



Office of State Revenue
NSW TREASURY

ABN: 77 456 270 638

Revenue Ruling No. LT8

Crown Land Leased by a Society, Club or Association - Eligibility for Exemption from Land Tax

PREAMBLE

Revenue Ruling LT6 which was issued in November 1987 sets out the provisions of the land tax legislation in relation to land tax on Crown land occupied by a person pursuant to a lease or licence.

Land leased from the Crown is exempted from land tax where the lessee is a person in whose ownership the land would be exempt under the provisions of section 10 of the Land Tax Management Act 1956 (the Act).

The purpose of this ruling is to explain the exemption provisions of section 10(1)(g)(iii) of the Act applying to land occupied by a society (not being a building society within the meaning of section 10G), club or association under a lease or licence from the Crown.

RULING

Crown Land leased by a society, club or association

1. A society, club or association occupying land owned by the Crown pursuant to a lease or licence is an "owner" as defined in section 3(1) of the Act. This would include, for example, a ski club leasing land from the National Parks and Wildlife Service, but would not include a club occupying such land as a sub-lessee.
2. Crown land leased by such a body not carried on for pecuniary profit is exempt from land tax under the provisions of Section 10(1)(g)(iii) of the Act where the land is used or occupied by the body solely as a site for a building (such as a ski lodge or a clubhouse) owned and solely occupied by the body.
3. However, the exemption will be reduced if any part of the building is used by persons other than those bodies or for the purpose of a commercial activity open to members of the public. In such cases, the adjusted value for land tax purposes will be reduced to an amount which bears the same proportion to that value as the rental value of the part so used bears to the total rental value of the building.

Meaning of "not carried on for pecuniary profit"

4. For land tax purposes a body not carried on for pecuniary profit is one in which any profits are applied solely to its objects, and the members are not entitled to receive any share in the income or property of the body.

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5. To determine whether a body is "not carried on for pecuniary profit", reference must be made to its constituent documents, that is, the memorandum and articles of association for companies incorporated under the Companies (N.S.W.) Code or the rules of co-operative societies registered under the Co-operation Act, 1924. The main provisions which are considered in making this determination are those relating to the objects of the body and distribution of income and property.

Acceptable provisions

6. The following extracts have been taken from the relevant provisions of the constituent document of a ski club which has been accepted as being not carried on for pecuniary profit -

Objects: The objects of the club are to promote the sport of skiing and to erect, maintain and conduct ski lodges for the accommodation and use of members of the club participating in the sport of skiing.

Income and Property: The income and property of the club whencesoever derived shall be applied solely towards the promotion of the objects of the club and no portion thereof shall be paid or transferred directly by way of dividend, bonus, rebate, discount or otherwise howsoever by way of profit to members of the club.

7. Any society, club or association having in its constituent documents, similar provisions or provisions incorporating similar principles to those outlined in paragraph 6, would be regarded as being not carried on for pecuniary profit for the purposes of section 10(1)(g)(iii) of the Act.

A. D. CLYNE,
Chief Commissioner of Land Tax.
24 March 1988.