

TAX TREATMENT OF NET ANNUAL VALUE OF RESIDENTIAL PROPERTY UNDER JOINT OWNERSHIP - ADDENDUM TO INCOME TAX PRACTICE NOTE 2 DATED 25 FEB 93

INTRODUCTION

1. Section 10(1)(f) of the Income Tax Act (ITA) provides that the net annual value (NAV) of any property used by or on behalf of the owner for residential purposes and not for the purposes of gain or profit shall be deemed to be profits arising from the property which is taxable. The NAV so taxable shall exclude the NAV of any one property occupied for residential purposes by the owner subject to a limit of \$150,000 as provided under section 10(11)¹ of the ITA (referred hereinafter as the “exemption level”).
2. Prior to the year of assessment (YA) 1993, where the residential property was held under joint ownership and occupied by some but not all the joint owners, the joint owners residing in the property were treated as occupying the share of the absentee joint owner on his or her behalf for the purpose of section 10(1)(f). As such, each absentee joint owner was assessed to tax on his or her share of the NAV of the property even if the NAV was below the exemption level.
3. The above treatment of NAV of residential property held under joint ownership was reviewed from the YA 1993. The revised treatment was set out in the Income Tax Practice Note 2 of Vol. 1 No.1 (published on 25 Feb 93)².
4. To recapitulate, it was decided that in the case of a property held under joint ownership, the following treatment shall be adopted as an administrative practice with effect from YA 1993:-
 - a) each joint-owner shall be treated as occupying the property in his or her own legal right;
 - b) where any of the joint-owners is not occupying the property, the other joint-owners who are occupying it shall not be treated as occupying that share of the property belonging to the absentee joint owner on his or her behalf. Therefore, the joint-owner who is not occupying the property will not be regarded as deriving any profit from the property.
5. IRAS has received enquiries on whether the administrative practice would apply in the case where the NAV of a residential property exceeds the exemption level, i.e. a property with NAV exceeding \$150,000. The purpose of this Practice Note is to clarify the scope of the 1993 administrative practice.

¹ Subsection renumbered by Income Tax Act (Revised Edition 2004)

² Now renumbered as IRAS' e-Tax Guide reference No. 1993/IT/4

ADMINISTRATIVE PRACTICE

6. The YA 1993 administrative practice was a concession intended to relieve joint-owners who do not stay in the residential property occupied by one or more of the other joint-owners of having to pay tax in cases where the NAV of the property is below or equal to the exemption level. The administrative practice was adopted on the basis that the NAV of such property would not be brought to tax had it not been jointly-owned but instead occupied by the sole owner.
7. The administrative practice was not intended to mitigate the tax liability of any joint-owners of a property with a NAV above the exemption level. Therefore, in the case where the NAV of a residential property exceeds the exemption level, the administrative practice does not apply. This is because the excess is liable to tax. All joint-owners regardless of whether they are occupying the residential property or not would be liable to tax on their share of the NAV in excess of the exemption level.
8. Taxpayers who have any enquires on this Practice Note may call our Taxpayer Services Division for clarification.