

REGULATIONS UNDER THE LAND TAX ACT, 1936

Land Tax Regulations, 1989

being

No. 255 of 1988: *Gaz.* 22 December 1988, p. 2111¹

as varied by

No. 192 of 1991: *Gaz.* 12 September 1991, p. 805²

No. 78 of 1996: *Gaz.* 30 May 1996, p. 2638³

No. 85 of 1997: *Gaz.* 13 May 1997, p. 1877⁴

- ¹ Came into operation 1 January 1989: reg. 2
- ² Came into operation 30 September 1991: reg 2.
- ³ Came into operation 1 July 1996: reg. 2.
- ⁴ Came into operation 1 July 1997: reg. 2.

Citation

1. These regulations may be cited as the *Land Tax Regulations, 1989*.

Commencement

2. These regulations will come into operation on 1 January, 1989.

Interpretation

3. In these regulations—

"the Act" means the *Land Tax Act, 1936*.

Provision of information

4. (1) The Commissioner may, for the purpose of determining whether the person is liable to pay land tax under the Act and, if so, the extent of that liability, require a person to furnish to the Commissioner any of the following information—

(a) the person's full name and address;

(b) a description of any land owned by the person;

and

(c) in relation to each piece of land owned by the person—

(i) the date on which the person acquired ownership of the land;

(ii) the name of any other owner of the land;

(iii) the name of any occupier of the land;

(iv) a description of any improvements on the land;

and

(v) the use of the land.

(2) Information required under subregulation (1)—

(a) must be furnished to the Commissioner in a manner and form approved by the Commissioner;

and

(b) must be furnished within 14 days of the requirement being made known to the particular person.

(3) A person who fails to comply with this regulation is guilty of an offence.

3.

Notification of certain changes in ownership

5. (1) Where—

(a) a person ceases to be the owner of land during a particular financial year;

and

(b) a transfer of the land is not registered under the *Real Property Act, 1886*, during that financial year,

the person must, on or before 31 July immediately following the end of that financial year, give to the Commissioner notice of the fact that he or she has ceased to be an owner of the land.

(2) A notice under subregulation (1) must be in a form approved by the Commissioner and must be signed by the person referred to in subregulation (1) and by any other person who became an owner at the relevant time.

(3) A person who fails to comply with this regulation is guilty of an offence.

Notification of change of address

6. (1) Unless the Commissioner otherwise determines, if an owner of land changes his or her postal or residential address, the owner must, within one month, give notice of the change to the Commissioner.

(2) A notice under subregulation (1) must be in a form approved by the Commissioner.

(3) A person who fails to comply with this regulation is guilty of an offence.

Prescribed exemptions

7. For the purposes of section 10(1)(k) of the Act, *Aboriginal Hostels Limited* is a prescribed body.

Exemption of certain residential land from land tax

8. (1) In this regulation—

"boarding house" means a dwelling, or a building ordinarily used in connection with a private dwelling, where more than five persons are boarded or lodged on payment of a fee:

"home activity" means an activity carried on in a dwelling, or in a building ordinarily used in connection with a private dwelling, by a person resident in the dwelling and for the purposes of which—

(a) no assistance is offered other than by another person resident in the dwelling;

(b) the floor area used (whether temporarily or permanently) does not exceed 28 square metres;

and

(c) no goods are displayed (whether in a window or otherwise).

4.

(2) For the purposes of section 10a(11)(b) of the Act, the following criteria are prescribed in relation to land—

- (a) all buildings on the land must be designed, constructed or adapted for use as a private dwelling or as outbuildings ordinarily used in connection with a private dwelling;
- (b) the land and all buildings on the land must be solely or principally used for residential purposes and not—
 - (i) for the purpose of any trade other than the business of primary production or a home activity;
 - (ii) as a boarding house;or
 - (iii) to any significant extent for other than residential purposes;

and

- (c) no part of the dwelling or any other building on the land may be let to any person who is not a parent, grandparent, child or grandchild of the owner of the land (but for the purposes of this paragraph neither the dwelling nor any other building on the land will be regarded as being let to a boarder or lodger).

(3) Where land is owned by a company entitled to the benefit of section 10a of the Act and the criteria set out in subregulation (2) are satisfied by each shareholder in respect of the dwelling that he or she has the right to occupy, then the criteria will be satisfied in respect of all of the land consisting of those dwellings (and any land appurtenant to those dwellings).

(4) Where land is owned by a company entitled to the benefit of section 10a of the Act but the criteria set out in subregulation (2) are not satisfied by all of the shareholders who have a right to occupy dwellings that comprise the group, the exemption from land tax extends only to land consisting of those dwellings (and any land appurtenant to those dwellings) where the relevant shareholder satisfies the criteria.

(5) For the purposes of section 10a(12a) of the Act, the following associations are prescribed:

Lakeside Villages Incorporated

Pineview Village Incorporated

The Retirement Homes Association of Australia Incorporated

Trusts

9. (1) For the purposes of section 15(4) of the Act, notice of a particular trust must be given to the Commissioner on or before 31 July in the financial year for which the tax is to be calculated.

(2) For the purpose of determining whether land is held in trust and, if so, the nature of that trust, the Commissioner may require the equitable owner or legal owner of the land to produce to the Commissioner for inspection—

5.

(a) all written matter relating to the creation of the trust, and any variation of the trust after its creation;

and

(b) such other evidence as the Commissioner may require.

(3) The Commissioner may, in order to consider and assess its contents and effect, take possession of and retain for a reasonable period any written matter or other evidence produced under subregulation (2).

Powers of inspection

10. The Commissioner, or a member of the Commissioner's staff acting under the written authority of the Commissioner, may, for any purpose related to the administration of the Act, enter and inspect land at any reasonable time.

Records

11. (1) The Commissioner may alter, add to or correct any record kept by the Commissioner for the purposes of the Act.

(2) Where an alteration, addition or correction affects the incidence of taxation, the Commissioner must give written notice of the alteration, addition or correction to the relevant taxpayer (although a failure to give such notice does not invalidate or affect the alteration, addition or correction).

Payment of tax

12. (1) Land tax may be paid—

(a) at the office of the Commissioner at Adelaide;

(b) by posting the payment to a postal address in Adelaide specified by the Commissioner;

or

(c) in any other manner approved by the Commissioner.

(2) The payment must be made—

(a) in cash;

(b) by cheque, postal order or money order payable to the Commissioner;

or

(c) by any other method approved by the Commissioner.

(3) A payment of land tax by cheque will not be regarded as having been validly made by the taxpayer if the cheque is not subsequently cleared by the financial institution on which it is drawn.

(4) Unless the Commissioner otherwise approves, a person may not make a part payment of land tax.

Certificates in respect of liability to land tax

13. (1) For the purposes of section 66a of the Act, a fee of \$17.40 is prescribed.

(2) Where, on an application under section 66a of the Act, the Commissioner is satisfied—

(a) that the application is being made in conjunction with an application to the Department of Lands for information for the purposes of section 7 of the *Land and Business (Sale and Conveyancing) Act 1994*;

and

(b) that the applicant has paid an application fee to that Department,

no fee is payable on the application under section 66a of the Act.

Execution of notices and other documents

14. A notice or other document under the Act purporting to be issued under the authority of the Commissioner, or under the authority of a member of the Commissioner's staff apparently acting on behalf of, or under the authority of, the Commissioner, may be taken to be valid for the purposes of the Act.

Officers

15. A Deputy Commissioner of Land Tax or an Acting Commissioner of Land Tax may, subject to the Commissioner's direction and control, exercise or perform any of the powers, functions or duties of the Commissioner.

Service of notices

16. (1) A notice or other document under the Act may be served by the Commissioner on a person by post.

(2) The notice or other document must be posted to the last postal address of the person known to the Commissioner.

(3) For the purposes of section 73(1)(b) of the Act, the requirement that an occupier of land disclose the name of the owner of the land may be made by post.

(4) A notice, return or other document to be served on the Commissioner for the purposes of the Act or these regulations may be served by lodgment at the office of the Commissioner with a member of the Commissioner's staff authorized by the Commissioner to accept documents on his or her behalf.

Misuse of written materials

17. (1) A person must not wilfully alter, damage or destroy any notice, return, form or other document belonging to, or issued by, the Commissioner, or use any such notice, return, form or other document except for the purposes of the Act.

(2) A person who breaches subregulation (1) is guilty of an offence.

7.

Offences

18. A person who is guilty of an offence against a provision of these regulations is liable to a penalty not exceeding \$100.

Revocation

19. All regulations previously made under the Act are revoked.

8.

APPENDIX

LEGISLATIVE HISTORY

Regulation 13(1):

varied by 192, 1991, reg. 3; 78, 1996, reg. 3(a); 85, 1997, reg. 3

Regulation 13(2):

varied by 78, 1996, reg. 3(b)