

Australian Capital Territory

Taxation Administration (Special Arrangements— Pensioner Duty Concession Scheme Deferrals) Approval 2019 (No 1)

Disallowable instrument DI2019–139

made under the

Taxation Administration Act 1999, s 42 (Special arrangements for classes of people)

EXPLANATORY STATEMENT

Background

The Pensioner Duty Concession Scheme (the PDCS) assists eligible pensioners who own a residential home to move to accommodation more suited to their needs (for example, from a house to a townhouse) by reducing the duty payable on their new purchase of a residential home, or residential vacant land.

In line with the 2019-20 Budget, the PDCS will be extended from 1 July 2019 to 30 June 2020 where eligible transferees purchasing a property below \$420,000 will qualify for a full duty concession, while those purchasing a property valued up to \$530,000 will receive a partial duty concession.

In addition, those receiving a partial duty concession will be able to defer any remaining duty payable if they have at least 75 per cent equity in the property they acquire.

Ordinarily, duty is payable at the times tabled in section 16 of the *Duties Act 1999* (the Duties Act). For example, duty becomes payable on a transfer of dutiable property when the transfer is registered with the Registrar-General on the land titles register under the *Land Titles Act 1925*.

Section 3 provides however that the *Taxation Administration Act 1999* (the Act) is to be read as one with the Duties Act. Under the Act, the Commissioner for ACT Revenue may approve a special arrangement that varies the provisions of a tax law for the lodging of returns and the way of payment of amounts of tax due – see section 42. An approval under section 42 is a disallowable instrument.

This instrument makes provision for a special arrangement for the deferred payment of any duty payable by eligible transferees of the PDCS. It has a commencement date of 1 July 2019 and is subject to conditions of approval for the special arrangement.

The eligibility requirements for the PDCS are provided in the *Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2019 (No 1)*, DI2019-101.

Conditions of Approval

An approval under section 42 of the Act is subject to conditions specified by the Commissioner in the notice of approval or by subsequent written notice – see section 44 of the Act.

Section 5 of this instrument sets out the conditions of approval for the deferred payment of duty by eligible transferees of the PDCS. These include:

- Application requirement

A PDCS transferee must apply to the Commissioner for the deferred payment of duty. The application must be made at the same time the instrument of transfer for the property (the subject of the PDCS) is lodged with the Registrar of Land Titles.

- 75 per cent equity

A PDCS transferee, or PDCS transferees, must not have less than 75 per cent equity in the property at the time they apply for a duty deferral under this instrument.

For example, Mary and Bob (a pensioner) acquire a house in Coombs for \$500,000. In order to fund the purchase, they obtain a bank loan to cover 20 per cent of the purchase price. Mary and Bob self-fund the rest of the purchase price. As Mary and Bob have acquired 80 per cent equity in the property they would satisfy this condition for the deferred payment of duty.

- Interest

Interest at the market rate will be payable on the deferred amount of duty payable for as long as the amount of duty remains unpaid.

- Payment of deferred amount

The deferred duty and any interest that accrues must be paid by the PDCS transferee or PDCS transferees when:

- (a) the property is transferred to any other person;
- (b) the interest in the property held by the PDCS transferee, who is the ‘pensioner’ for the purposes of the PDCS transaction, is transferred to:
 - (i) another PDCS transferee;
 - (ii) an administrator or executor of the estate of the pensioner (includes a transfer by transmission application);
 - (iii) any other person.

For the purposes of this instrument ‘pensioner’ is defined to mean the person who meets the requirements under section 5 (1) (a) of DI2019-101, that is a person who on the transaction date:

- (a) received an Australian Centrelink age pension or Department of Veterans’ Affairs age pension equivalent; or
- (b) received an Australian Centrelink disability support pension and was 50 years of age or older; or
- (c) had held a Department of Veterans’ Affairs Gold Card for a period of at least 1 year.

Any duty payable is a debt owing to the Territory and is a first charge on the interest held by an owner that takes priority over other interests – see section 5 of the Duties Act and section 56H of the Act.

Expiry

This instrument expires on 30 June 2020 in line with the expiration date of the PDCS as provided for in DI2019-101.

This means eligible transferees have until 30 June 2020 to apply for a duty deferral. For the avoidance of doubt duty deferrals approved under this instrument (and its conditions of approval) will continue to apply after the expiration of this instrument until the duty deferred and any accrued interest is paid out.

Authorised by the Commissioner for ACT Revenue
Kim Salisbury