

Australian Capital Territory

# Duties (Pensioner Concession Duty Deferral Scheme) Determination 2019

Disallowable instrument DI2019–270

made under the

*Duties Act 1999, s 75AG (Duty deferral schemes—determination)*

## EXPLANATORY STATEMENT

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### 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 was 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*.

Under Division 2.6A.2 of the Duties Act, inserted by *Revenue Legislation Amendment Act 2019 (No 2)*, the Minister may determine a scheme for deferring duty.

### Pensioner Concession Duty Deferral Scheme Determination

By this instrument, the Minister makes a determination for the Pensioner Concession Duty Deferral Scheme. This instrument revokes and replaces the previous instrument for the Scheme, the *Taxation Administration (Special Arrangements—Pensioner Duty Concession Scheme Deferrals) Approval 2019 (No 1)*, DI2019-139.

DI2019-139 made provision for a special arrangement under section 42 of *Taxation Administration Act 1999* (the TAA) for the deferred payment of duty by eligible transferees of the PDCS.

This instrument has a commencement date of 16 December 2019 and in effect retains the same eligibility criteria and conditions for duty deferral under DI2019-139.

To be eligible for a duty deferral under this instrument, an applicant must be eligible for the PDCS duty concession under the *Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2019 (No 1)*, DI2019-101.

A PDCS transferee can apply to the Commissioner for the deferred payment of duty – refer to section 75AH of the Duties Act. 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.

### **Conditions of Duty Deferral**

A duty deferral arrangement under Division 2.6A.2 may be subject to conditions – refer to section 75AG (3) and section 75AJ of the Duties Act.

The conditions for the deferred payment of duty by transferees of the PDCS are:

- 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 (determined under the TAA, section 26) will be payable on the deferred amount of duty 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.

### **Revocation**

This instrument revokes the *Taxation Administration (Special Arrangements—Pensioner Duty Concession Scheme Deferrals) Approval 2019 (No 1)*, DI2019-139.

DI2019-139 continues to apply in the period between 1 July 2019 and 15 December 2019 inclusive.

### **Expiry**

This instrument expires on 30 June 2020 in line with the expiration date of the PDCS – refer to DI2019-101.

This means PDCS 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 amount deferred and any accrued interest is paid out in full.

Authorised by the Treasurer  
Andrew Barr MLA