



AUSTRALIAN CAPITAL TERRITORY  
TAXATION (ADMINISTRATION) ACT 1987  
DETERMINATION

UNDER section 99 of the Taxation (Administration) Act 1987 I DETERMINE that notwithstanding the determination dated 21 September 1987 and published in the Commonwealth Gazette on that day, Gazette No S244, the determined amount of stamp duty that is payable by a first home owner for the purposes of

- (a) section 17(a) of the Act for a transfer, or an agreement for a transfer, of an estate in fee simple, and
- (b) section 17(b) of the Act for a Crown Lease, a transfer or an agreement for a transfer of a Crown Lease

where the value of the interest in land granted transferred or agreed to be transferred does not exceed \$109,000 is \$12.26 for each \$100.00, or part thereof, by which that value exceeds \$90,000.

In this determination "first home owner" means a person who:

- (a) provides the Commissioner for Australian Capital Territory Revenue Collections with a copy of advice from the Commonwealth Department of Community Services and Health to that person that the person has received, or is eligible to receive, assistance from the Commonwealth under the First Home Owners Act 1983 of the Commonwealth;
- (b) intends to reside on the land; and
- (c) has never, either alone or jointly with another person or persons, held a legal or equitable interest in land on which a dwelling stood.

Where a person who is the grantee, intending transferee or transferee of an interest in land jointly with another person or persons and that other person, or any one of those persons, is not a first home owner then the first mentioned person is not a first home owner.

This determination applies to:

- (a) a grant where the right to the grant arose on or after 26 September 1989;
- (b) a transfer, or if the transfer is preceded by an agreement to transfer - that agreement, executed or entered into on or after 26 September 1989; and
- (c) an agreement for a transfer entered into on or after 26 September 1989.

DATE:

26/9/89



Rosemary Follett

Treasurer

AUSTRALIAN CAPITAL TERRITORY

TAXATION (ADMINISTRATION) ACT 1987

DETERMINATION UNDER SUBSECTION 99(1)

I, ROSEMARY FOLLETT, the Treasurer, pursuant to subsection 99(1) of the *Taxation (Administration) Act 1987*, hereby -

- (a) revoke the determination made under that subsection by the Commonwealth Minister of State for the Arts, Sport, the Environment, Tourism and Territories on 29 July 1987 and published in the *Commonwealth of Australia Gazette* on 31 July 1987;
- (b) revoke the determination made under that subsection by the Commonwealth Minister of State for the Arts and Territories on 4 May 1989 and published in the *Commonwealth of Australia Gazette* on 5 May 1989; and
- (c) make the following determination:

**Interpretation**

1. In this determination:

"land" means land held in fee simple, under a Crown lease or under a lease other than a Crown lease;

"listed marketable security" means a marketable security that is listed for quotation in the official list of an Australian stock exchange or a prescribed stock exchange;

"market value", in relation to land, means the market value of the land free of any mortgage, charge or other financial encumbrance;

"prescribed stock exchange" means a stock exchange prescribed for the purposes of section 38 of the Act;

"private unit trust scheme" means a unit trust scheme -

- (a) none of the units of which are listed for quotation in the official list of an Australian stock exchange or a prescribed stock exchange; and

- (b) that is not an unlisted public unit trust scheme;

"the Act" means the *Stamp Duties and Taxes Act 1987*;

"unlisted marketable security" means a marketable security that is not listed for quotation in the official list of an Australian stock exchange or a prescribed stock exchange;

"unlisted public unit" means a unit of an unlisted public unit trust scheme;

"unlisted public unit trust scheme" means a unit trust scheme -

- (a) that is the subject of a deed approved under Division 6 of Part IV of the *Companies Act 1981* of the Commonwealth;
- (b) any of the units of which have been offered to the public;
- (c) in respect of which no fewer than 50 persons hold units; and
- (d) none of the units of which are listed for quotation in the official list of an

Australian stock exchange or a prescribed  
stock exchange;

"unlisted shares" means shares in the capital of a company  
that are not listed for quotation in the official list  
of an Australian stock exchange or a prescribed stock  
exchange.

2. In this determination, unless the contrary intention  
appears, a word or phrase defined for the purposes of the Act  
has the same meaning as in the Act.

**Sale and purchase of listed marketable securities**

3. The determined amount of tax for the purposes of  
subsection 38(1) of the Act is -

- (a) if the value of the marketable security is less than  
\$100.00, an amount equal to 7 cents for each \$25.00 or  
part of \$25.00 of the value of the marketable  
security; or
- (b) in any other case, an amount equal to 30 cents for  
each \$100.00 or part of \$100.00 of the value of the  
marketable security.

**Transfer of listed marketable securities, and unlisted public  
units, registered in the Territory**

4. For the purposes of section 44 of the Act, the  
determined amount of stamp duty payable on a transfer to which  
the section applies of -

- (a) a listed marketable security; or

- (b) a marketable security that consists of an unlisted public unit;

is 15 cents for each \$25.00 or part of \$25.00 of the unencumbered value of the marketable security.

**Transfer of certain unlisted marketable securities registered in the Territory**

5. For the purposes of section 44 of the Act, the determined amount of stamp duty payable on a transfer to which the section applies of an unlisted marketable security (not being a marketable security consisting of an unlisted public unit) is the aggregate of -

- (a) the amount of stamp duty that would be payable under section 17 of the Act on a transfer at market value and by a document to which that section applies of any land that is to be deemed to have been transferred for the purposes of this paragraph; and
- (b) an amount calculated at the rate of 15 cents for each \$25.00 or part of \$25.00 of the amount remaining after deduction from the unencumbered value of the marketable security of the market value of any land that is for the purposes of this paragraph to be deemed to have been transferred.

**Transfer of listed marketable securities, and unlisted public units, registered outside the Territory**

6. For the purposes of section 50 of the Act, the determined amount of tax payable on the registration of a transfer to which the section applies of -

- (a) a listed marketable security; or

- (b) a marketable security that consists of an unlisted public unit;

is 15 cents for each \$25.00 or part of \$25.00 of the unencumbered value of the marketable security.

**Transfer of certain unlisted marketable securities registered outside the Territory**

7. For the purposes of section 50 of the Act, the determined amount of tax payable on the registration of a transfer to which the section applies of an unlisted marketable security (not being a marketable security consisting of an unlisted public unit) is the aggregate of -

- (a) the amount of stamp duty that would be payable under section 17 of the Act on a transfer at market value and by a document to which that section applies of any land that is to be deemed to have been transferred for the purposes of this paragraph; and
- (b) an amount calculated at the rate of 15 cents for each \$25.00 or part of \$25.00 of the amount remaining after deduction from the unencumbered value of the marketable security of the market value of any land that is for the purposes of this paragraph to be deemed to have been transferred.

**Deemed transfers of land on dealings with unlisted shares**

8. For the purposes of paragraphs 5 and 7, where the marketable security transferred consists of unlisted shares in the capital of a company that holds land situated in the Territory, or is to be deemed to hold land situated in the Territory, the transfer of those shares shall be deemed to have involved the transfer of a proportion of the land that is held, or to be deemed to be held, by the company in the Territory the value of which bears the same proportion to the total value of the land that is held, or to be deemed to be held, by the company in the Territory as the amount of the paid up capital of the company that has been paid up in respect of the shares transferred bears to the total paid up capital of the company.

**Deemed transfers of land on dealings with unlisted units**

9. For the purposes of paragraphs 5 and 7, where the marketable security transferred consists of units in a private unit trust scheme in respect of which land in the Territory is held, or is to be deemed to be held, the transfer of those units shall be deemed to have involved the transfer of a proportion of the land in the Territory that is held, or to be deemed to be held, in respect of the unit trust scheme the value of which bears the same proportion to the total value of the land in the Territory that is held, or to be deemed to be held, in respect of the unit trust scheme as the value of the units transferred bears to the total value of the units of the unit trust scheme.



**Deemed holdings of land**

10. For the purposes of paragraphs 8 and 9 -
  - (a) where a company (in this subparagraph referred to as the "investing company") holds unlisted shares in another company (in this subparagraph referred to as the "land-holding company") that holds, or is by virtue of this paragraph to be deemed to hold, land that is situated in the Territory, the investing company shall be deemed to hold a proportion of the land situated in the Territory that is held, or to be deemed to be held, by the land-holding company the value of which bears the same proportion to the total value of the land situated in the Territory that is held, or to be deemed to be held, by the land-holding company as the amount of the paid up capital of the land-holding company that has been paid up in respect of those shares bears to the total paid up capital of that company;
  - (b) where a company holds units in a private unit trust scheme in respect of which land situated in the Territory is held, or is by virtue of this paragraph to be deemed to be held, the company shall be deemed to hold a proportion of the land situated in the Territory that is held, or to be deemed to be held, in respect of the unit trust scheme the value of which bears the same proportion to the total value of the land situated in the Territory that is held, or to be deemed to be held, in respect of the unit trust scheme as the value of the units held by the company in the

unit trust scheme bears to the total value of the units of the unit trust scheme;

- (c) where unlisted shares in a company are held in respect of a private unit trust scheme and the company holds, or is by virtue of this paragraph, to be deemed to hold, land that is situated in the Territory, there shall be deemed to be held in respect of the unit trust scheme a proportion of the land situated in the Territory that is held, or to be deemed to be held, by the company the value of which bears the same proportion to the total value of the land situated in the Territory that is held, or to be deemed to be held, by the company as the amount of the paid up capital of the company that has been paid up in respect of those shares bears to the total paid up capital of the company;
- (d) where units in a private unit trust scheme (in this subparagraph referred to as the "land-holding unit trust scheme") are held in respect of another private unit trust scheme (in this subparagraph referred to as the "investing unit trust scheme") and the land-holding unit trust scheme holds, or is by virtue of this paragraph to be deemed to hold, land situated in the Territory, there shall be deemed to be held in respect of the investing unit trust scheme a proportion of the land situated in the Territory that is held, or to be deemed to be held, by the land-holding unit trust scheme the value of which bears the same proportion of the total value of the land

situated in the Territory that is held, or to be deemed to be held, in respect of the land-holding unit trust scheme as the value of the units held in respect of the investing unit trust scheme in the land-holding unit trust scheme bears to the total value of the units of the land-holding unit trust scheme; and

(e) there is no limit to the number of companies or private unit trust schemes through unlisted shares or units of which the deemed holding of land situated in the Territory by a company, or on behalf of a private unit trust scheme, may be traced.

Dated 26/9/89

1989



Treasurer