

# Taxation Administration (Amounts Payable—Disability Duty Concession Scheme) Determination 2023

## Disallowable instrument DI2023–166

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—Disability Duty Concession Scheme) Determination 2023*.

### 2 Commencement

This instrument commences on 1 July 2023.

### 3 Definitions

In this instrument:

*Act* means the *Duties Act 1999*.

*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 Act, section 20.

*home* means a building (affixed to land in the ACT) or 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.

*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*.

***transfer*** means—

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

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

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

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

***vacant land*** means land in the ACT, which has a Crown lease or a declared land sublease that does not have a home built, in full or in part, on it.

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

In this instrument:

***eligible property*** means—

- (a) a home; or
- (b) vacant land

with a dutiable value of less than or equal to \$1 000 000.

#### **5 Meaning of *eligible NDIS participant***

In this instrument:

***eligible NDIS participant*** means a person who is in receipt of an individual funding package as a participant of the National Disability Insurance Scheme under the *National Disability Insurance Scheme Act 2013* (Cwlth).

#### **6 Meaning of *eligible transaction***

(1) In this instrument:

***eligible transaction*** means a transfer with a transaction date on or after 1 July 2023 that meets the following requirements:

- (a) on the transaction date, at least 1 transferee is an eligible NDIS participant;

- (b) on the transaction date, the eligible NDIS participant and their domestic partner (if any) have not held a legal or equitable interest in land within the previous 2 years, other than an interest—
  - (i) in the eligible property; or
  - (ii) that a person is required to relinquish under—
    - (A) an order of a court; or
    - (B) a financial agreement made under section 90B, section 90C, or section 90D of the *Family Law Act 1975* (Cwlth) that is binding on the person; or
    - (C) a part VIIIAB financial agreement made under section 90UB, section 90UC, or section 90UD of the *Family Law Act 1975* (Cwlth) that is binding on the person; or
    - (D) a domestic relationship agreement or termination agreement under the *Domestic Relationships Act 1994* to which the person is a party; or
  - (iii) that a person acquires—
    - (A) as an executor or trustee (but not a beneficiary) under a will; or
    - (B) under an agreement for the sale or transfer of the interest within the 2-year period that was subsequently cancelled, and sections 50 or 50A of the Act, or relevant provisions of a corresponding Act were applied so as to result in no duty payable;
- (c) the eligible NDIS participant acquires both a legal and equitable interest in at least 51% of the eligible property;
- (d) the eligible NDIS participant will occupy the eligible property as the eligible NDIS participant's principal place of residence, within 1 year after the residence start date for the duration of the residence period; and
- (e) the eligible NDIS participant has not previously received a concession under—
  - (i) the Disability Duty Concession Scheme under the *Taxation Administration Act 1999*; or
  - (ii) the Home Buyer Concession Scheme under the *Taxation Administration Act 1999*; or
  - (iii) the Over 60s Home Bonus Scheme under the *Taxation Administration Act 1999*; or
  - (iv) the Pensioner Duty Concession Scheme under the *Taxation Administration Act 1999*.

- (2) If it becomes apparent that a transaction is not an eligible transaction, the eligible NDIS participant 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 eligible NDIS participant first becomes aware that the transaction is not an eligible transaction.

**Example—transaction not an eligible transaction**

The transaction ceases to be eligible because the eligible NDIS participant cannot occupy the eligible property as a principal place of residence.

- (3) In this section:

*corresponding Act*—see the Act, dictionary.

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

## **7 Meaning of *residence period* and *residence start date***

- (1) In this instrument:

*residence period* means a continuous period of at least 1 year.

*residence start date* means—

- (a) for a home—the date of completion of the eligible transaction; or
  - (b) for vacant land—the date that a certificate of occupancy has been issued under the *Building Act 2004* for a home on the land that will be a person’s principal place of residence.
- (2) The Commissioner may determine a shorter residence period (including no period), if—
- (a) the shorter period is requested, in writing, for an eligible NDIS participant not later than 18 months after the residence start date; and
  - (b) the Commissioner is satisfied that the eligible NDIS participant is unable to occupy the eligible property for a continuous period of 1 year because of an unforeseen circumstance.

**Example—unforeseen circumstance**

A health-related issue.

- (3) The Commissioner may determine a later residence start date, if—
- (a) the later date is requested, in writing, for an eligible NDIS participant not later than 18 months after the applicable residence start date under subsection (a) or (b) above; and
  - (b) the Commissioner is satisfied that the eligible NDIS participant is unable to begin occupying the eligible property because of an unforeseen circumstance.

**Example—unforeseen circumstance**

A health-related issue.

**8 Determination**

For the purposes of section 31 of the Act, I determine that no duty is payable on an eligible transaction under this instrument.

**9 Revocation**

This instrument revokes *Taxation Administration (Amounts Payable—Disability Duty Concession Scheme) Determination 2022*, DI2022-159.

**10 Transitional**

DI2022-159 continues to apply for the period 1 July 2022 to 30 June 2023, inclusive.

Andrew Barr MLA  
Treasurer

24 June 2023