

AUSTRALIAN CAPITAL TERRITORY
TAXATION (ADMINISTRATION) ACT 1987

DETERMINATION NO. 161 OF 1994

Under section 99 of the Taxation (Administration) Act 1987, I revoke Determination No 4 of 1990 published in ACT Gazette No S33 of 25 June 1990, and Determination No 89 of 1991 published in ACT Gazette No. S111 of 1 October 1991 and make the following determination:

Interpretation

1 In this determination:

“ACT assets” means all assets, including work in progress and stock in trade that relate to the conduct of the business in the Australian Capital Territory;

“ACT liabilities” means liabilities that relate to the conduct of the business in the Australian Capital Territory;

“land” means land in the ACT held in fee simple, under a Crown Lease or under a lease other than a Crown Lease;

“market value” means the market value of the asset free of any mortgage, charge or other financial encumbrance,

“net ACT assets” means the difference between the unencumbered value of ACT assets and ACT liabilities, less the unencumbered value of those assets referred to in sub-paragraphs (a), (b), and (c) of paragraph 4; and

“residual consideration” means the amount of consideration attributable to the acquisition of the business conducted in the ACT less the unencumbered value of those assets referred to in sub-paragraphs (a), (b), and (c) of paragraph 4.

“The Act” means the Stamp Duties and Taxes Act 1987; and

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.

3 In this determination, unless the contrary intention appears, a reference to an asset or assets includes a reference to a part of an asset or assets

Acquisition of business

4 For the purposes of section 56A of the Act, the determined amount of tax payable shall be the aggregate of:

- (a) where the ACT assets acquired include an interest in land, the amount of stamp duty that would be payable under section 17 of the Act on a transfer at market value,
- (b) where the ACT assets acquired include vehicles, the amount of stamp duty that would be payable under section 57 of the Act on a transfer at market value,
- (c) where the ACT assets include marketable securities, the amount of stamp duty that would be payable under section 38 or section 44 on a transfer at market value, and
- (d) the amount of 60 cents for each \$100-00 or part of \$100-00 on the residual consideration, or of the net ACT assets acquired, whichever is the higher

Valuation of ACT liabilities when the business is conducted inside and outside the Territory

5. Where the business acquired is conducted from locations within the ACT and also within a State or the Northern Territory, the maximum value of the ACT liabilities which may be included in a return is the amount calculated in accordance with the following formula

$$\frac{A}{B} \times C$$

where-

- A is the unencumbered value of the ACT assets acquired
- B is the unencumbered value of the total liabilities acquired
- C is the value of the total liabilities acquired

Date · 12 December 1994



Rosemary Follett
Chief Minister and Treasurer