

South Australia

## **Rates and Land Tax Remission Regulations 2009**

under the *Rates and Land Tax Remission Act 1986*

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### Schedule 1—Revocation of *Rates and Land Tax Remission Regulations 2005*

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#### **1—Short title**

These regulations may be cited as the *Rates and Land Tax Remission Regulations 2009*.

#### **2—Commencement**

These regulations will be taken to have come into operation on 1 July 2008.

#### **3—Interpretation**

- (1) In these regulations—

*Act* means the *Rates and Land Tax Remission Act 1986*;

*approved aged persons housing scheme* means a scheme, administered by an organisation or body approved by the Minister—

- (a) under which houses or residential units in a residential complex are made available for occupation predominantly by persons of or over a fixed qualifying age of at least 50 years; and
- (b) under which the occupiers of houses or residential units in the scheme are entitled to continue in occupation of those houses or residential units for life, subject only to conditions providing or allowing for termination of that entitlement approved by the Minister;

*council rates* means general and separate rates under the *Local Government Act 1999*;

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*land tax* means land tax under the *Land Tax Act 1936*;

*Low Income Health Care Card* means a Low Income Health Care Card issued by the Commonwealth Government;

**prescribed capacity**—see subregulation (2);

**prescribed card** means—

- (a) a Pensioner Concession Card issued by the Commonwealth Government; or
- (b) a TPI Gold Repatriation Health Card issued by the Commonwealth Government; or
- (c) a War Widows Gold Repatriation Health Card issued by the Commonwealth Government; or
- (d) a Gold Repatriation Health Card (EDA) issued by the Commonwealth Government; or
- (e) a State Concession Card issued by the State Government;

**prescribed payments** means—

- (a) any of the following payments under the *Social Security Act 1991* of the Commonwealth:
  - (i) an Austudy payment;
  - (ii) a newstart allowance;
  - (iii) a parenting payment;
  - (iv) a partner allowance;
  - (v) a sickness allowance;
  - (vi) a special benefit;
  - (vii) a widow allowance;
  - (viii) a youth allowance; or
- (b) Abstudy payments from the Commonwealth Government; or
- (c) payments under the Community Development Employment Project established by the Commonwealth Government; or
- (d) payments under the New Enterprise Incentive Scheme established by the Commonwealth Government; or
- (e) a pension as a war widow under legislation of the United Kingdom or New Zealand;

**sewerage rates** means—

- (a) rates under the *Sewerage Act 1929*; or
- (b) service rates, annual service charges, or other fees or charges, for the collection, treatment or disposal of wastewater or effluent under the *Local Government Act 1999*;

**spouse**—a person is the spouse of another if they are legally married;

**water rates** means—

- (a) rates under the *Waterworks Act 1932*; or
- (b) service rates and annual service charges for the treatment or provision of water under the *Local Government Act 1999*; or

- (c) rates under the *Irrigation Act 1994*; or
  - (d) rates under the *Renmark Irrigation Trust Act 1936*; or
  - (e) contributions payable to the Lyrup Village Association under Part 8 of the *Crown Lands Act 1929*.
- (2) For the purposes of these regulations, a person will be taken to ***occupy land as the person's principal place of residence in a prescribed capacity*** only if the person occupies the land as the person's principal place of residence—
- (a) as sole or joint proprietor of an estate in freehold in possession; or
  - (b) as sole or joint proprietor of a Crown lease or Crown under lease; or
  - (c) as the purchaser of an estate in fee simple under an agreement for sale and purchase where the purchase price is payable in more than 2 instalments; or
  - (d) as the occupier under an agreement to occupy provided that—
    - (i) no rent is payable; and
    - (ii) the tenure is for the life of the occupier and not subject to earlier determination except by the occupier; and
    - (iii) the occupier is liable for all rates and taxes; or
  - (e) as—
    - (i) joint proprietor with other persons who own; or
    - (ii) a shareholder in a body corporate that owns,  
a block of home units or other group residential premises (the person to be regarded for the purposes of this paragraph as being the sole or joint proprietor of the home unit or residential premises he or she occupies); or
  - (f) as a lessee or licensee of land other than Crown land under a lease or licence that extends for 5 or more years and under which the dwelling occupied by the person on that land remains the property of that person; or
  - (g) as the occupier of a house or residential unit in an approved aged persons housing scheme; or
  - (h) as the spouse or domestic partner of any of the persons referred to in paragraphs (a) to (g); or
  - (i) as a beneficiary under an estate entitling the person to occupy the property in 1 of the capacities referred to in paragraphs (a) to (g).

#### **4—Remission of water rates**

- (1) Subject to subregulation (2), a ratepayer is entitled under the Act to a remission of water rates for land if—
- (a) on the relevant date—
    - (i) the ratepayer holds a prescribed card or a Low Income Health Care Card or is in receipt of prescribed payments; and
    - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity; or

- (b) on the relevant date—
    - (i) the spouse or domestic partner of the ratepayer holds a prescribed card or a Low Income Health Care Card or is in receipt of prescribed payments; and
    - (ii) the ratepayer and his or her spouse or domestic partner occupy the land as their principal place of residence in a prescribed capacity; or
  - (c) at the time of recovery of the rates—
    - (i) the ratepayer satisfies the Minister, by submitting to a means test determined by the Minister, that the ratepayer is suffering exceptional circumstances of hardship; and
    - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity.
- (2) A ratepayer who satisfies the conditions set out in subregulation (1)(a) or (b) on the date on which the rates are payable by the ratepayer but not on the date on which the ratepayer is billed with the rates must, in addition, have been entitled to a remission of water rates for the preceding rating period in respect of the same or different land.
- (3) If 2 or more persons own land jointly or as tenants in common, each of them who is entitled to a remission of water rates for the land is entitled to a proportion of the amount of the remission equal to the proportion of the person's interest in the land.
- (4) The amount of the remission of water rates for land for a financial year is 20% of the amount of the rates, subject to a minimum remission of \$95 and a maximum remission of \$200.
- (5) In this regulation—
- relevant date** means—
- (a) the date on which the person is billed with the rates; or
  - (b) the date on which the rates are payable by the person.

## **5—Remission of sewerage rates**

- (1) Subject to subregulation (2), a ratepayer is entitled under the Act to a remission of sewerage rates for land if—
- (a) on the relevant date—
    - (i) the ratepayer holds a prescribed card or is in receipt of prescribed payments; and
    - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity; or
  - (b) on the relevant date—
    - (i) the spouse or domestic partner of the ratepayer holds a prescribed card or is in receipt of prescribed payments; and
    - (ii) the ratepayer and his or her spouse or domestic partner occupy the land as their principal place of residence in a prescribed capacity; or
  - (c) at the time of recovery of the rates—

- (i) the ratepayer satisfies the Minister, by submitting to a means test determined by the Minister, that the ratepayer is suffering exceptional circumstances of hardship; and
  - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity.
- (2) A ratepayer who satisfies the conditions set out in subregulation (1)(a) or (b) on the date on which the rates are payable by the ratepayer but not on the date on which the ratepayer is billed with the rates must, in addition, have been entitled to a remission of sewerage rates for the preceding rating period in respect of the same or different land.
- (3) If 2 or more persons own land jointly or as tenants in common, each of them who is entitled to a remission of sewerage rates for the land is entitled to a proportion of the amount of the remission equal to the proportion of the person's interest in the land.
- (4) The amount of the remission of sewerage rates for land for a financial year is 60% of the amount of the rates, subject to a maximum remission of \$95.
- (5) In this regulation—  
*relevant date* means—
  - (a) the date on which the person is billed with the rates; or
  - (b) the date on which the rates are payable by the person.

## **6—Remission of council rates**

- (1) Subject to subregulation (2), a ratepayer is entitled under the Act to a remission of council rates for land if—
  - (a) on the relevant date—
    - (i) the ratepayer holds a prescribed card or a seniors card or is in receipt of prescribed payments; and
    - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity; or
  - (b) on the relevant date—
    - (i) the spouse or domestic partner of the ratepayer holds a prescribed card or a seniors card or is in receipt of prescribed payments; and
    - (ii) the ratepayer and his or her spouse or domestic partner occupy the land as their principal place of residence in a prescribed capacity; or
  - (c) at the time of recovery of the rates—
    - (i) the ratepayer satisfies the Minister, by submitting to a means test determined by the Minister, that the ratepayer is suffering exceptional circumstances of hardship; and
    - (ii) the ratepayer occupies the land as the ratepayer's principal place of residence in a prescribed capacity.

- (2) A seniors card ratepayer is not entitled to a remission of council rates under subregulation (1)(a) or (b) if—
- (a) the ratepayer and his or her spouse or domestic partner occupy the land as their principal place of residence; and
  - (b) the ratepayer or the spouse or domestic partner of the ratepayer works in paid employment at a rate that exceeds 20 hours per week.
- (3) If 2 or more persons own land jointly or as tenants in common, each of them who is entitled to a remission of council rates for the land is entitled to a proportion of the amount of the remission equal to the proportion of the person's interest in the land.
- (4) The amount of the remission of council rates for land for a financial year is 60% of the amount of the council rates, subject to a maximum remission of—
- (a) for a seniors card ratepayer—\$100; and
  - (b) for any other ratepayer—\$190.
- (5) In this regulation—
- relevant date* means the due date for payment of the first or only rates account;
- seniors card* means a Seniors Card issued by the State Government;
- seniors card ratepayer* means a person who satisfies the conditions set out in subregulation (1)(a) or (b) but would not do so if the person or his or her spouse or domestic partner did not hold a seniors card.

## **7—Remission of land tax**

- (1) A taxpayer is entitled under the Act to a remission of land tax for land if—
- (a) on the relevant date—
    - (i) the taxpayer holds a prescribed card or is in receipt of prescribed payments; and
    - (ii) the taxpayer occupies the land as the person's principal place of residence in a prescribed capacity; or
  - (b) on the relevant date—
    - (i) the spouse or domestic partner of the taxpayer holds a prescribed card or is in receipt of prescribed payments; and
    - (ii) the taxpayer and his or her spouse or domestic partner occupy the land as their principal place of residence in a prescribed capacity; or
  - (c) at the time of recovery of the land tax—
    - (i) the taxpayer satisfies the Minister, by submitting to a means test determined by the Minister, that the taxpayer is suffering exceptional circumstances of hardship; and
    - (ii) the taxpayer occupies the land as the taxpayer's principal place of residence in a prescribed capacity.
- (2) If 2 or more persons own land in respect of which land tax is payable, each of them who is entitled to a remission of the land tax is entitled to a proportion of the amount of the remission equal to the proportion of the person's interest in the land.

- (3) The amount of the remission of land tax for land for a financial year is 60% of the amount of the land tax, subject to a maximum remission of \$150.
- (4) In this regulation—
  - relevant date* means—
    - (a) for the purposes of determining whether a person holds a prescribed card or is in receipt of a prescribed payment—the date on which the person is billed with the tax; and
    - (b) for the purposes of determining whether a person occupies the land as the person's principal place of residence in a prescribed capacity—30 June of the financial year preceding the financial year for which the tax is imposed.

### **Schedule 1—Revocation of *Rates and Land Tax Remission Regulations 2005***

The *Rates and Land Tax Remission Regulations 2005* are revoked.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

#### **Made by the Governor**

with the advice and consent of the Executive Council  
on 26 March 2009

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