

South Australia

Rates and Land Tax Remission Regulations 2009

under the *Rates and Land Tax Remission Act 1986*

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Legislative history

1—Short title

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

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
- (da) a Gold Repatriation Health Card issued by the Commonwealth Government to a person with 80 or more overall impairment points under the *Military Rehabilitation and Compensation Act 2004* of the Commonwealth; 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;

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

water rates means—

- (a) rates under the *Irrigation Act 2009*; or
 - (b) rates under the *Renmark Irrigation Trust Act 2009*.
- (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 30% of the amount of the rates, subject to the prescribed minimum remission and the prescribed maximum remission for that year.
- (5) In this regulation—

prescribed maximum remission means—

- (a) for the financial year commencing 1 July 2009—\$200;
- (b) for the financial year commencing 1 July 2010—\$210;
- (c) for the financial year commencing 1 July 2011—\$235;
- (d) for the financial year commencing 1 July 2012—\$265;
- (e) for any subsequent financial year—\$295;

prescribed minimum remission means—

- (a) for the financial year commencing 1 July 2009—\$95;
- (b) for the financial year commencing 1 July 2010—\$100;
- (c) for the financial year commencing 1 July 2011—\$125;
- (d) for the financial year commencing 1 July 2012—\$155;
- (e) for any subsequent financial year—\$185;

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 subregulations (1a) and (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.
- (1a) A ratepayer is not entitled to a remission of council rates under this regulation if—
- (a) the ratepayer has been granted a rebate of rates under Chapter 10 Part 1 Division 5 of the *Local Government Act 1999* (other than under section 166(1)(l) or (m)); or
 - (b) the ratepayer has been granted a rebate of rates under section 166(1) of the *Local Government Act 1999* (other than under paragraph (l) or (m) of that subsection) and the amount of the rebate of rates exceeds the amount of the remission of council rates under subregulation (4) for the relevant financial year.
- (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.
- (4a) For the purposes of this regulation, the holder of a seniors card will be taken to include a person who has the qualifications to hold such a card and who has applied for the card but who has yet to be issued with the card.
- (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.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Rates and Land Tax Remission Regulations 2009* revoked the following:

Rates and Land Tax Remission Regulations 2005

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2009	24	<i>Gazette 26.3.2009 p1157</i>	1.7.2008: r 2
2009	187	<i>Gazette 25.6.2009 p3012</i>	1.7.2009: r 2
2010	170	<i>Gazette 1.7.2010 p3369</i>	1.7.2010: r 2
2011	174	<i>Gazette 30.6.2011 p2884</i>	1.7.2011: r 2
2013	255	<i>Gazette 14.11.2013 p4233</i>	1.7.2013 except r 7—1.7.2014: r 2
2015	49	<i>Gazette 14.5.2015 p1773</i>	1.7.2015: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2009</i>
r 3		
r 3(1)		
prescribed card	varied by 255/2013 r 4(1)	1.7.2013
<i>sewerage rates</i>	<i>deleted by 255/2013 r 4(2)</i>	<i>1.7.2013</i>
water rates	substituted by 255/2013 r 4(3)	1.7.2013
r 4		
r 4(4)	varied by 170/2010 r 4(1)	1.7.2010
	varied by 174/2011 r 4(1)	1.7.2011

	varied by 255/2013 r 5(1)	1.7.2013
r 4(5)		
prescribed maximum remission	inserted by 170/2010 r 4(2)	1.7.2010
	varied by 174/2011 r 4(2), (3)	1.7.2011
	varied by 255/2013 r 5(2)	1.7.2013
prescribed minimum remission	inserted by 170/2010 r 4(2)	1.7.2010
	varied by 174/2011 r 4(4), (5)	1.7.2011
	varied by 255/2013 r 5(3)	1.7.2013
<i>r 5 before deletion by 255/2013</i>		
<i>r 5(1)</i>	<i>varied by 187/2009 r 4(1), (2)</i>	<i>1.7.2009</i>
<i>r 5(4)</i>	<i>varied by 170/2010 r 5(1)</i>	<i>1.7.2010</i>
<i>r 5(5)</i>		
<i>prescribed maximum remission</i>	<i>inserted by 170/2010 r 5(2)</i>	<i>1.7.2010</i>
<i>r 5</i>	<i>deleted by 255/2013 r 6</i>	<i>1.7.2013</i>
r 6		
r 6(1)	varied by 255/2013 r 7(1)	1.7.2014
r 6(1a)	inserted by 255/2013 r 7(2)	1.7.2014
r 6(4a)	inserted by 255/2013 r 7(3)	1.7.2014
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2009</i>

Transitional etc provisions associated with regulations or variations

Rates and Land Tax Remission Variation Regulations 2013 (No 255 of 2013), Sch 1

1—Transitional provision

The variation made to regulation 4(4) of the *Rates and Land Tax Remission Regulations 2009* by these regulations applies in relation to the 2013-2014 financial year and any subsequent financial year until a new percentage is prescribed.

Historical versions

1.7.2009
1.7.2010
1.7.2011
1.7.2013