



Australian Capital Territory
Gazette

SPECIAL GAZETTE

No. S224, Monday 1 November 1993

AUSTRALIAN CAPITAL TERRITORY

TAXATION (ADMINISTRATION) ACT 1987

DETERMINATION NO. 147 OF 1993

I, Wayne Bruce Berry, Acting Chief Minister and Treasurer, pursuant to subsection 99(1) of the *Taxation (administration) Act 1987* hereby -

- (a) revoke Determination No.124 of 1993 published in Gazette No. S188, dated 14 September 1993; and
- (b) make the following determination:

Commencement

This determination applies to:

- (a) a grant where the right to the grant arose on or after the date of the gazettal of this determination;
- (b) a transfer, or if the transfer is preceded by an agreement to transfer - that agreement, executed or entered into on or after the date of gazettal of this determination;
- (c) an agreement for a transfer entered into on or after the date of gazettal of this determination.

Determined Amount

2. The determined amount of stamp duty that is payable by an eligible home buyer for the purposes of:

- (a) section 17(1)(a) of the Stamp Duties and Taxes Act 1987 for a transfer, or an agreement for a transfer of an estate in fee simple; and
- (b) section 17(1)(b) of the Stamp Duties and Taxes Act 1987 for a Crown Lease, a transfer or an agreement for a transfer of a Crown Lease;

where, the higher of the purchase price or the value of the interest in the land granted, transferred or agreed to be transferred does not exceed \$116,000.00, stamp duty payable shall be \$20-00, and, where that purchase price or value exceeds \$116,000.00 but does not exceed \$140,000.00, shall be the greater of, \$20-00 or \$14.23 for each \$100.00 or part thereof by which that purchase price or value exceeds \$116,000.00.

Eligible Homebuyer

3. In this determination an eligible 'home buyer' means a person who:

- (a) provides the Commissioner for Australian Capital Territory Revenue with a copy of an advice from the Commissioner for Housing to the person indicating that the person's income for a period of time specified by the Commissioner for Housing is less than the income limit set under the "homebuyer" scheme made pursuant to section 12 of the Housing Assistance Act 1987;
- (b) intends to reside on the land;
- (c) does not, either alone or jointly with another person or persons, hold a legal or an equitable interest in land; and
- (d) has not held a legal or an equitable interest in land in the two years preceding the date of execution of an agreement for sale or an instrument of transfer if there is no agreement for sale, *except* where a person is required to relinquish an interest in land by an order of a court as a consequence of the termination of a relationship between spouses.

Spouse

4. In this Determination 'spouse', in relation to a person, includes a person who lives with the first-mentioned person -

- (a) as his or her spouse, although not legally married to him or her; or
- (b) in a homosexual relationship;

on a *bona fide* domestic basis, and has so lived for a continuous period of not less than 2 years.

DATE

29 October 1993



Wayne Bruce Berry
Acting Chief Minister and Treasurer

AUSTRALIAN CAPITAL TERRITORY
TAXATION (ADMINISTRATION) ACT 1987
STAMP DUTIES (MARKETABLE SECURITIES)

DETERMINATION NO. 148 OF 1993

I, WAYNE BRUCE BERRY, Acting Chief Minister and Treasurer, pursuant to subsection 99(1) of the *Taxation (Administration) Act 1987*, hereby -

- (a) revoke Determination, No. 67 of 1993, made under that subsection by the Minister for Finance, Craig John Duby, on 28 September 1990, and published in Gazette No. S71 on 28 September 1990; and
- (b) 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 5, Part 7.12, Chapter 7 of the Corporations Law 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.

"value" in relation to marketable securities, means

- (i) the consideration paid or payable for the marketable security; or
- (ii) the unencumbered value of the marketable security - whichever is the greater.

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 value of the marketable security or \$20-00, whichever is the greater.

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 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 or \$20-00, whichever is the greater.

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
- (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 value of the marketable security or \$20-00, whichever is the greater.

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 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 or \$20-00, whichever is the greater.

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 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.

Date: 29 October 1993



Wayne Bruce Berry
Acting Chief Minister and Treasurer

AUSTRALIAN CAPITAL TERRITORY

TAXATION (ADMINISTRATION) ACT 1987

STAMP DUTY (INTERESTS IN LAND) DETERMINATION

DETERMINATION NO. 149 OF 1993

I, WAYNE BRUCE BERRY, Acting Chief Minister and Treasurer pursuant to subsection 99(1) of the Taxation (Administration) Act 1987, hereby -

- (a) revoke Determination No.123 of 1993 published in Gazette No. S188, dated 14 September 1993; and
- (b) make the following determination:

Commencement

1. Transactions affected by this determination are those which are executed or entered into after the day of gazettal of this determination.

Interpretation

2. In this Determination:

"Crown lease" means a lease of land granted by or in the name of the Commonwealth;
"lease" means a lease of land other than a Crown lease;
"residential lease" means a lease for residential purposes only;
"Schedule" means a Schedule to this Determination; and
"the Act" means the Stamp Duties and Taxes Act 1987.

Use of Schedule

3. A reference in this Determination to an amount set out in the Schedule means an amount calculated by applying the formula appearing in Column 2 of the Schedule, opposite and in relation to the appropriate range of value of interest specified in Column 1 of the Schedule, to the value of the interest granted, transferred or agreed to be transferred, in respect of:

- (a) a transfer, or an agreement for a transfer, of an estate in fee simple;
- (b) a Crown lease, a transfer of a Crown lease or an agreement for a transfer of a Crown lease; or
- (c) a transfer or an assignment of a lease, an agreement for a transfer or an assignment of a lease

as the case may be.

Value of interest in respect of a Crown lease

4. In this Determination, the value of the interest granted or transferred by a Crown lease, a transfer of a Crown lease or an agreement for a transfer of a Crown lease, as the case may be, is the greater of the consideration given or agreed to be given or the capital sum that might be expected to have been offered for the Crown lease subject to the terms and conditions upon which it is held, it being deemed that:

- (a) the rent payable under the Crown lease is a nominal rent; and
- (b) the lessee is not obliged by any provision of the Crown lease to carry out or cause to be carried out capital works whether on land, the subject of the Crown lease, or elsewhere.

Value of interest in respect of a lease (other than a Crown lease)

5. In this Determination, the value of the interest on the transfer or assignment of a lease or an agreement for a transfer or assignment of a lease, as the case may be, is the greater of the consideration given or agreed to be given or the capital sum that might be expected to have been offered for the lease subject to the terms and conditions upon which it is held.

Conveyance of fee simple

6. The determined amount of stamp duty for the purposes of section 17(1)(a) of the Act for a transfer, or an agreement for the transfer, of an estate in fee simple is the amount set out in the Schedule.

Crown lease or transfer of Crown lease

7. The determined amount of stamp duty for the purposes of section 17(1)(b) of the Act for a Crown lease, a transfer of a Crown lease or an agreement for a transfer of a Crown lease, is the amount set out in the Schedule.

Lease or transfer of lease (other than Crown lease)

8. Subject to paragraph 9 the determined amount of stamp duty for the purposes of section 17(1)(c) of the Act is, the greater of, \$20.00 or an amount calculated by multiplying the sum of 50 cents by the number of amount of \$100.00 (including a single remaining part of \$100.00) included in the amount of the value of the interest for the lease.

9. The determined amount of stamp duty for the purposes of section 17(1)(c) of the Act is the amount set out in the schedule, where:

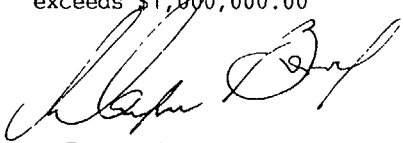
- (i) the term of the lease is more than fifteen years; or
- (ii) the term of the lease is fifteen years or less, but the aggregate term of the lease, by operation of renewal options, extends to more than fifteen years in succession.

10. The determined amount of stamp duty for the purposes of section 17(1)(d) of the Act for a transfer or an assignment of a lease, or an agreement for a transfer or an assignment of a lease, is the amount set out in the Schedule.

SCHEDULE

<i>Column 1</i> <i>Value of interest</i>	<i>Column 2</i> <i>Stamp duty Amount</i>
up to and including \$14,000.00	\$1.25 per \$100.00 or part of \$100.00 of the value of the interest or \$20.00, whichever is the greater
exceeding \$14,000.00 but not exceeding \$30,000.00	\$175.00 plus \$1.50 per \$100.00 or part of \$100.00 by which the value of the interest exceeds \$14,000.00
exceeding \$30,000.00 but not exceeding \$60,000.00	\$415.00 plus \$2.00 per \$100.00 or part of \$100.00 by which the value of the interest exceeds \$30,000.00
exceeding \$60,000.00 but not exceeding \$100,000.00	\$1,015.00 plus \$2.50 per \$100.00 or part of \$100.00 by which the value of the interest exceeds \$60,000.00
exceeding \$100,000.00 but not exceeding \$300,000.00	\$2,015.00 plus \$3.50 per \$100.00 or part of \$100.00 by which the value of the interest exceeds \$100,000.00
exceeding \$300,000.00 but not exceeding \$1,000,000.00	\$9,015.00 plus \$4.50 per \$100.00 or part of \$100.00 by which the value of the interest exceeds \$300,000.00
exceeding \$1,000,000.00	\$40,515.00 plus \$5.50 per \$100.00 or part of \$100.00 by which the value of the interest exceeds \$1,000,000.00

Date: 29 October


Wayne Bruce Berry
Acting Chief Minister and Treasurer