

Australian Capital Territory

Taxation Administration (Amounts payable – Home Buyer Concession Scheme) Determination 2005 (No 2)

Disallowable instrument DI2005—157

made under the

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

EXPLANATORY STATEMENT

1. The purpose of this instrument is to revoke disallowable instrument DI2004-262 and to determine the eligibility and methods of calculation for the Home Buyer Concession Scheme (the Scheme). This instrument takes effect on the day after notification.

Summary

2. 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.
3. 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 the transfer or agreement for the transfer of land which is subject to duty.
4. This determination revokes Determination DI2004-262 and applies to transfers of interests in land which take place on and after the date of effect of this instrument.
5. Determination DI2004-262 continues to apply in respect of transfers of interests in land which took place from 1 January 2005 to 30 June 2005.
6. Determination DI2004-76 continues to apply in respect of transfers of interests in land which took place from 1 July 2004 to 31 December 2004.

7. Determination DI2003-169 continues to apply in respect of transfers of interests in land, which took place from 1 July 2003 to 30 June 2004.

Changes in this Determination

8. This determination modifies the definitions of “lower threshold” and “upper threshold” to remove the method of calculation for the thresholds. It also defines “determined” for the purposes of “lower threshold” and “upper threshold” as the values determined by instrument by the Minister pursuant to section 139 of the *Taxation Administration Act 1999*. The method of calculation of the lower and upper thresholds is now stated in the explanatory statement for the instrument that determines these thresholds.

Unchanged Operation of the Scheme:

9. Concessional Rates and Dutiable Value Thresholds
 - a. The concessional rates of duty ensure that the amount of the concession progressively reduces to zero at and beyond the upper dutiable value thresholds:
 - i. 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.
 - ii. 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.
 - iii. 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.
 - b. Note that the dutiable value thresholds (the lower threshold and the upper threshold), and their method of calculation, are determined in a separate Disallowable Instrument.

10. Income Threshold

- a. The Income Threshold is \$100,000 per annum and the allowance for each dependent child is \$3,330 per annum, up to a maximum of \$116,650 for an eligible home buyer with 5 or more dependent children as shown in the table below:

Number of dependent children	Threshold
0	\$100,000
1	\$103,330
2	\$106,660
3	\$109,990
4	\$113,320
5 or more	\$116,650

- b. A ‘dependent child’ has the same meaning as in the *Social Security Act 1991* (Cwlth), which currently is a child under the age of 22 that meets certain income tests, and is the responsibility of the applicant.
- c. Total Income is the income of all persons named in the grant, transfer or agreement for transfer of the subject property, and their domestic partners. It includes income from all sources including benefits from a salary packaging arrangement and income classified as “exempt income” under the *Income Tax Assessment Act 1997*. It excludes eligible termination payments such as those made for years of service under a bona fide redundancy payment that are not assessable for income tax under the *Income Tax Assessment Act 1936* (Cwlth), Part 3, Division 2, Subdivision AA.
- d. The income test is applied only as an annual test. Temporary or short term increases in income such as income from short term higher duties, the Commonwealth ‘baby bonus’, short term second job, and back pay received in the 12 months prior to the grant, transfer or agreement for transfer are to be included as income. The income test is that, on the date of the grant, transfer or agreement for transfer (whichever comes first), the grantee/s or transferee/s, together with their domestic partners, must have a combined total income over the previous 12 months (from the day of the grant, transfer or agreement for transfer – whichever comes first) less than or equal to the relevant income threshold. There is a requirement for the applicant/s to state that the details provided reflect their usual income.

11. Residence and Age Requirements

- a. Applicants must 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.

- b. The Commissioner for ACT Revenue has 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.
- c. On the date of the grant, transfer or agreement for transfer (whichever comes first) 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, he/she may exempt the applicant from the requirement to be at least 18 years old.

12. Limited time for receipt of application

- a. There is a time limit for the receipt of applications. The “date the duty must be paid” is either 90 days after the liability to pay the duty arises (section 16 of the Act), or a period up to 12 months (section 16A of the Act) for an ‘off the plan’ purchase agreement.
- b. For a grant, transfer or agreement for transfer made after 31 December 2004, an application for concessional duty under the Scheme must be received by the Commissioner for ACT Revenue before the date the duty must be paid. This is usually 90 days or can be up to 12 months for a purchase “off the plan”, from the date of the grant, transfer or agreement for transfer (whichever comes first).
- c. For a grant, transfer or agreement for transfer made up to 31 December 2004, an application for concessional duty must be received by the Commissioner for ACT Revenue by 31 December 2005.

Authorised by the Treasurer

Ted Quinlan MLA