



Office of State Revenue
NSW TREASURY

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Revenue Ruling No. LT 71

Exemption - Residential Parks Primarily Used and Occupied by Retired Persons (Section 10Q Land Tax Management Act, 1956)

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
LT 71	07 March 2003	07 March 2003	-	Current

Preamble

1. Where a residential park is primarily used and occupied by retired persons, an exemption from land tax or a reduction in the land value of the land is available, commencing for the 2003 land tax year, if guidelines approved by the Treasurer under section 10Q of the Land Tax Management Act are met.
2. The purpose of this ruling is to notify land owners of the approved guidelines, explain how owners may apply for the concession and provide a statutory declaration to be completed by owners who wish to claim the concession. The guidelines approved by the Treasurer are at Appendix "A".

RULING

3. Owners who wish to apply for the concession for 2003 or a subsequent tax year, must apply by completing the attached standard [statutory declaration](#). The application should be lodged no later than 30 days after receiving an assessment notice which assesses land tax on the relevant land.
4. Once an exemption has been granted, for 2003 or a later year, the owner does not have to lodge an application for future land tax years unless required to do so by the Chief Commissioner. However, if the land ceases to qualify for the concession under the guidelines approved by the Treasurer from time to time, the owner must advise the Chief Commissioner within 30 days after receiving an assessment notice which incorrectly provides a concession for the relevant land.
5. If an owner is unsure whether the land remains exempt, the owner should provide all relevant information to the Chief Commissioner so that eligibility for the concession can be reviewed.
6. The completed application should be posted to the Chief Commissioner at the following address :-

Office of State Revenue
Land Tax Operations
PO Box 4269
Sydney 2001

7. Alternatively, completed applications may be lodged at any branch of the Office of State Revenue.

8. The approved guidelines contain transitional provisions which apply to residential parks which were previously granted an exemption or concessions as a retirement village under section 10R of the Land Tax Management Act for the 2002 land tax year. Owners of residential parks which were granted a concession as a retirement village for the 2002 land tax year do not have to apply for the concession for 2003, but should advise the Chief Commissioner if the park no longer meets the criteria which applied to retirement villages for the 2002 tax year. Such advice should be provided no later than 30 days after the owner receives a 2003 land tax assessment notice.
9. Records of owners who claim concessions are regularly audited by the Office of State Revenue. Documentary evidence supporting the application, showing that the use and occupation of the land meets the approved guidelines must be retained and produced for inspection, if requested.

P Achterstraat
Chief Commissioner of State Revenue
7 March 2003

APPENDIX “A”

Criteria for exemption approved by the Treasurer

1. A *residential park* to which the Residential Parks Act 1998 applies, which is predominantly occupied by *retired persons* under *residential site agreements*, is exempt from land tax.
2. A residential park shall be regarded as predominantly occupied by retired persons if more than 50% of the sites available for hire or rent are residential sites which are occupied or intended for occupation only by retired persons under *residential site agreements*. (Note that transitional provisions specified in paragraphs 18 and 19 apply to residential parks operated as retirement villages and exempt from land tax for the 2002 land tax year, prior to the amendments to section 10R made by the State Revenue Legislation Further Amendment (No 2) Act 2001).
3. An unoccupied site shall be regarded as being intended for occupation only by retired persons if the site is only available for occupation by retired persons.
4. Where part of a residential park is set aside for use and occupation primarily by retired persons, and the use and occupation of that part is in accordance with these guidelines, the taxable land value of the residential park shall be reduced in accordance with the following formula:

$$\text{Taxable value} = \frac{\text{Area of land set aside for retired persons}}{\text{Total area of land}} \times \text{total land value}$$

Definitions

5. For the purposes of determining whether a *residential park* is entitled to the exemption, the following definitions, based on definitions in the Residential Parks Act 1998, are to be applied as at the taxing date for the relevant tax year. (The taxing date of a land tax year is midnight on 31 December immediately preceding that tax year).
6. “**Caravan park**” means land, including a camping ground, on which caravans, or caravans and other moveable dwellings, have been, or are to be placed, installed or erected.
7. “**Moveable dwelling**” means:
 - (a) any caravan or other van or portable device (whether on wheels or not) other than a tent, used for human habitation, or
 - (b) a manufactured home.
8. “**Manufactured home**” means a self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area that also includes a toilet and laundry facilities) that is not a registrable moveable dwelling, and includes any associated structures that form part of the dwelling.
9. “**Manufactured home estate**” means land on which manufactured homes have been, are or are to be placed.
10. “**Registrable moveable dwelling**” means a moveable dwelling that is a registrable vehicle within the meaning of the Road Transport (Vehicle Registration) Act 1997.
11. “**Relocatable home**” means a moveable dwelling that is not a registrable vehicle within the meaning of the Road Transport (Vehicle Registration) Act 1997.
12. “**Residential park**” means:

- (a) a caravan park, or
- (b) a manufactured home estate (that is, land on which manufactured homes have been, are or are to be placed),

provided the caravan park or manufactured home estate has been approved for that purpose under the Local Government Act 1993.

13. **“Retired person”** means a person who has reached the age of 55 years or has retired from full time employment.

14. **“Residential site”** means a site within a residential park that is used, or is intended to be used, for the installation of a moveable dwelling.

“Residential site agreement” means a residential tenancy agreement under which:

- (a) the park owner grants to the resident:
 - (i) a right to install, on a residential site, a relocatable home, or a registrable moveable dwelling with a rigid annexe attached to it (being a relocatable home or registrable moveable dwelling owned by the resident), and
 - (ii) a right to use the home or dwelling as a residence, and
- (b) the resident occupies the premises as the resident’s principal place of residence, and
- (c) the resident has the approval of the park owner or park manager to occupy the premises as the resident’s principal place of residence;

but does not include residential tenancy agreements which are excluded from the definition of “residential site agreements” by section 6(1) of the Residential Parks Act 1998, namely, a residential tenancy agreement in respect of land:

- (d) that is within a Crown reserve, if the agreement was entered into after 16 December 1994, unless it is an agreement arising from a lease or licence under section 102 of the Crown Lands Act 1989 to which the Minister administering that Act has granted consent, or
- (e) that is reserved or dedicated under the National Parks and Wildlife Act 1974.

15. **“Site”** includes a site which is designed or intended for separate residential occupation, using a tent or a moveable dwelling.

16. Premises to which the Residential Parks Act 1998 does not apply, and which therefore cannot be granted the exemption are specified in section 6(2) of the Act. These include:

- (a) premises to which Parts 2, 3, 4 and 5 of the *Landlord and Tenant (Amendment) Act 1948* apply, or
- (b) any part of a hotel or motel, or
- (c) any premises ordinarily used for holiday purposes, or
- (d) any part of an educational institution, hospital or nursing home, or
- (e) any part of a club, or

(f) any premises used as an approved hostel within the meaning of the *Aged or Disabled Persons Care Act 1954* of the Commonwealth.

Transitional provision

17. A *residential park* that was exempted from land tax for the 2002 land tax year under section 10R of the Land Tax Management Act 1956, shall continue to be exempt for the 2003, 2004 and 2005 tax years, provided that on the relevant taxing date, it meets the requirements of section 10R prior to the amendments made by Schedule 2 of the State Revenue Legislation Further Amendment (No 2) Act 2001.

18. This transitional exemption shall cease to apply if:

- Ownership of the residential park changes after 31 December 2002; or
- The residential park qualifies for exemption under section 10R as amended by Schedule 2 of the State Revenue Legislation Further Amendment (No 2) Act 2001 or subsequent amendments to section 10R.