

# Revenue Rulings

## Rooming House Exemption – Commissioner’s Guidelines

*Land Tax Act 2005*

Revenue Ruling LTA.003 (version 2)

| Ruling history  |                     |
|-----------------|---------------------|
| Ruling no.      | LTA.003 (version 2) |
| Status          | Current             |
| Issue date      | December 2012       |
| Replaces        | LTA.003             |
| Dates of effect |                     |
| From            | 2013 land tax year  |
| To              | -                   |

### Preamble

Land is exempt from land tax under section 75(1) of the *Land Tax Act 2005* (the Act) if the Commissioner of State Revenue (the Commissioner) determines that the land is used and occupied:

- a) as a rooming house (within the meaning of the *Residential Tenancies Act 1997*) that is registered under Part 6 of the *Public Health and Wellbeing Act 2008*, and
- b) primarily as low cost accommodation by people with low incomes, in accordance with guidelines issued by the Commissioner for the purposes of this section.

The purpose of this Revenue Ruling is to set out the Commissioner’s guidelines specified in section 75(2) of the Act for determining whether a landowner is eligible for the exemption under section 75 of the Act. Eligibility for the exemption is targeted at rooming houses which provide low cost accommodation primarily to people who are disadvantaged, homeless or earn low incomes.

To claim the exemption, the owner of the land must apply to the Commissioner as required by section 75(4) of the Act. Applications should be made by post, addressed to the State Revenue Office, GPO Box 1641, Melbourne VIC 3001. Supporting documentary evidence and information should be provided.

### Ruling

The Commissioner’s guidelines for determining whether a landowner is entitled to the exemption under section 75 of the Act are as follows:

#### **The types of premises in which low cost, rooming house accommodation may be provided**

The exemption applies only to premises which:

- contain one or more rooms that are available

for occupancy on payment of rent

- are available for occupation by four or more people
- are registered with the relevant local council under the *Public Health and Wellbeing Act 2008* as a rooming house
- are not self-contained units or apartments
- are not licensed under the *Liquor Control Reform Act 1998*
- are not serviced apartments, hotels, motels, bed and breakfasts or hostels, and
- are not used primarily for student, backpacker and/or tourist accommodation.

#### **The number and types of persons for whom the accommodation must be provided**

The exemption applies only to rooming houses which have been occupied by four or more rooming house residents during the year immediately preceding the tax year.

A rooming house resident means a person who:

- has the right to occupy a room, together with a right to use common facilities in the rooming house, under Part 3 of the *Residential Tenancies Act 1997* (ie. not a Residential Tenancy Agreement), and
- is not a family member of either the owner or manager of the rooming house.

#### **The circumstances in which, and the arrangements under which, the accommodation is provided**

The exemption applies only if, during the year immediately preceding the tax year, at least 80 per cent of the accommodation at the rooming house was occupied by long term residents.

A long term resident is a rooming house resident who, during the year immediately preceding the tax year,

resided at the rooming house for one or more periods totalling at least three months.

Where this requirement is not met in a particular case, the owner of the land may provide to the Commissioner written reasons explaining why this requirement was not met. In each such case, the Commissioner will consider the application on its own merits, and may waive this requirement.

#### **Maximum tariffs for the accommodation**

The exemption applies only if the tariff charged per person for weekly accommodation at the rooming house does not exceed the maximum permitted tariff. The maximum permitted tariff for a tax year is based on the gross weekly age pension rate for the previous September quarter (e.g. the maximum permitted tariff for 2013 is based on the gross weekly age pension rate for the 2012 September quarter).

Where **full board and lodging** is provided, the maximum permitted tariff per person in the year preceding the tax year is:

- 105 per cent of the gross single weekly age pension rate for single accommodation, and
- 105 per cent of the gross couple weekly age pension rate (on a per person basis) for shared accommodation.

Where **less than full board and lodging** is provided, the maximum permitted tariff per person in the year preceding the tax year is:

- 70 per cent of the gross single weekly age pension rate for single accommodation, and
- 70 per cent of the gross couple weekly age pension rate (on a per person basis) for shared accommodation.

Single accommodation means accommodation in a room occupied by only one person who has the right to exclusively occupy that room. Shared accommodation means accommodation in a room in any other scenario, including:

- By two or more persons who together have the right to exclusively occupy that room, and
- By one or more persons who do not have the right to exclusively occupy that room.

#### **Special Land Tax**

Section 30(1)(d) of the Act provides that special land tax may apply in the event that land ceases to be exempt from land tax as a rooming house.

**Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.001.**



December 2012

Commissioner of State Revenue