

Australian Capital Territory

# Duties (Intergenerational Rural Transfer Guidelines) Determination 2017 (No 1)

Disallowable instrument DI2017–230

made under the

*Duties Act 1999*, s 230 (Inter-generational rural transfers)

## EXPLANATORY STATEMENT

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### Commencement

This instrument commences on 18 September 2017.

### Background

The *Duties Act 1999* (the Duties Act) imposes duty on a range of Territory transactions in relation to land.

Section 230 of the Duties Act provides a duty exemption for intergenerational rural transfers, which are transfers of primary production property from an older to a younger generation. The exemption encourages younger members of farming families to stay on the family farm and to allow the older generation to retire without the value of the farm affecting their entitlement to a pension.

Section 230 (1) (c) and (d) of the Duties Act require the parties to the transaction to be people of a class identified by the Minister in guidelines. The transaction must satisfy the other requirements that may be contained in the guidelines.

### Guidelines

This instrument determines guidelines that identify the eligible classes of people and contain requirements for the exemption. It updates the *Duties Intergenerational Rural Transfer Guidelines 1999* DI1999-91 to reflect changes to the Duties Act made by the *Revenue Legislation Amendment Act 2017* (the 2017 Act).

The 2017 Act makes extensive amendments to taxation legislation to adopt a ‘Barrier Free’ model for the collection of conveyance duty. Some amendments in the 2017 Act affect the operation of the exemption, including:

- modifying the timing of the conveyance duty process so that payment occurs after settlement;

- requiring the registration of dutiable instruments under the *Land Titles Act 1925*; and
- authorising the Registrar-General to collect information on behalf of the Commissioner for ACT Revenue for the purpose of duty assessment.

There is no change to the general eligibility requirements. However, the guidelines now note that the exemption may be claimed at the point that the transaction is lodged for registration with the Registrar-General (under the Barrier Free model).

In place of an application letter, the eligible transferee is required to keep proper records of the transaction for 5 years under the *Taxation Administration Act 1999*. The necessary records are outlined in the guidelines. The ACT Revenue Office may require eligible transferees to verify eligibility with these records after the transfer has been completed.

Finally, the exception for the transferor to retain an interest in the farm house and underlying land has been clarified. The old guidelines (DI1999-91) stated that the transferor ‘may retain the farm house and the existing area of land on which the farm house is situated’. This statement was ambiguous as to whether the transferor could retain ownership of the house or merely retain the right to reside in the house after giving up ownership.

The guidelines now state that the eligible transferor is not prevented from occupying and using any of the land, provided that full ownership has been relinquished to the eligible transferee. This meets the intent of the exemption.

## **Revocation**

These guidelines are applicable to transactions entered into on or after 18 September 2017.

DI1999-91, which is revoked by this instrument, continues to apply to transactions executed in the period that DI1999-91 is effective.

Authorised by the Treasurer  
Andrew Barr MLA

5 September 2017