

South Australia

**LAND TAX REGULATIONS 1999**

# REGULATIONS UNDER THE LAND TAX ACT 1936

## *Land Tax Regulations 1999*

being

No. 164 of 1999: *Gaz.* 12 August 1999, p. 779<sup>1</sup>

as varied by

No. 49 of 2000: *Gaz.* 25 May 2000, p. 2690<sup>2</sup>

**No. 102 of 2001: *Gaz.* 31 May 2001, p. 2063<sup>3</sup>**

<sup>1</sup> Came into operation 12 August 1999: reg. 2.

<sup>2</sup> Came into operation 1 July 2000: reg. 2.

<sup>3</sup> **Came into operation 1 July 2001: reg. 2.**

*NOTE:*

- *Asterisks indicate repeal or deletion of text.*
- *Entries appearing in bold type indicate the amendments incorporated since the last consolidation.*
- *For the legislative history of the regulations see Appendix.*

## **SUMMARY OF PROVISIONS**

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## **APPENDIX LEGISLATIVE HISTORY**

**Citation**

1. These regulations may be cited as the *Land Tax Regulations 1999*.

**Commencement**

2. These regulations come into operation on the day on which they are made.

**Revocation**

3. The *Land Tax Regulations 1989* are revoked.

**Interpretation**

4. In these regulations—

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

**Notification of changes in ownership**

5. (1) Where—

- (a) a person ceases to be the owner of land that is registered under the *Real Property Act 1886*; and
- (b) the change of ownership has not been noted or registered on the title by the end of the financial year in which the change occurs,

the person (or his or her personal representative) must, on or before the immediately following 31 July, give the Commissioner notice of the change in ownership in a form approved by the Commissioner.

(2) Where a person ceases to be the owner of any other land, he or she (or his or her personal representative) must, within one month after the change of ownership occurs, give the Commissioner notice of the change in a form approved by the Commissioner.

- (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 4(1)(m) 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;

5.

"home activity" means an activity carried on in a private 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; and
- (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).

(2) For the purposes of section 5(13) 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; and
- (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); or
  - (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, or one of the owners, 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 5 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 5 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 4(1)(k)(viii) of the Act, the following associations are prescribed:

- (a) *Lakeside Villages Incorporated;*
- (b) *Pineview Village Incorporated;*

- (c) *The Retirement Homes Association of Australia Incorporated.*

### **Trusts**

**9.** (1) For the purposes of section 13(3)(b) of the Act, notice of the trust will be given as required by regulation if it is given in writing to the Commissioner 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—

- (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).

### **Records**

**10.** (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).

### **Certificates in respect of liability to land tax**

**11.** (1) For the purposes of section 23 of the Act, a fee of \$19.80 is prescribed.

(2) If, on an application under section 23 of the Act, the Commissioner is satisfied—

- (a) that the application is being made in conjunction with an application to the Department for Environment, Heritage and Aboriginal Affairs 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 23 of the Act.

### **Execution of notices and other documents**

**12.** 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.

**Misuse of written materials**

**13.** (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.

**Offences**

**14.** A person who is guilty of an offence against a provision of these regulations is liable to a penalty not exceeding \$125.

8.

## APPENDIX

### LEGISLATIVE HISTORY

*(entries in bold type indicate amendments incorporated since the last consolidation)*

**Regulation 11(1):**

**varied by 49, 2000, reg. 3; 102, 2001, reg. 3**