

Australian Capital Territory

Taxation Administration (Amounts payable – Home Buyer Concession Scheme) Determination 2003 (No 1)

Disallowable instrument DI2003—169

made under the

**Taxation Administration Act 1999, s139 (Determination of amounts payable
under tax laws)**

1. I revoke Instrument No 189 of 2000 notified in the Australian Capital Territory Gazette No 25 of 22 June 2000 and make the following determination on and from 1 July 2003:

COMMENCEMENT

2. This determination applies to:
- a) a grant of a Crown lease, where granted on or after 1 July 2003; and
 - b) a transfer, or if the transfer is preceded by an agreement for transfer - that agreement - first executed or entered into on or after 1 July 2003.

DEFINITIONS

3. In this determination:
“the Act” means the *Duties Act 1999*.

“current income” means the **total income** earned during the week immediately preceding the date of the grant, transfer or agreement for transfer multiplied by 52, and includes any income which would have been earned had the person not been on **leave** from his or her normal employment.

“dependent child” has the same meaning as in the *Social Security Act 1991* (Cth).

a reference to a “domestic partner” is a reference to someone who lives with the person in a domestic partnership, and includes a reference to a spouse of the person.

“domestic partnership” is the relationship between 2 people, whether of a different or the same sex, living together as a couple on a genuine domestic basis. Section 169 of the *Legislation Act 2001* gives examples of indicators of a domestic partnership.

“dutiabale value” has the same meaning as in section 20 of **the Act**.

“eligible property” means an estate in fee simple or a Crown lease with a dwelling upon it and having a dutiabale value equal to or less than \$249,000 other than an **eligible vacant block**.

“eligible vacant block” means an estate in fee simple or a Crown lease without a dwelling upon it and having a dutiabale value equal to or less than \$93,000.

“leave” includes maternity leave, leave without pay, leave on half pay and leave while receiving workers’ compensation payments.

“relevant income threshold” means the income threshold amount with reference to the number of dependent children the applicants and domestic partner/s have as specified in the table below:

<u>Number of dependent children</u>	<u>Income threshold</u>
0	\$50,000
1	\$53,303
2	\$56,606
3	\$59,909
4	\$63,212
5 or more	\$66,515

“total income” means the total income earned from all sources and includes benefits from a salary packaging arrangement and income classified as “exempt income” under the *Income Tax Assessment Act 1997*.

ELIGIBLE HOME BUYER

4. “Eligible home buyer” means a person who provides written evidence to the Commissioner for Australian Capital Territory Revenue regarding all persons named in the grant, transfer or agreement for transfer of the **eligible property** or **eligible vacant block** as the grantee or transferee that:
- i) on the date of the grant, transfer or agreement for transfer, they together and their **domestic partners** had
 - a combined **current income** less than or equal to the **relevant income threshold**; and
 - a combined **total income** over the previous month less than or equal to one twelfth of the **relevant income threshold**; and
 - a combined **total income** over the previous 12 months less than or equal to the **relevant income threshold**;and
 - ii) at least one of the persons named in the grant, transfer or agreement for transfer of the subject property as the grantee or transferee intends to occupy the subject property as their principal place of residence continuously for a period of not less than 12 months; and
 - iii) they together and their **domestic partners** do not, either alone or jointly with another person or persons, hold a legal or equitable interest in land other than the subject property; and
 - iv) they together and their **domestic partners** have not, either alone or jointly with another person or persons, held a legal or equitable interest in land other than the subject property in the 2 years preceding the date of the grant, transfer or agreement for transfer, except where a person is required to relinquish an interest in land by:
 - an order of a court; or

- a financial agreement made under the *Family Law Act 1975* (Cth), section 90B, 90C or 90D that is binding on the parties under that Act; or
 - by a domestic relationship agreement or a termination agreement under the *Domestic Relationships Act 1994* as a consequence of a termination of a relationship between **domestic partners**; and
- v) under the transfer or grant they together are acquiring both the legal and beneficial interest in the property; and
- vi) on the date of the grant, transfer or agreement for transfer they had attained the age of 18 years.

DETERMINED AMOUNT

5. The determined amount of duty that is payable on the purchase of an **eligible property** or **eligible vacant block** or an undivided share of either by an **eligible home buyer** for the purpose of section 31 of **the Act** shall be:

For an eligible property:

- a) \$20 where the **dutiable value** of the **eligible property** does not exceed \$180,000; or
- b) the greater of:
- \$20; or
 - \$10.81 for each \$100 or part thereof by which the **dutiable value** of the **eligible property** exceeds \$180,000.

For an eligible vacant block:

- a) \$20 where the **dutiable value** of the **eligible vacant block** does not exceed \$80,000; or

b) the greater of:

- \$20; or
- \$14.30 for each \$100 or part thereof by which the **dutiable value** of the **eligible vacant block** exceeds \$80,000.

For one or more than one undivided share in the **eligible property** or **eligible vacant block** - the greater of \$20 or the duty calculated using the following formula:

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

where:

- A = the number of undivided shares in the **eligible property** or **eligible vacant block** granted, transferred or agreed to be transferred to all persons named in the grant, transfer or agreement for transfer of the **eligible property** or **eligible vacant block** as the grantee or transferee.
- B = the total number of undivided shares in the **eligible property** or **eligible vacant block**.
- C = the duty payable upon a grant, transfer or agreement for transfer of the whole of the **eligible property** or **eligible vacant block**.

Ted Quinlan MLA
Treasurer
27 June 2003