).

Subsection (5) provides that if the Commissioner has made a determination that land is to be treated as exempt for an assessment year, that development is taken to meet the exemption criteria for the year.

The Commissioner will publish guidance about how this discretion will be exercised.

39K. Exemption percentage where buildings partially used for build-to-rent dwellings

Section 39K provides that if parts of a build-to-rent development are not used for build-to-rent purposes, the exemption percentage is proportionally reduced from 50 per cent based on the floor area of the build-to-rent accommodation in the development compared with the total floor area.

For example, if a building's floor area is equally used for build-to-rent accommodation and commercial activities, the 50 per cent exemption is reduced to 25 per cent.

Subsection (1) provides the exemption reduction rules in section 39K do not apply to strata or community titled land.

The 50 per cent exemption figure is not adjusted based on floor area for a strata or community titled scheme. If a build-to-rent development includes strata or community lots, the 50 per cent exemption will apply to the individual lots.

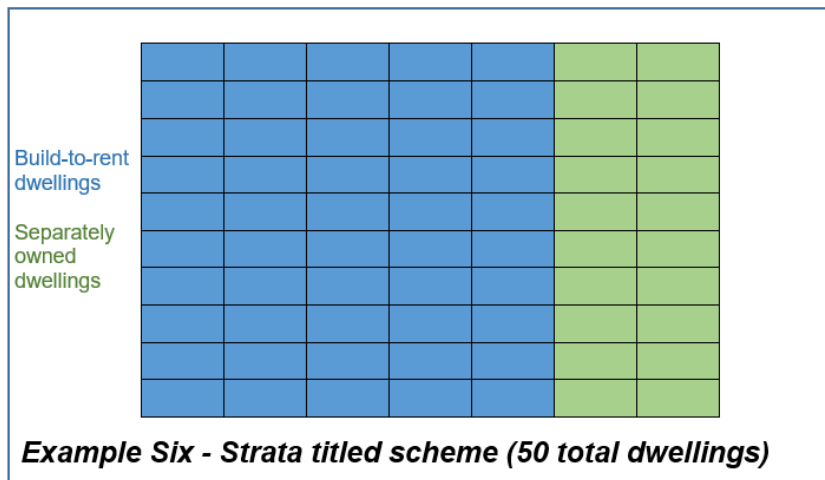
This aligns the build-to-rent exemption with the standard administration of land tax for strata or community title schemes, which is based on unit entitlements rather than floor area. For the purposes of calculating land tax for a strata or community title scheme, the taxable value of the land is divided amongst individual lots based on the unit entitlements.

The unit entitlement of each lot is determined by a licensed valuer considering the size and location of the lot within the scheme, as well as the proportion of common property that is associated with the lot. Unit entitlement assigns a relative value to each lot in the scheme in proportion to the total value of the scheme.

It is not necessary to adjust the 50 per cent figure based on the floor area of the scheme as the value of the lots used for build-to-rent dwellings already reflects their proportionate share of common property in the scheme.

Example six – Strata or community titled development

A build-to-rent development is a strata titled scheme with 70 apartments. Of these, 50 are eligible build-to-rent dwellings owned by a single owner and 20 were sold to help finance the development.



Although part of the build-to-rent development has been sold to other owners and therefore does not meet the 'single owner' criteria, section 39K(1) provides the 50 per cent exemption is applied to each individual strata lot containing an eligible build-to-rent dwelling. The 50 per cent exemption is not adjusted based on floor area of the development.

The total taxable value of the strata scheme is \$5,000,000.

The total taxable value of the 50 strata lots containing build-to-rent dwellings is \$3,500,000.

A 50 per cent exemption applies to the individual lots:

$$= 0.5 \times 3,500,000$$

$$= 1,750,000$$

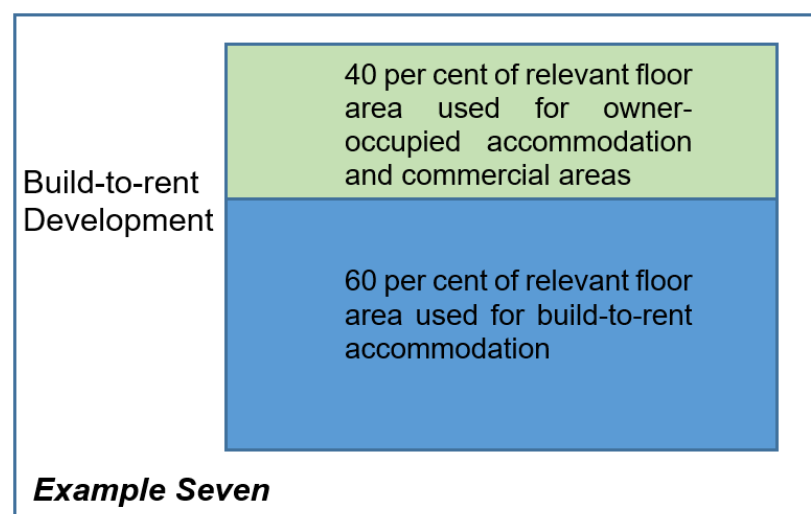
The total taxable value of the eligible strata lots after applying the exemption is \$1,750,000.

Subsection (2) calculates the exemption percentage for a development that is only partly used for build-to-rent accommodation.

The 50 per cent figure is adjusted based on the floor area of the building used for build-to-rent dwellings compared with the floor area used for all residential accommodation and commercial, professional, industrial or mixed-development purposes.

Example seven – Development partially used for build-to-rent dwellings

A development includes build-to-rent accommodation, owner-occupied accommodation, and commercial areas.



The taxable value of the land is \$4,000,000.

The build-to-rent dwellings make up 4,800 m² of the total 8,000 m² in relevant floor area (60 per cent).

The 50 per cent exemption is reduced proportionally according to the floor area used for build-to-rent accommodation.

F is the floor area used for build-to-rent dwellings = 4,800 m²

A is the total floor area = 8,000 m²

The formula in section 39K(2) calculates the exemption percentage:

$$= 0.5 \times \frac{F}{A}$$

$$= 0.5 \times \frac{4,800}{8,000}$$

$$= 0.5 \times 0.6$$

$$= 0.3$$

A 30 per cent exemption applies to eligible land.

The 30 per cent exemption is applied to the taxable value of the land:

$$= 4,000,000 \times (1 - 0.3)$$

$$= \$2,800,000$$

The taxable value of the land after applying the exemption is \$2,800,000.

Subsection (3) provides that some areas of the building are not included when determining the floor area. Because building infrastructure like lifts, cooling towers, stairwells and plant rooms are not included in the floor area calculation they will not diminish the exemption which applies to the development. If necessary, other parts of a building can be prescribed in future.

Once these areas are removed, the uses of the other parts of the building determine the exemption percentage that applies to the development.

Subsection (4) provides that the exemption calculation is based on the status of the land as at midnight 30 June before the assessment year, which is the land tax liability date.

39L. Taxable value of land subject to partial build-to-rent exemptions

Section 39L provides the calculation for the taxable value of land subject to an exemption which only applies to part of the lot or parcel of land.

For example, land containing an eligible build-to-rent development and an unrelated commercial development will only receive the exemption for the part of the land containing the build-to-rent development.

Section 18A of the LTA Act provides how to determine the taxable value of a lot or parcel if some parts of it are used for exempt purposes while others are not.

Section 39L uses the method set out in section 18A and applies the relevant build-to-rent exemption percentage of 50 per cent or lower.

Subsection (1) provides that section 39L applies to determine the taxable value of a lot or parcel of land if the built-to-rent exemption only applies to part of that lot or parcel.

Subsection (2) modifies the calculation in section 18A to determine the taxable value of land subject to a build-to-rent exemption which only applies to part of the lot or parcel of land.

Under section 18A, the taxable value of the land is its unimproved value minus the unimproved value of the part of the land receiving the exemption.

Subsection (2) modifies this calculation by reducing the unimproved value of the part of the land receiving the exemption by the relevant exemption percentage of 50 per cent or lower.

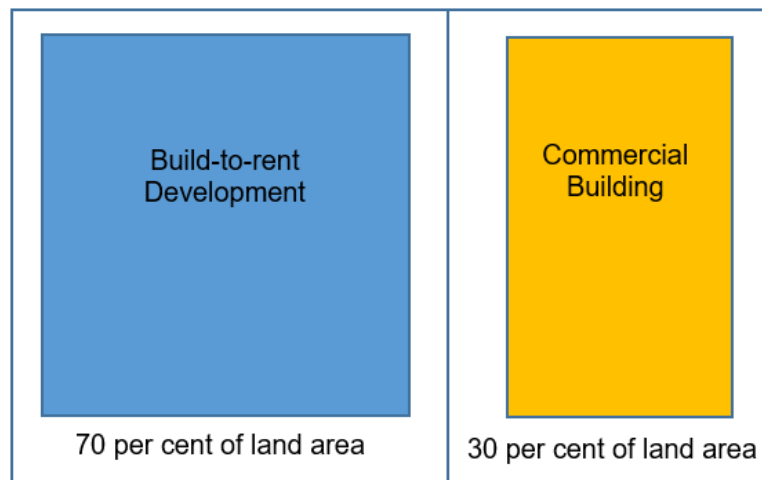
Example eight – Build-to-rent exemption applies to only part of land

Land contains an exempt build-to-rent development and an unrelated commercial building.

The land has an unimproved value of \$4,000,000.

The build-to-rent development makes up 70 per cent of the land area, while the unrelated commercial building makes up the remaining 30 per cent.

The build-to-rent development is used solely for build-to-rent accommodation.



Calculating the taxable value of land

The build-to-rent development makes up 70 per cent of the land area. The exemption only applies to this part of the land.

Section 39L calculates the taxable value of the land after applying the exemption.

1. Value of the part of land containing development

The value of the part of land containing the build-to-rent development is 70 per cent of the land's unimproved value:

$$= 0.7 \times 4,000,000$$

= 2,800,000

Before the exemption, the unimproved value of the part of the land containing the development is \$2,800,000.

2. Value of part of land containing development after applying exemption

The development qualifies for a 50 per cent exemption because it is used solely for build-to-rent accommodation.

The exemption reduces the value of the build-to-rent development part of the land by 50 per cent:

= 0.5 x 2,800,000

= 1,400,000

The unimproved value of the part of the land containing the development is \$1,400,000.

3. Final taxable value of the land

The taxable value of the whole of the land is its total unimproved value minus the value of the part of the land containing the development:

= 4,000,000 – 1,400,000

= 2,600,000

The taxable value of the land is \$2,600,000.

39M. Application for build-to-rent exemption

Section 39M provides the requirements to make an application for the build-to-rent land tax exemption.

Subsection (1) provides that the exemption will only apply if an application is made in the approved form. The application must be received by 30 June in the current assessment year unless the Commissioner gives an extension.

Subsection (2) allows the Commissioner to extend the time for lodging an application if it is satisfied there are reasonable grounds. The time may be extended to any date before the 1 July occurring four years after the relevant assessment year.

Clause 6: Schedule 1 Division 8 inserted

This clause inserts a transitional provision for the Bill.

Division 8 – Provision for *Land Tax Assessment Amendment (Build-to-Rent) Act 2023*

Clause 26: Application of amendments

This Division provides that the amendments made by the *Land Tax Assessment Amendment (Build-to-Rent) Act 2023* apply in relation to assessment years that begin on or after 1 July 2023.