

Australian Capital Territory

Taxation Administration (Amounts payable – Home Buyer Concession Scheme) Determination 2004 (No 3)

Disallowable instrument DI2004—76

made under the

***Taxation Administration Act 1999*, s139 Determination of amounts payable
under tax laws**

EXPLANATORY STATEMENT

The purpose of this instrument is to revoke Disallowable Instrument No 62 of 2004, which was notified on the ACT Legislation Register dated 4 May 2004. As a consequence of this revocation, Disallowable Instrument No 169 of 2003, which was notified on the ACT Legislation Register dated 27 June 2003 comes back into force and must also be revoked.

This instrument also determines the eligibility and methods of calculation for the Home Buyer Concession Scheme (“Scheme”).

This determination takes effect from 1 July 2004.

Summary

The *Taxation Administration Act 1999* deals with the administration of various tax laws relating to the imposition of certain taxes, duties and fees. These tax laws are specified in section 4 of the *Taxation Administration Act 1999*. Section 139 of the *Taxation Administration Act 1999* empowers the Minister to determine these taxes, duties and fees.

One of the specified tax laws is the *Duties Act 1999* (the Act), Chapter 2 of which deals with the grant of a Crown lease and transfers of land which are subject to duty.

This determination revokes Determination No 169 of 2003, which was notified on the ACT Legislation Register on 27 June 2003, made under the *Taxation Administration Act 1999*. This determination modifies the existing Scheme and applies to transfers of interests in land which take place on and from 1 July 2004.

Determination No 169 of 2003 will continue to apply in respect of transfers of interests in land, which took place from 1 July 2003 to 30 June 2004.

Changes to the Scheme

The following changes made by this determination improve the equity of the scheme:

- Concessional Rates and Dutiable Value Thresholds:
 - for **eligible property** purchases where the dutiable value exceeds the **lower threshold**, the concessional rate of duty is the concession duty rate for each \$100 or part thereof exceeding the **lower threshold** up to the **upper threshold**. There is a \$20 minimum duty. At and beyond the **upper threshold** no concession is available; and
 - for **eligible vacant block** purchases where the dutiable value exceeds the **lower threshold**, the concessional rate of duty is the concession duty rate for each \$100 or part thereof exceeding the **lower threshold** up to and including to the **upper threshold**. There is a \$20 minimum duty. Beyond the **upper threshold** no concession is available.
- The Income Threshold is **\$100,000** per annum (previously \$50,000) and the allowance for each dependent child is **\$3,330** per annum (previously \$3,303), up to a maximum of **\$116,650** for 5 or more dependent children.
- The formula used where a property purchase is for one or more undivided shares has been modified to ensure that concessional duty is available for all eligible applicants. Under the old formula some eligible applicants may not have benefited from concessional duty.

- Applicants must reside (previously “intend to reside”) in the home as their principal place of residence continuously for a period of not less than 6 months and such period is to commence within 12 months of completion of the transfer for an eligible property; or the date of the **Certificate of Occupancy and Use** following completion of construction of the residence on the eligible vacant block.
- The Commissioner for ACT Revenue will have the discretion to extend the time for an applicant to meet this requirement for compulsory or unforeseen circumstance e.g. work or health related issues.
- On the date of the grant, transfer or agreement for transfer the applicant must have attained the age of 18 years. However, if the Commissioner for ACT Revenue is satisfied there are good reasons to do so, the Commissioner for ACT Revenue may exempt the applicant from the requirement to be at least 18 years old.

The property and income threshold changes are necessary because of increases in property prices and incomes in the ACT. The changes to the concessional rates ensure that the amount of the concession progressively reduces to zero at or beyond the upper dutiable value thresholds.

Concessional Rates and Dutiable Value Thresholds

If the dutiable value of an **eligible property** does not exceed the **lower threshold** an eligible home buyer is entitled to the maximum duty concession, with a minimum duty of \$20 applied. Part concession is available for purchases of eligible homes more than the **lower threshold** but less than the **upper threshold**. The part concession is the concessional rate of duty for each \$100 or part thereof exceeding the **lower threshold** up to the **upper threshold** at which point and beyond no concession is available.

If the dutiable value of an **eligible vacant block** does not exceed the **lower threshold** an eligible home buyer is entitled to the maximum duty concession with the minimum duty of \$20 applied. Part concession is available for purchases of vacant blocks greater than the **lower threshold**. The part concession is the concessional rate of duty for each \$100 or part thereof exceeding the **lower threshold** up to the **upper threshold** at which point and beyond no concession is available.

Where the purchase is for a **share** in an eligible property or an eligible vacant block, the concession is proportional to the share purchased by the eligible home buyer.

Income Thresholds

The table below shows the old and new income thresholds:

Number of dependent children	Old	New
0	\$50,000	\$100,000
1	\$53,303	\$103,330
2	\$56,606	\$106,660
3	\$59,909	\$109,990
4	\$63,212	\$113,320
5 or more	\$66,515	\$116,650

A ‘dependent child’ has the same meaning as in the *Social Security Act 1991* (Cth), which currently is a child under the age of 22 that meets certain income tests, and is the responsibility of the applicant.

Definitions

The definition “Certificate of Occupancy and Use” has been added to determine when the residency of an eligible vacant block must begin. The period of residency on an eligible vacant block must begin within twelve months of the date of the “Certificate of Occupancy and Use”.

Authorised by the Treasurer, Ted Quinlan MLA