

# Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2025

Disallowable instrument DI2025–148

made under the

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

## EXPLANATORY STATEMENT

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### Background

The *Taxation Administration Act 1999* (the TA Act) governs the administration of various tax laws relating to the imposition of certain taxes, duties and fees. These tax laws are specified in section 4 of the TA Act. Section 139 of the TA Act empowers the Minister to determine the amount of tax, duty, or licence fee payable, and the method by which an amount is to be calculated.

One of the specified tax laws is the *Duties Act 1999* (the Duties Act). Chapter 2 of the Duties Act deals with the imposition of duty on the grant of a Crown lease and the transfer or agreement for the transfer of a Crown lease, which are subject to duty. Section 12 of the Duties Act provides that the duty is ordinarily payable by the transferee, and section 5 of the Duties Act establishes that the duty liability is a debt due to the Territory.

The Pensioner Duty Concession Scheme (the PDCS) assists eligible pensioners to move accommodation by reducing the duty payable on their new purchase of a residential home, or residential vacant land.

### Pensioner Duty Concession Scheme

The *Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2025* (the Determination) commences on 1 July 2025. The Determination prescribes for the PDCS:

- the eligibility requirements, including property type and value, pensioner status, residency and property ownership; and
- the method of calculation of duty payable under section 31 of the Duties Act.

## **Updates**

The concession will be indexed using the most recent Consumer Price Index (CPI) for Canberra rounded down to the nearest \$5,000. The most recent CPI is from March 2025 at 2.2 per cent for Canberra, which is \$22,000. The value of the dutiable amount increased from \$1 million to \$1,020,000.

Therefore, under the Determination, from 1 July 2025, the PDCS provides that duty is not payable on eligible transactions up to a property value threshold of \$1,020,000. The PDCS will also provide a partial concession for eligible transactions over \$1,020,000 with benefits capped at the duty otherwise payable on a \$1,020,000 residential owner-occupied property at \$35,238 from 1 July 2025.

The eligibility criterion has also been updated to clarify that all transferees and their domestic partners must acquire a legal and equitable interest in the eligible property that is being purchased using the concession. Earlier determinations referenced that the legal and equitable interest in the eligible property were counted as a property interest to be excluded.

New provisions exclude the property interests of a transferee's domestic partner, who is a spouse, where there has been a dissolution, annulment or irretrievable breakdown of the domestic relationship. This only applies if the transferee is not cohabitating with the spouse and there is no likelihood of cohabitation being resumed.

A section is inserted to provide for the way a transferee may apply for the PDCS, and to outline the process by which a transferee may make a late application for the PDCS. This is a technical alignment with the current administrative practices for the Home Buyer Concession Scheme.

## **Application**

The Determination applies to grants, transfers or agreements for sale or transfer of eligible property with a transaction date on or after 1 July 2025. The transaction date is the date that liability for duty arises under section 11 of the Duties Act; that is, when a transfer occurs, or if a transfer is effected by an instrument—the date the instrument is first executed.

## **Eligible properties**

The types of eligible property for the PDCS are homes and vacant land. Homes may be new (including off the plan residential units) or established.

## **Duty rates and capped benefit**

From 1 July 2025, the benefit available from the PDCS is capped at an amount equal to the amount of duty payable for property with a dutiable value of \$1,020,000. The cap amount is derived from the owner occupier base rate of duty under the applicable

disallowable instrument for duty rates—from 1 July 2025, the *Taxation Administration (Amounts Payable—Duty) Determination 2025*.

The dutiable property threshold for the DDCS increased in 2025-26 from \$1 million to \$1,020,000. The values for 2024-25 are provided for comparison.

**Table 1: Dutiable value thresholds**

<b>2024-25</b>	<b>2025-26</b>
<b>Property threshold</b>	<b>Property threshold</b>
\$1 million (with benefits capped at \$34,270)	\$1,020,000 (with benefits capped at \$35,238)

The rate of duty payable on an eligible transaction by an eligible home buyer is a nil rate for dutiable value of less than or equal to \$1,020,000.

For dutiable value over \$1,020,000, the rate of duty of \$6.40 for every \$100, or part thereof, applies to the dutiable value that is more than \$1,020,000 but not more than \$1,455,000. As this rate of duty only applies to that part of the dutiable value above \$1,020,000 the taxpayer retains the benefit of nil duty on that part of the dutiable value equal to or less than \$1,020,000.

For dutiable value over \$1,455,000, a flat rate of duty of \$4.54 for every \$100 applies to the total dutiable value consistent with conveyance duty for residential properties transfers generally. The capped PDCS benefit is then applied by subtracting an amount of duty of \$35,238 – this is equivalent to that applying to a property with a dutiable value of \$1,020,000 (at the owner occupier base rate from 1 July 2025 given the application of residency requirements).

## **Eligible transactions**

A transaction is deemed an eligible transaction if the eligibility requirements specified in the Determination are met. These eligibility requirements are:

- Pensioner requirement

The concession is only available to a person who is in receipt of an Australian age pension (Services Australia or Department of Veterans' Affairs equivalent); or a disability support pension and is 50 years of age or more; or holds a Department of Veterans' Affairs Gold Card for at least one year immediately prior to the grant, transfer, or agreement.

- Property requirements

A transaction is not an eligible transaction if, on the transaction date, all transferees and their domestic partners held an interest in land other than the former property (if applicable). The property interests of a transferee's domestic partner, who is a spouse, is excluded where there has been a

dissolution, annulment or irretrievable breakdown of the domestic relationship. This only applies if the transferee is not cohabitating with the spouse and there is no likelihood of cohabitation being resumed.

The eligibility criterion has also been updated to clarify that all transferees and their domestic partners must acquire a legal and equitable interest in the eligible property that is being purchased using the concession. Earlier determinations referenced that the legal and equitable interest in the eligible property were counted as a property interest to be excluded.

Additionally, the transferee must sell or have sold the property from which the transferee is moving within one year of (before or after) the date the instrument effecting the transaction is registered with the registrar-general on the land titles register under the *Land Titles Act 1925*. There may be exceptions to this, as set out below.

Ownership of the eligible property being purchased must be in the same name or names as the property being sold. Exceptions apply if a court order, financial agreement, or domestic relationship agreement required the other property to be relinquished. However, these orders or agreements must be made before the transaction date. Exceptions also apply if the other property is subject to a will.

The Determination allows the Commissioner to consider a request in writing from a potential or current transferee to exempt the eligible transaction from compliance with the requirement about ownership in the same names, or the requirement to sell the former property within one year. The Commissioner can grant an exemption if anomalous or unusual circumstances exist.

- Residence requirements

At least one of the transferees of the eligible property must occupy the property as their principal place of residence continuously for a period of at least one year. That period must commence within one year of completion of the transfer for a home, or the date that the certificate of occupancy that is issued following completion of construction of a home for vacant land. Some exemptions apply to the residence requirements, as set out below.

The domestic partner of a transferee can only fulfil the residence requirements if they are a transferee themselves; that is, they are named in the grant, transfer or agreement and they hold a relevant interest in the property.

A principal place of residence is defined as the home a person primarily occupies, on an ongoing and permanent basis, as their settled or usual home. However, when the occupation is transient, temporary or of a passing nature, this is not sufficient to establish occupation as a principal place of residence.

The Determination also gives the Commissioner the discretion to extend the time for a transferee to meet the residence requirements, to approve a residence period shorter than one year, or to exempt the transferee from the

residence requirements, in the event of unforeseen circumstances (such as, health-related issues).

The Commissioner can exercise discretion in relation to residence requirements only where a written request to exercise them is made within 18 months of completion of the transfer for a home, or the date that the certificate of occupancy is issued following completion of the construction of a home for vacant land.

- Previous concessions

A transferee cannot have previously received the Over 60s Home Bonus (which ended on 31 December 2016) or the PDCS.

## **Failure to comply with requirements**

If a transaction ceases to be an eligible transaction—for example, because a person failed to comply with an eligibility requirement—the Determination requires written notice of that fact to be provided to the Commissioner. The notice should advise about the failure to meet the requirement. Notice must be given within 14 days after the end of the period allowed for compliance with the requirement or the date the transferee first becomes aware that the requirement will not be complied with (whichever comes first).

If the transaction ceases to be an eligible transaction, subject to the dutiable value of the eligible property, it will become liable for duty or additional duty as at the transaction date. In other words, the transferee will become liable to pay the Territory the amount of duty that would have been payable on the eligible transaction if the transaction had not been eligible for the PDCS.

If the transferee ceases to be eligible for PDCS the transferee will be liable for duty at the non-concessional rate. A transferee is liable for duty from the transaction date. A requirement to pay the duty arises from 14 days after the transfer is registered with the registrar-general under section 16 (1) ‘Table 16 Items 1 and 3’ of the Act. A tax default arises if the tax is not paid within 14 days and penalty tax applies under sections 31 (1), (2) or (4) of the TA Act, unless the Commissioner is satisfied that section 31 (5) applies, such as taking reasonable care to comply with a tax law. Interest also applies to a tax default and is calculated daily under section 25 (1) of the TA Act. Interest therefore is imposed from the 15<sup>th</sup> day after the transfer is registered with the registrar-general until the purchaser pays the unpaid tax. The unpaid tax can include penalty tax if a purchaser failed to meet the criteria for an ‘eligible transaction’ under section 4 of the Determination and by definition includes the residence period requirements.

If a transferee gives notice to the Commissioner within 14 days of either the end any period for compliance with a requirement (such as residency periods) or the date the transferee first becomes aware the transaction is not eligible, the Commissioner may remit penalty tax and interest associated with the tax default.

The TA Act also provides a range of offences which may apply, such as for the avoidance of tax and failing to notify the Commissioner.

## **Application for the PDCS**

An application under the PDCS may be made at the time the transferee lodges the transfer of the property with the registrar-general of Land Titles. In practice, a transferee would usually declare their eligibility and claim the PDCS concession code on the transfer instrument at the time of lodgement.

If an application is not made within this timeframe, the transferee may apply to the Commissioner for an extension of time to submit a late application. In applying to the Commissioner, the transferee must specify the grounds on which an extension is sought and must submit the application for an extension of time within 12 months of the lodgement of the transfer of the eligible property.

The Commissioner may extend the time if satisfied that the applicant was not able to apply for the duty concession at the time of lodgement due to an unforeseen circumstance (such as, serious illness affecting the applicant).

## **Revocation**

Section 8 of the Determination revokes DI2024-177.