

Australian Capital Territory

Rates (Commercial Land) Exemption 2020 (No 2)

Notifiable instrument NI2020–338

made under the

Rates Act 2004, s 41 (Exemption from rates)

EXPLANATORY STATEMENT

In March and April 2020, the Government announced two economic stimulus packages to support business, industry and our community affected by the COVID-19 pandemic. As part of the stimulus packages, the Government will provide rates assistance to commercial property owners to provide cashflow support.

This instrument provides an exemption of a ‘determined amount’ for eligible owners of commercial land with an AUV of \$2 million or less, for quarter 4 of 2019-20 financial year and quarter 1 of 2020-21 financial year. To be eligible for this exemption, eligible owners must apply by 30 September 2020, and either the eligible owner or their business tenant must operate Categories 2 or 3 businesses on the eligible land.

Where the eligible owners have business tenants, those tenants must operate Categories 2 or 3 businesses and have had their rent on that land reduced (and not deferred) in accordance with the *Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020 (DI2020-92) (Declaration)*.

The Declaration adopts the overarching principles and leasing principles contained in the National Code of Conduct for SME Commercial Leasing Principles During COVID-19 (National Code), which was approved by the National Cabinet on 7 April 2020. The National Code requires commercial landlords and tenants to engage in good faith negotiations on amendments to existing leasing arrangements during the COVID-19 pandemic, such as rent reduction, in accordance with the leasing principles.

Whether a business falls within Categories 2 or 3 businesses depends on the percentage of business income reduction, calculated by comparing the GST turnover in 2019-2020 financial year with the same period in 2018-19 financial year, or as otherwise determined by the Commissioner for ACT Revenue.

The ‘determined amount’ is calculated based on the category of businesses the eligible owners or their business tenants operate. For those with business tenants operating Category 2 businesses, the eligible owners will be eligible for an exemption equivalent to 25 per cent of the rent reduction, up to a cap of \$5,000 per quarter. For those with business tenants operating Category 3 businesses, the eligible owners will be eligible for an exemption equivalent to 50 per cent of the rent reduction, up to a cap of \$8,000 per quarter.

For eligible owners who operate businesses on the eligible land, if they operate Category 2 businesses, they are entitled to receive an exemption equivalent to 50 per cent of rates, up to a cap of \$5,000 or total rates per quarter (whichever is lower). For those operating Category 3 businesses, they are entitled to receive an exemption equivalent to 80 per cent of rates, up to a cap of \$8,000 or rates per quarter (whichever is lower).

Example 1: Category 2 Tenant (Class A)

Retail store C rents from Landlord D for \$60,000 per quarter. Business has dropped off as customers are not going to stores to shop during this period, but online shopping has increased compared to normal. This resulted in an overall reduction in income by 50 per cent and the business falls into Category 2.

Retail store C and Landlord D agree to reduce rent to \$50,000 per quarter. The total value of rent reduction is \$10,000 per quarter. Consequently, a rebate of \$2,500 ($\$10,000 \times 25\%$) to Landlord D will apply for quarter 4, 2019-20 and again for quarter 1, 2020-21.

The fixed charge rebate of \$2,622 will also apply for quarter 4, 2019-20 under the *Rates (Commercial Land) Exemption 2020* (NI2020-223).

Example 2: Category 3 Tenant (Class B)

Business E rents a ground floor unit from Landlord F for \$13,500 per quarter. Business E experiences a decrease in income of 80 per cent and falls into Category 3.

Business E and Landlord F agree to reduce rent by 80 per cent to \$2,700 per quarter. The total value of rent reduction is \$10,800 per quarter. As 50 per cent of the rent reduction is higher than the quarterly rebate cap, a rebate of the \$8,000 of rates will apply for each of quarter 4, 2019-20 and quarter 1, 2020-21 – totalling \$16,000.

The fixed charge rebate of \$2,622 will also apply for quarter 4, 2019-20 under the *Rates (Commercial Land) Exemption 2020* (NI2020-223).

An eligible owner is entitled to more than one exemption per property, up to the applicable quarterly cap. If an eligible owner owns more than one property below the threshold, a rates exemption can be applied to each property.

If the rates for the specified quarter are less than the determined amount due to the operation of waivers, rebates or other exemptions, the remainder of the amount (either

unused or, if rates have been paid but not refunded) will be credited against future rates to the owner of that land for following quarters (or financial years if the eligible owner pays rates annually).

This instrument is taken to have commenced on 1 April 2020, to align with the commencement of quarter 4 of the 2019-20 financial year.

Authorised by the Treasurer
Andrew Barr MLA