Australian Capital Territory

Taxation Administration (Off the Plan Unit Duty Exemption Scheme) Determination 2023

**Disallowable instrument DI2023–164**

made under the

*Taxation Administration Act 1999*, s 137E (Exemption scheme)

**1 Name of instrument**

This instrument is the *Taxation Administration (Off the Plan Unit Duty Exemption Scheme) Determination 2023*.

**2 Commencement**

This instrument commences on 1 July 2023.

**3 Definitions**

In this instrument:

***dutiable value****—*see the *Duties Act 1999*, section 20.

***occupy***, in relation to a principal place of residence, does not include occupation—

(a) of a transient, temporary or passing nature; or

(b) for a purpose other than as a place of residence.

***off the plan agreement*** means an agreement for the sale of a unit in a units plan before the units plan is registered.

***principal place of residence*** means the home a person primarily occupies on an ongoing and permanent basis as the person’s settled or usual home.

***registered***—for an off the plan agreement,means registered by the registrar‑general under the *Land Titles Act 1925* or the *Land Titles (Unit Titles) Act 1970.*

***residential unit*** means a unit in a units plan that—

(a) may lawfully be used as a place of residence; and

(b) is, in the Commissioner’s opinion, a suitable building for use as a place of residence.

*Note* ***Commissioner***means the Commissioner for ACT Revenue.

***transaction date***, of an eligible transaction, means the date that liability for duty arises under the *Duties Act 1999*, section 11.

***transfer*** means the execution of an off the plan agreement.

***transferee***—see the *Duties Act 1999*, dictionary.

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

***units plan***—see the *Unit Titles Act 2001*, dictionary.

**4 Meaning of *eligible property***

In this instrument:

***eligible property*** means a residential unit with a dutiable value of less than or equal to $700 000.

**5 Meaning of *eligible transaction***

(1) In this instrument:

***eligible transaction*** means a transfer of eligible property:

1. with a transaction date on or after 1 July 2023; and
2. where at least 1 transferee will occupy the eligible property, as the transferee’s principal place of residence, within 1 year after the residence start date for the duration of the residence period.

(2) If it becomes apparent that a transaction is not an eligible transaction, a transferee must give the Commissioner written notice of that fact within 14 days after the first of the following events:

(a) the end of any period allowed for compliance with a requirement of the transaction; or

(b) the date that the transferee first becomes aware that the transaction is not an eligible transaction.

**Example—transaction not an eligible transaction**

The transaction ceases to be eligible because no transferee can occupy the eligible property as a principal place of residence.

**6 Meaning of *residence period* and *residence start date***

(1) In this instrument:

***residence period*** meansa continuous period of at least 1 year.

***residence start date*** means—

(a) for a home—the date of completion of the eligible transaction; or

(b) for vacant land—the date that a certificate of occupancy has been issued under the *Building Act 2004* for a home on the land that will be a person’s principal place of residence.

(2) The Commissioner may determine a shorter residence period (including no period), if—

(a) the shorter period is requested, in writing, for an eligible home buyer not later than 18 months after the residence start date; and

(b) the Commissioner is satisfied that the transferee is unable to occupy the eligible property for a continuous period of 1 year because of an unforeseen circumstance.

**Example—unforeseen circumstance**

A health-related issue.

(3) The Commissioner may determine a later residence start date, if—

(a) the later date is requested, in writing, for a transferee not later than 18 months after the applicable residence start date under subsection 6 (1); and

(b) the Commissioner is satisfied that the transferee is unable to begin occupying the eligible property because of an unforeseen circumstance.

**Example—unforeseen circumstance**

A health-related issue.

**7 Determination**

For the purposes of section 137E of the *Taxation Administration Act 1999*, I determine that a transferee in relation to an eligible transaction is exempt from duty payable under the *Duties Act 1999*.

**8 Revocation**

This instrument revokes the *Taxation Administration (Off the Plan Unit Duty Concession Scheme) Determination 2022*, DI2022-31.

**9 Transitional**

DI2022-31 continues to apply for the period 1 April 2022 to 30 June 2023, inclusive.

**10 Human Rights Act 2004**

In my opinion, as the Minister, this instrument is consistent with human rights. This instrument is non‑prejudicial because it does not limit existing rights.

Andrew Barr MLA

Treasurer

24 June 2023