

# Taxation Administration (Amounts Payable—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme—Eligible Impacted Properties) Determination 2017 (No 1)

Disallowable instrument DI2017–232

made under the

*Taxation Administration Act 1999*, s 139 (Determination of amounts payable under tax laws)

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## 1 Name of instrument

This instrument is the *Taxation Administration (Amounts Payable—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme—Eligible Impacted Properties) Determination 2017 (No 1)*.

## 2 Commencement

This instrument commences on 18 September 2017.

## 3 Definitions

In this instrument:

*Act* means the *Duties Act 1999*.

*eligible impacted property buyback program*—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

*Crown lease*—see the *Land Titles Act 1925*, dictionary.

*Note* A Crown lease means a territory lease, which includes a lease for a unit.

*loose-fill asbestos insulation*—see the *Dangerous Substances Act 2004*, section 47M.

*transferee*—see the Act, dictionary.

*unit* means a unit under the *Unit Titles Act 2001*, section 9.

#### **4 Meaning of *eligible impacted property***

In this instrument:

*eligible impacted property*—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

#### **5 Meaning of *eligible homeowner***

In this instrument:

*eligible homeowner* means a person who—

- (a) is or was a Crown lessee of an eligible impacted property acquired before 19 November 2015; and
- (b) has entered into a contract for sale of the property to the Territory under the eligible impacted property buyback program (whether or not the sale has completed).

#### **6 Meaning of *eligible property***

- (1) In this instrument:

*eligible property* means land in the ACT, a Crown lease or a declared land sublease that will be used for residential purposes only.

- (2) In this section:

*declared land sublease*—see the *Planning and Development Act 2007*, section 312C.

#### **7 Meaning of *eligible transaction***

- (1) In this instrument:

*eligible transaction* means a transfer with a transaction date on or after 18 September 2017 that meets the following requirements:

- (a) at least 1 transferee is an eligible homeowner;  
*Note* *Commissioner* means the Commissioner for ACT Revenue.
- (b) the eligible impacted property has been sold or will be sold to the Territory under the eligible impacted property buyback program;
- (c) the ownership of the eligible property is in the same name or names as the eligible impacted property, except if—
  - (i) the eligible homeowner is or was a joint tenant or tenant in common of the eligible impacted property; and
  - (ii) the Commissioner is satisfied that all other joint tenants or tenants in common of the eligible impacted property consent to the ownership of the eligible property in a different name or names;
- (d) the eligible homeowner has not previously received a concession—
  - (i) on the eligible transaction—

- (A) under the Home Buyer Concession Scheme under the *Taxation Administration Act 1999*; or
  - (B) under the Over 60s Home Bonus Scheme under the *Taxation Administration Act 1999*; or
  - (C) under the Pensioner Duty Concession Scheme under the *Taxation Administration Act 1999*; or
- (ii) on any other transaction—under the Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme for Eligible Impacted Properties under the *Taxation Administration Act 1999*, if it is in relation to the same eligible impacted property.

*Note* The Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme under the *Taxation Administration Act 1999* is a separate scheme that applies to affected leases.

- (2) If it becomes apparent that a transaction is not an eligible transaction, an eligible homeowner must give the Commissioner written notice of that fact within 14 days after the first of the following events:
- (a) the end of any period allowed for compliance with a requirement of the transaction;
  - (b) the date that it first becomes apparent that the transaction is not eligible.

**Example—transaction not an eligible transaction**

The transaction ceases to be eligible because the contract for sale of the eligible impacted property to the Territory was not completed.

- (3) In this section:

***transaction date***, of an eligible transaction, means the date that liability for duty arises under the Act, section 11.

***transfer*** means—

- (a) a transfer of eligible property; or
- (b) an agreement for the sale or transfer of eligible property; or
- (c) a grant of eligible property.

## 8 Determination

- (1) For the purposes of section 31 of the Act, I determine that the rate of duty payable on an eligible transaction under this instrument is—
- (a) if the notional duty is less than or equal to the buyback concession amount—nil; or
  - (b) if the notional duty is more than the buyback concession amount—the difference between the buyback concession amount and the notional duty.
- (3) In this section:

**buyback concession amount** means the amount of duty that would have been payable on a transfer of the eligible impacted property if—

- (a) the transfer was a dutiable transaction; and
- (b) the dutiable value of the property was equal to the price agreed to be paid by the Territory in a contract for sale for the property; and
- (c) the transfer occurred on 19 November 2015.

**dutiable value**—see the Act, section 20.

**notional duty** means the amount of duty that would be payable for the eligible transaction but for this instrument.

## **9 Revocation**

This instrument revokes *Taxation Administration (Eligible Impacted Properties—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2016 (No 1)* DI2016-4.

## **10 Transitional**

DI2016-4 continues to apply for the period 5 February 2016 to 17 September 2017, inclusive.

Andrew Barr MLA  
Treasurer

5 September 2017