

RATES DECLARATION

RATES AND FINANCE SYMPOSIUM

LOCAL GOVERNMENT ASSOCIATION OF THE
NORTHERN TERRITORY

PRESENTED BY
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WHAT IS THE "RATEABLE LAND" IN YOUR MUNICIPALITY, REGION OR SHIRE?

- All land except "exempt land" and any "conditionally rateable land" not covered by a notice in the Gazette from the Minister, made usually in April.
- Council must rate all rateable land in its council area.
- Exempt land is set out in s222 of the Act. There are 13 categories of exempt land.

Note s222(2) which provides:

If land is used for 2 or more different purposes, and one or more but not all the purposes are exempt, the land is not exempt from rates unless the non-exempt purpose is merely incidental to the exempt purpose.

Example for subsection (2)

An allotment consists of a public museum containing a cafeteria. The allotment is exempt from rates despite the existence of the cafeteria. However, if the allotment were a restaurant attracting customers in its own right, the allotment would not be exempt from rates.

PUBLIC LAND EXEMPTIONS

- Crown land that is
 - vacant and not subject to a lease, or
 - occupied by the Territory for a public purpose (other than provision of public housing).
- Land owned by the Council other than land leased for a purpose that is not otherwise exempt.
- A public place consisting of a:
 - park, garden or reserve;
 - playground or sports ground;
 - cemetery; or
 - road.

Note also s223 which provides that land of the Commonwealth is only rateable if the Commonwealth agrees and, in that event, it is rateable on conditions agreed by the Commonwealth.

Example for subsection (1)

The Commonwealth might agree that an occupier of land under a lease from the Commonwealth is to be liable for rates.

RELIGIOUS AND MEDICAL EXEMPTIONS

- Land belonging to a religious body consisting of:
 - a church or other place of public worship;
 - a place of residence for a minister of religion associated with a church or other place of public worship; or
 - a place of residence for the official head in the Territory of the religious body.
- An institution for religious teaching or training.
- A medical clinic or health centre conducted by the Territory.

NON-COMMERCIAL PURPOSE EXEMPTION

- Subject to subsections (3) and (4), land used for a non-commercial purpose by a public benevolent institution or a public charity that is registered with the Australian Charities and Not for-profits Commission established under the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*.

Note ss(3) & (4):

(3) Subject to subsection (4), in deciding whether land is used for a commercial or non commercial purpose, the fact that the user is a public benevolent institution or a public charity is irrelevant and the question is to be decided according to the nature of the use and not the nature of the user.

(4) However, a non-commercial purpose does not include the land being used for a residential purpose for employees or contractors of the institution or charity.

PUBLIC LAND EXEMPTIONS

- A kindergarten, a Government school, a non-Government school, a university or other tertiary educational institution or an early childhood service owned or operated by the Territory or owned or operated by a non-Government school.
- Land recognised by the council as a youth centre.
- A public library or public museum.

LAND TRUST EXEMPTION

- Land owned by a Land Trust except:
 - land subject to a lease or a licence conferring a right of occupancy; and
 - land used for a commercial purpose.

Under s223(2):

A Land Trust is not liable to rates but:

- (a) an occupier of land owned by the Land Trust (other than the Trust itself) is liable to rates; and*
- (b) if land owned by the Trust is held under a lease from the Trust – the leasehold estate constitutes the rateable land for the purposes of this Act.*

Note for subsection(2):

This subsection applies to land of a Land Trust that is not fully exempt from rates under section 222(1)(l).

ABORIGINAL COMMUNITY LIVING AREA EXEMPTION

- Land owned by an Aboriginal community living area association except:
 - land subject to a lease or a licence conferring a right of occupancy; and
 - land used for a commercial purpose.

Note under s223(3):

An Aboriginal community living area association is not liable to rates but:

(a) an occupier of land owned by the association (other than the association itself) is liable to rates; and

(b) if land owned by the association is held under a lease from the association – the leasehold estate constitutes the rateable land for the purposes of this Act.

Note for subsection (3):

This subsection applies to land of an Aboriginal community living area that is not fully exempt from rates under section 222(1)(l).

OTHER EXEMPTIONS

- The common property:
 - in a units plan or building development plan registered under the *Real Property (Unit Titles) Act 1975*; and
 - of a scheme formed under the *Unit Title Schemes Act 2009*.
- Land exempted from rates by another Act.

HOW WILL YOU ACHIEVE YOUR DESIRED RATE OUTCOME?

- Fixed or flat rates.
- Valuation-based or differential rates.
- Combination of fixed and valuation-based rates.
- Do you want to or need to provide for minimum amounts in the application of your valuation-based rates?

DIFFERENT PARTS OR CLASSES

- Councils can declare different fixed rates, valuation-based rates or minimum rates for:
 - (a) allotments within different parts of the local government area. The example given in the Act of what might be a different part is land within different planning zones.
 - (b) different classes of allotments. The example given in the Act of what might be a different class is:

land is divided into small allotments (such as self-storage units or marina berths) because of a subdivision for the purposes of the Unit Titles Act 1975 or Unit Title Schemes Act 2009, and the council considers it inequitable to apply the minimum amount otherwise applicable to land within the area to the small allotments, the council could set a different and lesser minimum for the small allotments.
 - (c) a combination of both paragraphs (a) and (b).

The Act provides a further basis for different minimum rates where an allotment is divided into separate parts or units that are adapted for separate occupation or use in which case a minimum amount may consist of a set amount to be multiplied by the number of separate parts or units.

HOW WILL YOU ACHIEVE YOUR DESIRED RATE OUTCOME?

In considering the declaration and application of the various classes of rates need to consider:

- how you propose to assess rates in different "parts" or "classes" of land?
- what land is rateable in your municipality, region or shire and the value of that land?
- what is the assessed value of the different parcels of land as appears in the valuation roll maintained under the *Valuation of Land Act 1963*?

CHARGES

If a council carries out work, or provides services, for the benefit of land, or the occupiers of land, within its area, the council may declare a charge on the land - refer s239 of the Act.

Notes:

- The charge applies irrespective of whether the occupier of land does not accept the work or services;
- The amount of the charge need not be limited to the cost of providing the service, however the amount of the charge must not exceed a reasonable expectation of the cost of service;
- A charge may be imposed on exempt land; and
- A charge must not relate to an optional service.

PARKING RATE

- Council may impose a parking rate in accordance with the regulations and is to be notified in Council's rate declaration
- The regulations only provide for City of Darwin to impose a parking rate in its CBD.

RATES DECLARATION

Your rates declaration should also

- state the applicable rate of interest for late payment
- state the date or dates for payment of rates
- specify if there is any discount or concession for prompt payment in full

Your rates declaration needs to be carefully drafted to ensure that it:

- Achieves your desired rate outcome.
- Complies with the requirements of the Act.

QUESTIONS?



CONTACT DETAILS



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