

Australian Capital Territory

Taxation Administration (Amounts Payable—Interest Rates) Determination 2016 (No 1)

Disallowable instrument DI2016–146

made under the

Duties Act 1999, s 75AD (2) (Conditions of deferral arrangement) and *Taxation Administration Act 1999*, s 139 (Determination of amounts payable under tax laws)

EXPLANATORY STATEMENT

Commencement

This disallowable instrument commences on 1 July 2017.

Background

This instrument is made under multiple authorising provisions in accordance with section 49 of the *Legislation Act 2001*.

Under section 139 of the *Taxation Administration Act 1999* (TAA) the Minister has the authority to determine by disallowable instrument the rate of interest payable under a tax law.

Under section 75AD (2) of the *Duties Act 1999* (Duties Act) the Minister may also determine conditions to which a deferral arrangement is subject, including conditions about the rate of interest, that are consistent with the deferral conditions under section 75AD (1).

The *Land Rent Act 2008* (Land Rent Act), *Land Tax Act 2004* (Land Tax Act) and *Rates Act 2004* (Rates Act) each specify in notes that the Minister may determine an interest rate applicable to unpaid overdue amounts under section 139 of the TAA.

Determination

The purpose of this instrument is to determine the applicable interest rates for unpaid rates, land tax and land rent, as well as the interest rate for duty payable under a deferred duty arrangement, by reference to the rate components calculated under section 26 of the TAA.

This instrument will assist taxpayers in understanding the interest rate that applies to various taxes.

Previously, three interest rate determinations provided for the applicable interest rate:

- Land rent: *Taxation Administration (Interest Payable - Land Rent) Determination 2012 (No 1)* DI2012-176.
- Deferred duty: *Taxation Administration (Amounts Payable—Interest) Determination 2015 (No 1)* DI2015-3.
- Rates and land tax: *Taxation Administration (Amounts Payable—Rates and Land Tax Interest) Determination 2016 (No 1)* DI2016-147.

This instrument consolidates the previous interest rate determinations DI2012-176, DI2015-3 and DI2016-147 into a single instrument to reduce confusion over how the rate is determined. The ongoing effect of the interest rate determinations has not changed.

Interest rate for rates, land tax or land rent

Section 3 of the instrument determines that the interest rate for unpaid rates, land tax or land rent is the sum of the market rate component, defined in section 26 (2) of the TAA, and the premium component defined in section 26 (3). Section 26 of the TAA provides the interest rate is the sum of a market rate component (that is, the 90-day bank bill rate) and a fixed premium component of 8 per cent.

The interest rate under the Land Rent Act applies according to section 21 of the Act when land rent is overdue.

The interest rate under the Land Tax Act applies according to section 19 when land tax is overdue; or section 19A when land tax has not been raised due to an owner's failure to notify the Commissioner for ACT Revenue of the rental of a property or its ownership by an individual as trustee.

The interest rate under the Rates Act applies according to section 21 and 22 when rates are overdue.

The interest calculated under section 3 is compounding. A taxpayer pays interest on interest, as would apply to mortgage payments in default.

This instrument does not change in any way the interest rates that previously applied to land rent, general rates and land tax under the TAA and the associated interest rate determinations.

Interest rate for deferred duty

Section 4 of this instrument determines that the interest rate on a deferred duty arrangement comprises the market rate component only under section 26 (2) of the

TAA. Section 4 further determines the method by which interest is calculated for deferred duty.

The interest calculated under section 4 is simple interest. A taxpayer does not pay interest on interest. The method and rate of calculation of interest to be applied to deferred duty is reflective of the interest rate charged on deferred rates amounts under section 48 (3) of the Rates Act. This is designed to reflect the cost of that money to Government, and in no way resembles either a commercial lending rate or a disincentive.

Revocation

This instrument revokes DI2012-176 (applied to land rent), DI2015-3 (applied to deferred duty) and DI2016-147 (applied to rates and land tax).

Authorised by the Treasurer
Andrew Barr MLA

20 June 2017