

**HOME BUYER DETERMINATION**  
**AUSTRALIAN CAPITAL TERRITORY**  
**TAXATION ADMINISTRATION ACT 1999**  
**INSTRUMENT NO. 44 OF 1999**  
**EXPLANATORY STATEMENT**

The *Taxation Administration Act 1999* deals with 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 Act. Section 139 empowers the Minister to determine these taxes, duties and fees.

2. One of the specified tax laws is the *Duties Act 1999* (the Act), Chapter 2 of which deals with the grant and transfers of land which are subject to stamp duty.
3. This determination replaces Determination No 34 of 1997 which was notified in ACT Special Gazette No S30 of 31 January 1997, made under the repealed *Taxation (Administration) Act 1987*. That determination will continue to apply in respect of transfers of interests in land which took place prior to 1 March 1999.
4. The new determination sets the amount of stamp duty payable and the eligibility criteria for home buyers and their spouses for stamp duty concessions in respect of grants and transfers of land from 1 March 1999. These include income, property value and property ownership and residency criteria. The rates and property values set by the earlier instrument for eligible properties are not amended by this determination, however a new formula has been introduced for calculating the stamp duty payable where less than a full interest in property is being acquired.
5. The determination clarifies the Government's policy in regard to the intended beneficiaries of the concession and removes ambiguities which existed in the former determination.
6. With the demise of the ACT Housing Trust's KickStart Housing Assistance Program at the end of 1998, specific eligibility tests for KickStart recipients have been removed. This will not preclude eligible KickStart recipients from receiving a concession, as their applications will be assessed against the criteria under the determination which applied at the date of the grant, transfer or agreement for transfer of the eligible property.
7. Other important new features of the determination include:
  - a) more comprehensive definitions of "income" to assist prospective applicants to decide their eligibility and to close off avenues which previously allowed

comparatively affluent applicants to organise their affairs so that they qualified for the concession;

- b) tighter residential requirements which ensure that the property is being purchased as a principal place of residence for at least one of the purchasers;
- c) a new formula for calculating the stamp duty payable where less than a full interest in property is being acquired so that the stamp duty payable is proportional to the interest being purchased - previous wording allowed a buyer to qualify for the minimum \$20 stamp duty each time a part interest in the subject property was purchased;
- d) a definition of “dutable value” in respect of an interest in land that is consistent with the provisions contained in the *Duties Act 1999*; and
- e) an additional criterion to ensure that the concession is available only to natural persons who are acquiring the property for personal occupation and not as trustees for other persons.

Circulated by the authority of the Chief Minister.