

Australian Capital Territory

Land Tax (Affordable Community Housing) Determination 2026

Disallowable instrument DI2026–59

made under the

Land Tax Act 2004, s 13A (5) (Exemption for land provided for affordable community housing)

EXPLANATORY STATEMENT

The *Land Tax Act 2004* (Land Tax Act) provides an exemption from land tax for land rented through a registered community housing provider. This exemption is in line with the ACT Housing Strategy to provide affordable community housing to individuals in the low-moderate income brackets, who may not qualify for public housing and are susceptible to housing stress in the private rental market.

Section 10(1)(c) of the Land Tax Act exempts a parcel of land from land tax imposed under section 9 if it is exempt under section 13A.

Section 13A – exemption for land provided for affordable community housing

Under this section, a parcel of land is exempt from land tax where the owner of the parcel of land enters into an agreement with a registered community housing provider and makes the parcel of land available under the agreement to the provider for the purpose of affordable community housing (see sections 13A(1) and (2)).

‘Affordable community housing’ is defined in section 13A(7) as community housing that is rented at a rate that is less than the current market rent, and affordable by people on low or moderate incomes.

Pursuant to section 13A(4), the exemption for land tax will not apply if:

- the parcel of land is not rented within 3 months after the date the parcel is made available under the agreement to the registered community housing provider, or if rented, stops being rented.
- any part of the parcel of land is rented for a purpose other than affordable community housing under the agreement.
- the owner does not satisfy the criteria determined under subsection 13A(5) (a).
- the parcel of land would exceed the maximum number of parcels determined under subsection 13A(5) (b) (i).
- the amount of land tax exempted would exceed the maximum value of land tax determined under subsection 13A(5) (b) (ii).

- the parcel of land would exceed the maximum number of parcels for which an owner is entitled determined under subsection 13A(5) (b) (iii).

Section 13A(5) (a) provides that the Minister may determine the criteria that an owner of a parcel of land must satisfy before being eligible for an exemption under section 13A.

Under section 13A(5) (b), the Minister may determine the maximum number of parcels of land that are entitled to an exemption, the maximum value of land tax that may be exempted, or the maximum number of parcels of land for which an owner is entitled to an exemption under section 13A.

A determination made under section 13A(5) (a) and (b) is a disallowable instrument (section 13A(6)).

Update

This instrument updates the combined annual gross income limits for 2026-27 in line with income limits specified by the National Rental Affordability Scheme (NRAS).

The table below lists the amounts that apply on or after 1 May 2026. The pre-1 May 2026 amounts are provided for comparison.

Table 1—Combined annual gross income limits

column 1 item	column 2 household member	column 3 yearly income limit – before 1 May 2026	column 4 yearly income limit – on or after 1 May 2026
1	First adult	\$62,794	\$64,992
2	First sole parent	\$66,046	\$68,358
3	Each additional adult	\$24,024	\$24,865
4	Each child	\$20, 832	\$21,562

Retrospectivity

This instrument commences retrospectively on 1 May 2026.

Pursuant to Section 76(1) of the *Legislation Act 2001*, a statutory instrument may provide that a ‘non-prejudicial provision’ of the instrument commences retrospectively.

A ‘non-prejudicial provision’ means a provision that is not a ‘prejudicial provision’. A ‘prejudicial provision’ means a provision that operates to the disadvantage of a person by adversely affecting the person’s rights or imposing liabilities on the person.

The instrument provides a land tax exemption for a parcel of land provided for affordable community housing. The update expands (not limits) the availability of the exemption by lifting the combined annual gross income limits in the eligibility criteria. This is beneficial to individuals whose income exceeded the previous income limit but is now equal to, or lower than, the increased income limit.

The retrospective commencement date of 1 May 2026 is non-prejudicial.

Eligibility requirements

As noted above, under section 13A(1) and (2) of the Land Tax Act, a parcel of land is deemed eligible for an exemption from land tax if the owner of the land enters into an agreement with a registered community housing provider and makes the parcel of land available for the purpose of affordable community housing.

Notification of rental requirement

The agreement between the owner of the land and the registered community housing provider must require the registered community housing provider to take all reasonable steps to rent the parcel of land for affordable community housing. Further, to notify the Commissioner before the first day of a quarter whether or not the parcel of land is rented (section 13A(3)).

There are four quarters of land tax in a year: July to September quarter, October to December quarter, January to March quarter and April to June quarter. Land tax assessments are based on the first day of each quarter.

Rental requirement

Section 13A(4) provides when a parcel of land is not exempt under section 13A. In essence, for the exemption to apply, the parcel of land must be rented within three months after the date the parcel is initially made available to rent under the agreement with the registered community housing provider (see section 13A(4) (a)). The parcel of land must continue to be rented and the requirements, under section 13A(4)(b) – (f) as noted above in this statement, must also be observed.

Requirements for section 13A(5) (a)

The first criterion under section 4 (a) of the Determination requires that the owner must provide, within 14 days of the parcel of land being rented, a copy of the agreement they have entered into with the registered community housing provider, as well as any other information the Commissioner may require to determine that the parcel of land is rented in accordance with the eligibility criteria in the Determination.

Particulars of the rental arrangement (amount of the rent, whether a tenant meets income thresholds) may be provided by the registered community housing provider where they act as the agent for the owner.

The time requirement for the provision of information (within 14 days of the parcel of land being rented) ensures that the Commissioner has adequate notice of the rental arrangement to assess an owner's eligibility for the exemption.

Affordable community housing requirement (less than 75 per cent of market rent)

Under section 4 (b) of the Determination, rentals under the agreement with the registered community housing provider must be at a rate that is less than 75 per cent of current market rent.

Market rent is defined to be the rent that would be charged by the lessor of a dwelling on a parcel of land if it was rented by a willing lessor to a willing tenant dealing with each

other at arm's length and each of whom had acted knowledgeably, sensibly and without compulsion.

Affordable community housing requirement (tenant income threshold)

The tenant/s must also have a combined annual gross income for the previous 12 months that is less than or equal to the income limits specified in section 4 (c) of the Determination.

There are two types of income thresholds specified in the Determination. Specifically, the combined annual gross income of the eligible tenant of each dwelling on the parcel of land must be less than or equal to either:

- \$100,000 per annum (based on the ACT Housing Strategy, October 2018); or
- the combined applicable amounts set out in Table 1 of the Determination, whichever is the greater.

Since commencement, the combined annual gross income limits for the exemption have been aligned with the NRAS income limits. Details of the NRAS income limits and indexation methodology may be accessed at <https://www.dss.gov.au/housing-support-programs-services-housing-national-rental-affordability-scheme-living-in-an-nras-property/nras-household-income-indexation>.

Change in tenant eligibility

Under section 5 of the Determination, if a previously eligible tenant no longer meets the income threshold, or is asked to provide information needed to assess their combined annual gross income and does not provide it, then reasonable steps have to be taken to ensure that the dwelling on the parcel of land is available to an eligible tenant for the owner of the parcel of land to continue to have the benefit of the land tax exemption.

This may include the existing tenant/s being given notice to vacate the property under standard residential terms 111 and 112.

- Under the *Residential Tenancies Act 1997*, standard residential terms 111 and 112 provide for lessors to terminate a residential tenancy agreement on the grounds the tenant/s have not provided required information to assess tenant/s income against the income thresholds or have stopped or will stop meeting the income thresholds.

If the existing tenant/s does not vacate the property, the owner is required to make an application to the ACT Civil and Administrative Tribunal for a termination and possession order to maintain their eligibility for the land tax exemption.

Cap on the number of parcels – requirement for section 13A(5) (b) (i)

Up to 1,000 parcels of land will be eligible for the exemption under section 13A of the Land Tax Act.

Example

If, as at 1 July 2026, the cap of 1,000 parcels of land is reached and those parcels have received an exemption, no other parcel will be entitled to an exemption after that date.

Failure to comply with the requirements

If a parcel of land ceases to be eligible for the land tax exemption, for example a parcel is no longer rented for the purpose of affordable community housing, written notice of that change must be provided to the Commissioner by the owner, or their agent or personal representative, within 30 days of the change in circumstances.

This is a requirement under section 14 of the Land Tax Act that the owner tell the Commissioner of any change in a person's circumstances that would cause land tax to become payable for the parcel of land.

Revocation

The Determination revokes *Land Tax (Affordable Community Housing) Determination 2025 (No 2) (DI2025-156)*.