

Taxation Administration (Off the Plan Unit Duty Concession Scheme) Determination 2021

Disallowable instrument DI2021–173

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 (Off the Plan Unit Duty Concession Scheme) Determination 2021*.

2 Commencement

This instrument commences on 1 July 2021.

3 Definitions

In this instrument:

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

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

dutiable value—see the *Duties Act 1999*, section 20.

occupy, in relation to a principal place of residence, does not include occupation—

- (a) of a transient, temporary or passing nature; or
- (b) for a purpose other than as a place of residence.

off the plan agreement means an agreement for the sale of a unit in a units plan before the units plan is registered.

principal place of residence means the home a person primarily occupies on an ongoing and permanent basis as the person's settled or usual home.

registered—for an off the plan agreement, means registered by the registrar-general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970*.

residence period means—

- (a) a continuous period of at least 1 year; or
- (b) a shorter period (including no period) determined by the Commissioner, if:
 - (i) the shorter period is requested, in writing, for a transferee not later than 18 months after the residence start date; and
 - (ii) the Commissioner is satisfied that the transferee is unable to occupy the eligible property because of an unforeseen circumstance.

residence start date means—

- (a) the date of completion of the off the plan agreement; or
- (b) a later date determined by the Commissioner, if:
 - (i) a later date is requested, in writing, for a transferee not later than 18 months after the applicable residence start date under section 3; and
 - (ii) the Commissioner is satisfied that the transferee is unable to begin occupying the eligible property because of an unforeseen circumstance.

Example—unforeseen circumstance

A health-related issue.

residential unit means a unit in a units plan that—

- (a) may lawfully be used as a place of residence; and
- (b) is, in the Commissioner’s opinion, a suitable building for use as a place of residence.

Note **Commissioner** means the Commissioner for ACT Revenue.

transaction date, of an eligible transaction, means the date that liability for duty arises under the *Duties Act 1999*, section 11.

transfer means the execution of an off the plan agreement.

transferee—see the *Duties Act 1999*, dictionary.

unit—see the *Unit Titles Act 2001*, section 9.

units plan—see the *Unit Titles Act 2001*, dictionary.

4 Meaning of *eligible property*

In this instrument:

eligible property means a residential unit with a dutiable value of less than or equal to \$500 000.

5 **Meaning of *eligible transaction***

(1) In this instrument:

eligible transaction means a transfer:

- (a) with a transaction date on or after 1 July 2021; and
 - (b) where at least 1 transferee will occupy the eligible property, as the transferee's principal place of residence, within 1 year after the residence start date for the duration of the residence period.
- (2) If it becomes apparent that a transaction is not an eligible transaction, a transferee 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; or
 - (b) the date that the transferee first becomes aware that the transaction is not an eligible transaction.

Example—transaction not an eligible transaction

The transaction ceases to be eligible because no transferee can occupy the eligible property as a principal place of residence.

6 **Determination**

For the purposes of section 31 of the *Duties Act 1999*, I determine that the amount of duty payable on an eligible transaction is nil.

Andrew Barr MLA
Treasurer

28 June 2021