



Office of State Revenue
NSW TREASURY

ABN: 77 456 270 638

Revenue Ruling No. LT12

Postponement of Payment of Part of Land Tax - Section 9A of the Land Tax Management Act 1956

PREAMBLE

Where a single dwelling-house is erected on land which, under a planning instrument, is zoned or otherwise designated for use for the purpose of industry, commerce, the erection of residential flat buildings or so as to permit its subdivision for residential purposes, the taxpayer may be entitled to a postponement of part of the land tax payable on the land.

Section 9A of the Land Tax Management Act 1956 provides that where land tax is leviable and payable on land which, as at midnight on the thirty-first day of December immediately preceding the year for which the land tax is leviable, is used or occupied solely as the site of a single dwelling-house and is the subject of a determination or redetermination of the attributable part of the land value as referred to in section 160C of the Local Government Act, 1919, the person liable to pay such land tax shall upon application to the Chief Commissioner be entitled to a postponement of the payment of part of the land tax assessed.

The "attributable part" in relation to the land value of such land is, in accordance with section 160C(4) of the Local Government Act, 1919, that part, if any, by which the value exceeds what it would have been if it were determined on the assumption that the land may be used only as the site of a single dwelling-house.

A "single dwelling-house" in terms of section 160C of the Local Government Act, 1919 means a dwelling used or adapted for use solely for habitation by not more than one family and includes a dwelling in a row of two or more dwellings attached to each other, commonly known as semi-detached or terrace buildings, but does not include a flat.

This Ruling explains the operation of section 9A of the Act.

RULING

Determination or Redetermination of the Attributable Part

1. Where a single dwelling-house is erected on a parcel of land which is zoned or otherwise designated for use for any of the purposes referred to in the preamble, the owner may apply to the council for relief from the payment of part of the rates, and may apply to the Chief Commissioner of Land Tax for postponement of part of the land tax payable on the land.

Lang Centre
Cnr Hunter and Marsden Streets
Parramatta NSW
GPO Box 4042
Sydney NSW 2001
DX 456 Sydney
Phone (02) 9639 6200
Facsimile (02) 9639 6464
Internet www.nsw.gov.au

2. The council on receipt of an application and on being satisfied that the land is used or occupied solely as the site of a single dwelling-house will request the Valuer-General to determine the attributable part of the land value of the land. The attributable part is used to determine the extent of the postponement of both council rates and land tax.
3. Section 160C(6) of the Local Government Act, 1919 provides that where a determination of the attributable part of the land value of a parcel of land as referred to in paragraph 2 has been made, the Valuer-General is not required to make a further determination while the valuation in respect of which the determination was made remains in use for rating purposes.
4. However, if the council does not use the applicable land values determined by the Valuer-General for rating purposes, section 9A(1B) allows a taxpayer to apply to the council for a further determination of the attributable part of that land value. The Valuer-General will then make a further determination for land tax purposes.
5. Where a valuation of land in respect of which an attributable part has been determined, is altered on objection or for the correction of a clerical error or misdescription, the Valuer-General will redetermine the amount of the attributable part in relation to the land and furnish the redetermination to the council.
6. A determination or redetermination of the attributable part of the land value is, for the purposes of the postponement of land tax, deemed to have been made before the first day of January in the year in which land tax is leviable or payable on the adjusted value determined by reference to that land value. This means that a determination or redetermination of the attributable part may be applied retrospectively, where the land value to which it refers was used in that particular land tax year.

Application for Postponement of Land Tax

7. A taxpayer who wishes to take advantage of section 9A is required to make application to the Chief Commissioner to obtain a postponement of part of the land tax payable. There is no special form of application. A request for postponement should be made in writing and forwarded to the Chief Commissioner or included with the taxpayer's land tax return where a return is required to be furnished.
8. Once an initial application has been approved, a taxpayer who wishes the postponement to continue must confirm each year that the use or occupation of the land has remained unchanged to establish that the entitlement to the concession still exists.

9. The postponement of land tax to which a taxpayer is entitled is the amount by which the land tax assessed would have been reduced had the amount obtained by multiplying the attributable part by the equalisation factor applicable to the land been excluded from the assessment of such land tax.
For example:

land value	\$500,000	
equalisation factor	1.2	
adjusted value of land	\$600,000	
attributable part	\$200,000	
attributable part x equalisation factor	\$240,000	
land tax payable on adjusted value (\$600,000)		
{100 + 2% x (\$600,000 - \$125,000)}	\$ 9,600	
land tax payable if attributable part multiplied by equalisation factor is excluded -		
\$100 + 2% {\$600,000 - \$240,000 - \$125,000}	\$ 4,800	
TAX WHICH MAY BE POSTPONED	\$ 4,800	

When Postponed Tax is Payable

10. A taxpayer ceases to be entitled to a postponement of land tax under section 9A of the Act when the land is sold or otherwise disposed of or when the land ceases to be used or occupied solely as the site of a single dwelling-house.
11. A taxpayer who ceases to be entitled to a postponement of land tax is required within one month to inform the Chief Commissioner of the date upon which the land was sold or otherwise disposed of or ceased to be used or occupied solely as the site of a single dwelling-house.
12. When the entitlement to a postponement of land tax ceases, the amounts of land tax postponed in any assessments made in respect of the year in which land tax ceased to be postponed and the four preceding years shall become due and payable thirty days after service of notice by the Chief Commissioner. Amounts postponed in respect of earlier years are written off by the Chief Commissioner.

R. P. DALEY,
for Chief Commissioner of Land Tax.
6 May 1988