

Taxation Administration (Eligible Impacted Properties—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2015 (No 1)*

Disallowable instrument DI2015–307

made under the

Taxation Administration Act 1999, section 139 (Determination of amounts payable under tax laws)

1 Name of instrument

This instrument is the *Taxation Administration (Eligible Impacted Properties—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2015 (No 1)*.

2 Commencement

This instrument commences on the commencement of the *Building (Loose-fill Asbestos Eradication) Legislation Amendment Act 2015*, section 34.

3 Interpretation

In this instrument:

applicable transaction means a transaction mentioned in clause 4.

applicant means an eligible applicant or a prospective eligible applicant.

buyback concession amount means an amount equal to the duty that would have been payable on the transfer of the impacted lease or impacted unit if—

- a. the transfer was a dutiable transaction; and
- b. the dutiable value—
 - i. for an impacted lease—was equal to the surrender sum; and
 - ii. for an impacted unit—was equal to the contract price; and
- c. the transfer occurred on the policy date.

Commissioner means the Commissioner for ACT Revenue.

contract price means the price agreed to be paid by the Territory in a contract of sale for an impacted unit.

*Name amended under Legislation Act, s 60

Crown lease—see the *Land Titles Act 1925*, dictionary.

determined amount—see the *Taxation Administration Act 1999*, section 139.

eligible applicant means a person who has acquired an impacted lease or an impacted unit before the policy date and has, under the eligible impacted property buyback program—

- a. for an impacted lease—surrendered the lease to the Territory; or
- b. for an impacted unit—sold the unit to the Territory.

eligible impacted property—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

eligible impacted property buyback program—see the *Civil Law (Sale of Residential Property) Act 2003*, section 9A (1).

Home Buyer Concession means the duty concession scheme established in the *Taxation Administration (Amounts Payable - Home Buyer Concession Scheme) Determination 2015 (No 2)* (as amended from time to time).

impacted lease means a Crown lease on which an eligible impacted property is, or has been, located.

impacted unit means a unit on which an eligible impacted property is, or has been, located.

loose-fill asbestos insulation—see the *Dangerous Substances Act 2004*, section 47M.

‘off the plan’ purchase agreement—see the *Duties Act 1999*, section 16A (4).

notional duty means the duty that would be payable on an applicable transaction were it not for this instrument.

Over 60s Home Bonus means the duty concession scheme established in the *Taxation Administration (Amounts Payable—Over 60s Home Bonus Scheme) Determination 2015 (No 3)* (as amended from time to time).

Pensioner Duty Concession—is the duty concession scheme established in the *Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2015 (No 3)* (as amended from time to time).

policy date means the day the document outlining the eligible impacted property buyback program is first published on the website of the agency with portfolio responsibility for the program.

prospective eligible applicant means a person who has acquired an impacted lease or an impacted unit before the policy date and has executed, but not completed—

- a. for an impacted lease—a deed of surrender to the Territory under the eligible impacted property buyback program; or
- b. for an impacted unit—a contract of sale to the Territory under the eligible impacted property buyback program.

subject property means the property that is the subject of the applicable transaction for which a buyback concession amount is sought.

surrender sum means the amount paid for an impacted lease surrendered to the Territory under the eligible impacted property buyback program.

unit—see the *Unit Titles Act 2001*, section 9.

4 **Applicable transactions**

This instrument applies to the following transactions:

- (1) a Crown lease that is granted on or after the policy date;
- (2) the transfer of a Crown lease first executed on or after the policy date;
- (3) an agreement for the transfer of a Crown lease, if—
 - a. the agreement precedes the transfer of the Crown lease; and
 - b. the agreement is completed after the policy date.

5 **Buyback concession amount**

- (1) On application by an applicant, the Commissioner may approve a buyback concession amount for an applicable transaction.
- (2) The Commissioner must withdraw their approval of a buyback concession amount for a prospective eligible applicant, if—
 - a. the relevant impacted lease is not surrendered to the Territory; or
 - b. the relevant impacted unit is not sold to the Territory.
- (3) If the Commissioner withdraws their approval of a buyback concession amount, they must reassess the applicable transaction for duty.

6 **Determined amount**

The determined amount of duty that is payable by an applicant on an applicable transaction that is a dutiable transaction is—

- (1) if the notional duty on the applicable transaction is less than or equal to the buyback concession amount—\$0; or
- (2) if the notional duty on the applicable transaction is more than the buyback concession amount—the difference between the buyback concession amount and the notional duty.

7 **Other criteria**

- (1) Ownership of the subject property must be in the same name or names as the impacted lease or impacted unit.
- (2) However, a subject property need not be acquired in all of the same names as the impacted lease or impacted unit if the applicant—
 - a. is a joint tenant or tenant in common of the impacted lease or impacted unit; and
 - b. satisfies the Commissioner that the applicant has the consent of the other joint tenants or tenants in common of the impacted lease or impacted unit.

- (3) Applicants may only apply for one buyback concession amount in relation to each impacted lease or impacted unit.
- (4) An applicant cannot apply for or receive a buyback concession amount for the applicable transaction if the applicant has already applied for or received a concession for the applicable transaction under any of the following schemes:
 - a. Over 60s Home Bonus;
 - b. Pensioner Duty Concession;
 - c. Home Buyer Concession.

8 Time limit for applications

- (1) An application for a buyback concession amount under this instrument must be received by the Commissioner—
 - a. for a grant, transfer, or agreement to transfer a Crown lease other than a Crown lease referred to in paragraph b—within 90 days after 1 of the following happens:
 - i. the Crown lease is granted;
 - ii. the Crown lease is transferred;
 - iii. there is an agreement to transfer the Crown lease.
 - b. for a grant, transfer, or agreement to transfer a Crown lease for an ‘off the plan’ purchase agreement—within 14 days after 1 of the events mentioned in the *Duties Act 1999*, section 16A (1) happens.
- (2) However, the Commissioner may accept an application submitted after the relevant time limit in subclause(1) (a **late application**) if the Commissioner considers it fair and reasonable to do so.
- (3) The Commissioner may reassess the tax liability of a taxpayer for a late application under the *Taxation Administration Act 1999*, section 9.

9 Operation with DI2015-93

To remove any doubt, this instrument establishes a separate duty concession scheme for eligible impacted properties to that for affected residential premises under DI2015-93 *Taxation Administration (Amounts Payable—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2015 (No 3)*.

Andrew Barr
Treasurer
10 November 2015