

HOME BUYER DETERMINATION
AUSTRALIAN CAPITAL TERRITORY
TAXATION ADMINISTRATION ACT 1999
INSTRUMENT NO. 44 OF 1999

UNDER section 139 of the *Taxation Administration Act 1999*, for the purposes of establishing stamp duty concessions for eligible home buyers, I DETERMINE the following:

Commencement

1. This determination applies to:
 - a) a grant of a Crown lease, where granted on or after 1 March 1999;
 - b) a transfer, or if the transfer is preceded by an agreement for transfer - that agreement - first executed or entered into on or after 1 March 1999;

Definitions

2. In this determination:

the Act means the *Duties Act 1999*;

current income means the **total income** earned during the week immediately preceding the date of the grant, transfer or agreement for transfer multiplied by 52, and includes any income which would have been earned had the person not been on **leave** from his or her normal employment;

total income means the total income earned from all sources and includes benefits from a salary packaging arrangement and income classified as "exempt income" under the *Income Tax Assessment Act 1997*;

eligible property means an estate in fee simple or a Crown lease with a **dutiable value** of less than \$140,000;

dutiable value has the same meaning as in section 20 of **the Act**;

eligible home buyer means a person who provides written evidence to the Commissioner for Australian Capital Territory Revenue regarding all persons named in the grant, transfer or agreement for transfer of the **eligible property** as the grantee or transferee that:

- (i) on the date of the grant, transfer or agreement for transfer they together and their **spouses** had
- a combined **current income** less than or equal to \$45,000 per annum; and
 - a combined **total income** over the previous month less than or equal to one twelfth of \$45,000; and
 - a combined **total income** over the previous 12 months less than or equal to \$45,000;
- and
- (ii) at least one of the persons named in the grant, transfer or agreement for transfer of the eligible property as the grantee or transferee intends to occupy the subject property as their principal place of residence continuously for a period of not less than 12 months; and
- (iii) they together and their **spouses** do not, either alone or jointly with another person or persons, hold a legal or equitable interest in land other than the subject property; and
- (iv) they together and their **spouses** have not, either alone or jointly with another person or persons, held a legal or equitable interest in land other than the subject property in the 2 years preceding the date of the grant, transfer or agreement for transfer, except where a person is required to relinquish an interest in land by an order of a court as a consequence of a termination of a relationship between **spouses**; and
- (v) under the transfer or grant they together are acquiring both the legal and beneficial interest in the property; and
- (vi) on the date of the grant, transfer or agreement for transfer they had attained the age of 18 years.

leave includes maternity leave, leave without pay, leave on half pay and leave while receiving workers' compensation payments.

spouse, in relation to a person, has a different meaning from that in the Act. It includes a person who lives with the first-mentioned person -

- a) as his or her **spouse**, although not legally married to him or her; or
 - b) in a homosexual relationship;
- on a bona fide domestic basis.

Determined Amount

3. The determined amount of stamp duty that is payable on the purchase of an **eligible property** or an undivided share in the eligible property by an **eligible home buyer** for the purpose of section 31 of the Act shall be:

For an **eligible property**:

- i) \$20 where the **dutiable value** of the **eligible property** does not exceed \$116,000; or
- ii) the greater of \$20 or \$14.23 for each \$100 or part thereof by which the **dutiable value** of the **eligible property** exceeds \$116,000.

For one or more than one undivided share in the **eligible property** - the greater of \$20 or the duty calculated using the following formula:

$$\frac{A}{B} \times C$$

where:

A = the number of undivided shares in the **eligible property** granted, transferred or agreed to be transferred to all persons named in the grant, transfer or agreement for transfer of the **eligible property** as the grantee or transferee.

B = the total number of undivided shares in the **eligible property**.

C = the stamp duty payable upon a grant, transfer or agreement for transfer of the whole of the **eligible property**.

Date: 9 March 1999

Kate Carnell
Chief Minister and Treasurer