

Taxation Administration (Eligible Impacted Properties— Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2016 (No 1)*

Disallowable instrument DI2016–4

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 2016 (No 1)*.

2 Commencement

This instrument commences on the day after notification.

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 eligible impacted property if—

- a. the transfer was a dutiable transaction; and
- b. the dutiable value was equal to the contract price; and
- c. the transfer occurred on 19 November 2015.

Commissioner means the Commissioner for ACT Revenue.

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

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 eligible impacted property before 19 November 2015 and has sold that property to the Territory under the eligible impacted property buyback program.

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).

lease for a unit—see the *Unit Titles Act 2001*, dictionary.

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).

prospective eligible applicant means a person who has acquired an eligible impacted property before 19 November 2015 and has executed, but not completed a contract for 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.

4 **Applicable transactions**

This instrument applies to the following transactions:

- (1) a Crown lease or lease for a unit that is granted on or after 19 November 2015;
- (2) the transfer of a Crown lease or lease for a unit first executed on or after 19 November 2015;
- (3) an agreement for the transfer of a Crown lease or lease for a unit, if—
 - a. the agreement precedes the transfer of the Crown lease or lease for a unit; and
 - b. the agreement is completed after 19 November 2015.

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 the relevant eligible impacted property 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 ownership of the eligible impacted property.
- (2) However, a subject property need not be acquired in all of the same names as the eligible impacted property if the applicant—
 - a. is a joint tenant or tenant in common of the eligible impacted property; and
 - b. satisfies the Commissioner that the applicant has the consent of the other joint tenants or tenants in common of the eligible impacted property.
- (3) Only one buyback concession amount is available in relation to each eligible impacted property.
- (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 or lease for a unit other than a Crown lease or lease for a unit referred to in paragraph b—within 90 days after one of the following happens:
 - i. the Crown lease or lease for a unit is granted;
 - ii. the Crown lease or lease for a unit is transferred;
 - iii. there is an agreement to transfer the Crown lease or lease for a unit.
- b. for a grant, transfer, or agreement to transfer a Crown lease or lease for a unit for an ‘off the plan’ purchase agreement—within 14 days after one 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)*.

10 **Revocation**

DI2015-307 is revoked.

Andrew Barr
Treasurer
28 January 2016