



Office of State Revenue
NSW TREASURY

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Revenue Ruling No. LT 83

Exemption - Land Used and Occupied Primarily for a Boarding House – 2009 Tax Year

Section 10Q Land Tax Management Act 1956

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
LT 83	27 January 2009	1 January 2009	31 December 2009	See LT 85 for the 2010 tax year

Preamble

- Where land is used and occupied primarily as a boarding house, an exemption from land tax or a reduction in the land value of the land is available if guidelines approved by the Treasurer are met.
- The purpose of this ruling is to outline the approved guidelines applying to the **2009 tax year**, to explain the conditions that entitle the owner to claim an exemption or a reduction in the land value and to provide a declaration to be completed by owners who claim the concession.

Guidelines Approved by the Treasurer

- The guidelines under which a NSW boarding house is exempt from land tax for the **2009** tax year are as follows:
 - land anywhere in NSW that is used as the site of a boarding-house will be entitled to an exemption from land tax where, during the year ended 31 December 2008, in respect of at least 80% of the accommodation available to boarding house residents:
 - occupation was by long term residents (a long term resident is considered to be a person who resided at a boarding-house for 3 consecutive months or for any periods totalling 3 months); **and**
 - where **full board and lodging** was provided, the maximum tariff charged per room was no more than*:

\$296 per week for single accommodation; or
\$493 per week for family or shared accommodation.

or where **less than full board and lodging** was provided, the maximum tariff charged per room was no more than*:

\$197 per week for single accommodation; or
\$329 per week for family or shared accommodation.
 - where the requirements of paragraph 3(i)(a) above were not met, land used and occupied primarily for a boarding house may still qualify for exemption provided:
 - at least 80% of the accommodation that was actually occupied was **occupied** by long term residents; **and**

- (b) at least 80% of the accommodation available to boarding-house residents was either occupied or was **available for occupation** at tariffs within the limits shown in paragraph 3(i);
- (iii) Where less than 80% of the accommodation available to boarding house residents was occupied by long term residents, owners seeking an exemption must provide an explanation of the reasons that this requirement was not met and such circumstances will be considered on a case-by-case basis;
- (iv) The owner must provide a statutory declaration stating that, in respect of at least 80% of the accommodation available to boarding house residents, the tariff for each room for full board and lodging during the whole of 2009, will not exceed*:
 - \$305 per week for single accommodation or
 - \$508 per week for family or shared accommodation
 or where **less than full board and lodging** is provided, the tariff for each room will not exceed*:
 - \$203 per week for single accommodation or
 - \$339 per week for family or shared accommodation.

(*Tariff rates do not include GST.)

4. For the purposes of these guidelines, "boarding house" means premises which:
- (i) are used in the course of conducting a business of letting rooms to boarders or lodgers; and
 - (ii) are used and occupied by at least three (3) long term residents who:
 - (a) are not members of the family of the owner or manager; or
 - (b) are not directors or shareholders or members of the family of a director or a shareholder of a company if the company is the owner; and
 - (iii) are not premises which are licensed under the *Liquor Act 1982*; and
 - (iv) are not used and occupied by persons who are subject to a Residential Tenancy Agreement under the *Residential Tenancies Act 1987* and
 - (v) are not premises used as a backpacker's hostel, serviced apartment or other tourist establishment
5. For the purposes of paragraph 4(ii) above, a member of the family of the owner or manager or a member of the family of a director or shareholder means a person who may be entitled under the *Probate and Administration Act 1898* to an inheritance should the owner, manager, director or shareholder die intestate.

Ruling

- 6. If only part of the land or only part of the premises were used for a boarding-house, a pro rata reduction in the land value of the land will be calculated by the Chief Commissioner if the Chief Commissioner is not satisfied that a reduction claimed by an owner is fair and reasonable. Otherwise, the calculation will be made on a floor area basis.
- 7. Owners must apply for exemption by completing part A and either part B or C of the [standard declaration](#). The application should be lodged as soon as possible but within 30 days of the serving of an assessment which contains the land, by posting to the Chief Commissioner at the following address :-

Office Of State Revenue
Client Services Division

GPO Box 4042
Sydney NSW 2001

or alternatively, the application may be lodged at any branch of the Office of State Revenue from where additional copies of all forms are available.

8. Records of owners who claim concessions are regularly audited by the Office of State Revenue. Documentary evidence supporting the information in parts A, B or C of the declaration must be retained and produced for inspection, if requested.

Tony Newbury
Chief Commissioner of State Revenue
27 January 2009