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**Trap for Main Residence Exemption and First Home Owners Grant**

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A Victorian land tax case has highlighted the practical steps that taxpayers need to take to establish a property as their principal place of residence.

In the case, the taxpayer contended that he lived in his East Melbourne property as his principal place of residence from June 2004 onwards. The taxpayer's ill father lived in Abbotsford and the taxpayer claimed that he and his wife would leave early in the morning and spend most of the day at his father's home and would only return to the East Melbourne property in the middle of the day and again late at night to sleep. The taxpayer did not have a telephone installed at the East Melbourne property and used an address in Abbotsford as his mailing address.

The Commissioner of State Revenue contended that the East Melbourne property was not the taxpayer's principal place of residence until February 2005 on the basis that the water and electricity usage was so low that it indicated the taxpayer could not have been using the property as his principal place of residence. From February 2005 the electricity and water usage was much higher.

The Administrative Appeals Tribunal accepted the Commissioner's evidence over that of the taxpayer and denied the principal place of residence exemption for the period July 2004 to February 2005.

Although a Victorian land tax case, taxpayers should take note of the evidence the authorities may look at, and that the Tribunal or Court may consider, when deciding whether a property is being used as a taxpayer's main residence for an exemption from CGT or land tax or whether a taxpayer is entitled to the first home owners' grant.