Land tax implications when a property owner moves into aged care

Author: Chris Alfonso
Email: chris@ealawyers.com.au
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When a family member or other loved one moves into aged care, there are several important considerations surrounding their home, including in relation to land tax. This blog will outline some of the possible land tax implications you need to be aware of when a property owner transitions into aged care.

Please note that this is not an exhaustive list of considerations and is intended as a guide only.

Whenever a family member is moving into aged care, the family may benefit from obtaining advice from a financial advisor, accountant and lawyer to understand possible implications.

If you require more information about your unique circumstances, you should seek legal advice.

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The principal place of residence (PPR) exemption from land tax

A principal place of residence (PPR) is generally exempt from land tax while the homeowners occupy the PPR. Generally, while the homeowner lives in their property, they do not pay land tax on the property.

However, if the homeowner moves out of the property — for example, to enter an aged care facility — the status of the property may change, and the PPR exemption may no longer apply unless certain conditions are met.

Six-year absence rule

If the homeowner is absent from their PPR for an extended period, such as taking a job interstate or an extended holiday, they may still qualify for the PPR exemption under the six-year absence rule.

Key considerations for this rule include that:

- the property must have been occupied for at least six months before the absence;
- the homeowner must not own, use or occupy another PPR during their absence; and
- letting the property during the absence can result in the PPR exemption being lost (the rules around letting outlined below apply).

If these criteria are met, the PPR exemption can continue for up to six years.

If the homeowner returns within that six-year timeframe, the exemption remains in place. However, if the homeowner does not resume living in the property after six years, the land tax exemption ends, and the land will be taxable from that time.

Full-time aged care exemption from land tax

When a homeowner moves into full-time aged care, they are no longer restricted by the six-year absence rule. Since 2011, the land tax exemption can extend indefinitely, provided the homeowner:

- resides in an aged care facility, such as a nursing home or hospital; or
- lives with a carer who qualifies for a carer payment under the *Social Security Act 1991*.

The homeowner also needs to comply with the further requirements outlined below.

It is important to note that this concession does not apply to the former PPR of a person who moves into a retirement village unit owned by the person.

Letting the property while in aged care

In many cases, families consider renting out the PPR once their loved one has moved into aged care. This can generate extra income to help with care costs. However, there are rules surrounding how long the property can be let while still maintaining the land tax exemption.

If the homeowner’s property is rented out while they are in aged care, certain restrictions apply to maintain the land tax exemption.

- **Short-term letting** (up to six months continuously or 182 days per year) is permitted without affecting the PPR exemption.
- **Longer-term rentals** may make the property subject to land tax unless the rental income is used solely to cover regular property outgoings like council rates, water, and minor maintenance (which may include lawn mowing, window cleaning, pool

maintenance, etc). More significant maintenance costs, such as renovations and replacement of larger fixtures or fittings, are not included in the costs that can be offset by the rent collected.

What happens if the owner passes away?

If the homeowner passes away while still eligible for the land tax exemption, their estate may continue to benefit from the exemption for up to two additional tax years. This gives the estate time to manage the property without an immediate land tax liability.

If the PPR exemption did not apply to the homeowner when they passed away, then the concession will generally not pass to the estate. There are other rules and concessions that may apply depending on the particular circumstances of the property and the estate.

Get help from a property lawyer

Navigating the transition of a family member or other loved one from their own home into aged care can be challenging.

While this guide provides a general overview of the land tax implications when a family member or other loved one moves into aged care, it should be noted that each situation is unique. Speaking with a property lawyer can help you navigate the legal and financial complexities of managing your loved one’s property and land tax obligations.

E&A Lawyers have a dedicated and experienced property law team who can help you. For more information or to arrange a consultation with a lawyer, you can call or email us.

Contacting E&A Lawyers

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[02 9997 2111](tel:0299972111)

info@ealawyers.com.au
