

Australian Capital Territory

Taxation Administration (Amounts Payable—Duty) Determination 2017 (No 1)

Disallowable instrument DI2017–79

made under the

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

EXPLANATORY STATEMENT

1. This Disallowable Instrument commences on 7 June 2017.
2. As part of the 2017-18 Budget, the Government is continuing its implementation of reform to the Territory's taxation system. This instrument implements the next phase of reforms to duty by:
 - reducing conveyance duty rates for duty transactions (part of Government's reform program to reduce conveyance duty rates annually).
 - halving the conveyance duty rates for transactions of commercial properties with a duty value of less than \$1.5 million.
 - Setting a flat 5 per cent duty rate for transactions of commercial properties with a duty value of \$1.5 million and more.
3. Under section 139 of the *Taxation Administration Act 1999*, the Minister may determine by disallowable instrument the rate or differential rates, or the method by which, an amount of duty payable under the *Duties Act 1999* (Duties Act) is to be calculated.
4. This instrument determines for the purposes of the Duties Act differential rates of duty, or the method by which, an amount of duty is payable for different types of dutiable transactions.

Part 2 of the Instrument determines Transfer rates of duty for the purposes of section 31 of the Duties Act.

Part 3 of the Instrument determines Commercial Transfer rates of duty for the purposes of section 31 of the Duties Act.

Part 4 of the Instrument determines other rates of duty for the purposes of various other sections of the Duties Act.

Transfer rate (Part 2)

5. This Part applies to a dutiable transaction of dutiable property used, or that will be used, wholly for purposes other than a commercial purpose. For example, for a residential purpose (such as: a house, a unit, a block of apartments), a primary production purpose (such as: farm land, grazing land) or a home business (such as: a bookkeeping business or florist working from home). This is irrespective of the permitted uses of the property as may be specified in a Crown lease.
6. Table 1 sets out the differential rates of duty, and the method by which, an amount of duty is payable for a dutiable transaction that is not for a commercial purpose.

Commercial Transfer rate (Part 3)

7. This Part applies to a dutiable transaction of dutiable property used, or that will be used, partly or wholly for a commercial purpose.

‘Commercial purpose’ means a purpose other than a residential purpose, a primary production purpose or a home business. This definition has its basis in section 6 of the Duties Act and (for a home business) section 247 (3) of the *Planning and Development Act 2007*.

8. For the purposes of this Instrument, a property that is used or that will be used, partly or wholly for commercial purposes includes, but is not limited to:
 - mixed-use land, or land with mixed-use buildings where *part* of the land or the building is used or will be used for a commercial purpose and the other part for a residential or primary production purpose, for example:
 - land that is or will be used partly for the owner’s bed and breakfast business and partly as a farm; or
 - a building with a shop on the ground floor and a residential apartment on the first floor.
 - vacant land on which a building or buildings will be constructed or developed *wholly* for a commercial purpose, for example:
 - vacant land on which an office building will be constructed; or
 - vacant land on which a hotel will be constructed.
 - land with an existing building or buildings that will be *wholly or partly* developed, refurbished, converted or re-purposed by the transferee for commercial purposes, for example:
 - a row of shops on top of which apartments will be built and the apartments individually on-sold to others;
 - a warehouse conversion into a hotel and shopping complex; or
 - a single shop refurbishment where the ground floor will be used as an office and the first floor will be converted into a residence.
9. This Part also applies to a chapter 3 transaction (landholder provisions of the Duties Act) for which duty is payable at a rate specified for a transfer of dutiable property.

10. Table 2 sets out the differential rates of duty, and the method by which, an amount of duty is payable for a dutiable transaction that is for a commercial purpose.

Various other sections (Part 4)

11. This Part applies to set the duty rate for various other sections of the Duties Act.

12. Table 3 sets out other sections of the Duties Act and the duty rate applicable for particular periods. The dates in column 3 in respect of the sections of the Duties Act that relate to insurance duty reflect the abolition of the insurance duty provisions of the Act on 1 July 2017.

13. This instrument revokes *Taxation Administration (Amounts Payable—Duty) Determination 2016 (No 2)* DI2016-139.

Authorised by the Treasurer
Andrew Barr MLA

31 May 2017