

Australian Capital Territory

# Rates (Commercial Land) Exemption 2020 (No 3)

**Notifiable instrument NI2020–593**

made under the

*Rates Act 2004*, s 41 (Exemption from rates)

## EXPLANATORY STATEMENT

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### Background

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.

*Rates (Commercial Land) Exemption 2020 (No 2)*, NI 2020-338 provided 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.

Given the ongoing impact on businesses, the Government announced on 9 August 2020 an extension of the rates exemption for a further three months to continue to provide assistance to eligible commercial property owners while the impacts of the COVID-19 pandemic remain significant.

*Rates (Commercial Land) Exemption 2020 (No 3)* (Extended Rates Exemption) replaces *Rates (Commercial Land) Exemption 2020 (No 2)* to apply the rates exemption to eligible owners of commercial land with an AUV of \$2 million or less, for quarter 4 of 2019-20 financial year, quarter 1 as well as quarter 2 of 2020-21 financial year.

### Commencement

The Extended Rates Exemption commences on the day after its notification.

### Eligibility requirements

To be eligible for the Extended Rates Exemption, eligible owners must apply by 31 December 2020, and either the eligible owner or their business tenant must operate Categories 2 or 3 businesses on the eligible land. Applications under the *Rates*

*(Commercial Land) Exemption 2020 (No 2)* where eligibility was not confirmed will be deemed to be applications under the Extended Rates Exemption.

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.

### **Exemption from rates—Determined amount**

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 x 25%) to Landlord D will apply for quarter 2, 2020-21.

*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 quarter 2, 2020-21.

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).

Eligible owners are excluded from an exemption for quarter 4 2019-20 and/or quarter 1 2020-21 under this instrument, if they are already exempt from paying a determined amount of rates for those quarters under the *Rates (Commercial Land) Exemption 2020 (No 2)*. This prevents the potential duplication of a rates exemption for quarter 4 and quarter 1, and thereby protects the integrity of the measure.

## **Revocation**

The instrument revokes the *Rates (Commercial Land) Exemption 2020 (No 2)*, NI2020-338.

Authorised by the Treasurer  
Andrew Barr MLA