

Taxation Administration (Amounts Payable—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme—Eligible Impacted Properties) Determination 2017 (No 2)

Disallowable instrument DI2017–305

made under the

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

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 2)*.

2 Commencement

This instrument commences on 15 December 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; 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.

(2) 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—
 - (i) if the Minister responsible for the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1) first determined the property to be an eligible impacted property more than 6 months after 19 November 2015—the date that the Minister made the determination; or
 - (ii) for any other property—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 (Amounts Payable—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme—Eligible Impacted Properties) Determination 2017 (No 1) DI2017-232*.

10 Transitional

DI2017-232 continues to apply for the period 18 September 2017 to 14 December 2017, inclusive.

Andrew Barr MLA
Treasurer
13 December 2017