Australian Capital Territory

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2026

Disallowable instrument DI2026–157

made under the

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

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1 Name of instrument

This instrument is the *Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2026*.

2 Commencement

This instrument commences on 1 July 2026.

3 Dictionary

The dictionary at the end of this instrument is part of this instrument.

Note 1 The dictionary at the end of this instrument defines certain terms used in this instrument and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***Commissioner***—*see the Act, dictionary*.' means that the term 'commissioner' is defined in that section of the *Duties Act 1999* and the definition applies to this instrument.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire instrument unless the definition, or another provision of the instrument, provides otherwise or the contrary intention otherwise appears (see Legislation Act, section 155 and section 156 (1)).

4 Meaning of *eligible property*

In this instrument:

eligible property means—

(a) a home; or

(b) vacant land.

5 Meaning of *eligible home buyer*

(1) In this instrument:

eligible home buyer, for the eligible transaction, means an individual who is a transferee of the eligible property.

(2) If there is more than one transferee, each transferee must be an individual.

(3) A transferee is not an eligible home buyer if the transferee is:

(a) a corporation; or

(b) a trustee of a trust; or

(c) a partner in a partnership; or

(d) an agent for a person mentioned in paragraphs (a) to (c).

(4) An individual is not an eligible home buyer if the individual acquires the eligible property other than in the individual's personal capacity.

(5) An eligible home buyer must be the required age on the transaction date.

6 Meaning of *eligible transaction*

(1) In this instrument:

eligible transaction means a transfer to an eligible home buyer with a transaction date on or after 1 July 2026 that meets the following requirements:

(a) all eligible home buyers acquire both a legal and an equitable interest in eligible property on completion of the transaction; and

(b) on the transaction date, all eligible home buyers and their domestic partners (if any) have not held a legal or equitable interest in land within the previous 5 years, other than an ***allowed interest***; and

(c) at least 1 eligible home buyer will own and occupy the eligible property to meet the ***residence requirement***.

(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.

(3) If a person claims the concession but the transaction is not an eligible transaction (including where the residence requirement is not complied with) then the person was never eligible for the concession.

Example—transaction not an eligible transaction

A person claims the concession and intends to live in the property to meet the residence requirement. The person lives in the property for four months and then sells the property without the Commissioner approving a shorter residence period. The residence period was not met, so the transaction was not an eligible transaction. The person was never eligible for the concession and was liable to pay duty within 14 days of the transfer

being registered with the registrar-general. A tax default will have occurred if duty was unpaid 15 days after the transfer was registered with penalty tax and interest applying.

Note An example is part of the instrument, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) In this section:

allowed interest—see Schedule 1 of this instrument.

residence requirement—see Schedule 2 of this instrument.

7 Duty concession

For the purposes of section 31 of the Act, I determine that the amount of duty payable on an eligible transaction under this instrument is nil rate of duty.

8 Application for Duty concession

(1) A transferee may apply to the Commissioner for the duty concession under this instrument on the lodgement of the transfer of the eligible property with the registrar-general.

(2) If an application is not made at the time specified in subsection (1), a transferee may apply to the Commissioner to extend the time by which an application for the duty concession may be lodged.

(3) An application to extend the time to lodge the duty concession must—

(a) be in writing addressed to the Commissioner;

(b) specify—

(i) the name and address of the applicant; and

(ii) the grounds on which the extension is sought; and

(c) be made within 12 months of the date of lodgement of the transfer of the eligible property with the registrar-general.

(4) The Commissioner may extend the time to make the application to lodge the duty concession specified in subsection (1).

(5) In this section:

registrar-general means the registrar-general under the *Land Titles Act 1925*.

9 Revocation

This instrument revokes *Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2025 (No 2)*, DI2025-146.

Rachel Stephen-Smith MLA
Minister for Finance

26 June 2026

Schedule 1—Meaning of *allowed interest*

(1) In this instrument, ***allowed interest*** means any legal or equitable interest interest—

(a) in the eligible property; or

(b) in land that a person was required to relinquish prior to the transaction date under—

(i) a sealed order of a court; or

(ii) a financial agreement made under section 90B, section 90C, or section 90D of the *Family Law Act 1975* (Cwlth) that is binding on the person; or

(iii) a part VIIIAB financial agreement made under section 90UB, section 90UC, or section 90UD of the *Family Law Act 1975* (Cwlth) that is binding on the person; or

(iv) a domestic relationship agreement or termination agreement under the *Domestic Relationships Act 1994* to which the person is a party; or

(c) in land held by an eligible home buyer's domestic partner, who is a spouse, if the Commissioner is satisfied—

(i) there has been a dissolution, annulment or irretrievable breakdown of the relationship; and

(ii) the eligible home buyer is not cohabitating with the spouse and there is no likelihood of cohabitation being resumed; or

(d) in land held by the eligible home buyer, where the eligible home buyer or their dependent child has experienced family violence within the previous 5 years as evidenced by —

(i) a family violence order protecting the eligible home buyer or their dependent child; or

(ii) an injunction made under the *Family Law Act 1975* (Cwlth), section 68B or section 114 in relation to the eligible home buyer or their dependent child; or

(iii) a competent person declaration made prior to the transaction date by a competent person who has previously consulted with the eligible home buyer or their dependent child as part of the competent person's professional practice; or

Note *In Schedule 2, section 1 (b) incorporates an additional residency eligibility criterion.*

(e) that a person acquires—

(i) as an executor or trustee (but not a beneficiary) under a will; or

(ii) under an agreement for the sale or transfer of the interest within the 5-year period that was subsequently cancelled and, sections 50 or 50A of the Act, or relevant provisions of a corresponding Act were applied so as to result in no duty payable.

Schedule 2—Meaning of *residence requirement*

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

(1) In this instrument, ***residence requirement*** means—

(a) that the eligible homebuyer occupies the eligible property, as the eligible home buyer's principal place of residence, within 1 year after the ***residence start date*** for the duration of the ***residence period***; and

(b) where the eligible home buyer, (or their dependent child) has experienced family violence and the transaction is an eligible transaction under the operation of Schedule 1, section 1 (d) of this instrument—the domestic partner referenced in the family violence order or the injunction must not occupy or reside in the eligible property for the duration of the residence period.

(2) In this schedule:

residence period means a 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.

(3) 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 an eligible home buyer is unable to occupy the eligible property for a continuous period of 1 year because of an unforeseen circumstance.

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

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

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

2 Meaning of *unforeseen circumstance*

(1) In this instrument:

unforeseen circumstance means a circumstance or circumstances that could not have been foreseen by a reasonable person with the knowledge of the eligible home buyer on the transaction date.

Examples

1. The sudden onset of a new serious health-related issue that requires the eligible home buyer to relocate from the ACT or ACT region for treatment.
2. A natural disaster has damaged the eligible property, making it unfit for occupation, delaying the residence start date.

(2) In this section:

actual knowledge means knowledge subjectively in the mind of the eligible home buyer on the facts they actually knew in relation to the circumstances in issue.

constructive knowledge means actual knowledge of the circumstance which the eligible home buyer would have had if the eligible home buyer had:

(a) made the inquiries that would ordinarily have been made by an honest and prudent person in the eligible home buyers' situation; and

(b) made the inquiries that would ordinarily be made be made by an honest and prudent person with the eligible home buyers' actual knowledge in the eligible home buyers' situation.

knowledge means actual or constructive knowledge.

Dictionary

(see s 3)

Act means the *Duties Act 1999.*

Aboriginal and Torres Strait Islander children and young people commissioner means the person appointed as the Aboriginal and Torres Strait Islander Children and Young People Commissioner under the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022*, section 10 (1).

Commissioner—see the Act, dictionary.

competent person means—

(a) a person in their professional practice who is employed or otherwise engaged by a non-for-profit entity that receives funding from the Territory to provide a professional service in relation to any of the following:

  (i) family violence;

  (ii) sexual assault;

  (iii) a refuge or other emergency accommodation for people in crisis;

  (iv) children or young people, including their families;

(b) a health practitioner who practices in any of the following health professions:

  (i) Aboriginal and Torres Strait Islander health practice;

  (ii) medical;

  (iii) midwifery;

  (iv) nursing;

  (v) psychology;

(c) an employee of the Territory providing professional services in relation to child welfare;

(d) a person with a social work qualification the provides eligibility for membership of the Australian Association of Social Workers;

(e) a member of the human rights commission;

(f) the Aboriginal and Torres Strait Islander children and young people commissioner; and

(g) for a declaration made in relation to an eligible home buyer with a dependent child or in relation to the dependent child — a person who is a mandated reporter.

competent person declaration means a declaration by a competent person that they have previously consulted with the eligible home buyer, or their dependent child, as part of their professional practice, and they hold a reasonable belief that, the eligible home buyer, or their dependent child, has experienced family violence in the previous 5 years.

The competent person declaration must be in writing and include the following information:

(a) the capacity in which the competent person is authorised to make a competent person declaration with reference to the competent person definition;

(b) the competent person's name, email address, contact number, and employer details (if applicable);

(c) a statement declaring that—

(i) the competent person has, in the capacity mentioned in paragraph (a), previously consulted with the eligible home buyer, or their dependent child as part of their professional practice; and

(ii) they hold a reasonable belief that the eligible home buyer or their dependent child, has experienced family violence in the previous 5 years; and

(d) the date the declaration is made.

corresponding Act—see the Act, dictionary.

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

declared land sublease—see the *Planning Act 2023*, dictionary.

family violence—see the *Family Violence Act 2016*, dictionary.

family violence order—see the *Family Violence Act 2016*, dictionary.

health profession—see the Health Practitioner Regulation National Law (ACT), section 5.

home means a building (affixed to land in the ACT) or 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.

human rights commission—see the *Legislation Act 2001*, dictionary.

mandated reporter—see the *Children and Young People Act 2008*, section 356 (3).

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

(a) of a transient, temporary, unlawful 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.

own means the transferee will be the registered proprietor of the eligible property once it 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.*

required age means—

(a) 18 years of age; or

(b) a younger age determined by the Commissioner, if—

(i) the younger age is requested for an eligible home buyer; and

(ii) the Commissioner is satisfied that it is fair and reasonable in the circumstances to make the determination.

seal means a stamp or other impression that the court puts on a document to indicate that the document has been issued by the court.

sealed for a court order means a document that bears the court seal.

transaction date, of an eligible transaction, means the date on which liability for duty arises under the Act, section 11.

transfer means—

(a) a transfer of eligible property; or

(b) an agreement for the sale or transfer of eligible property (including an off the plan agreement); or

(c) a grant of eligible property.

transferee—see the Act, dictionary. A transferee if more than one – means transferees.

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

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

vacant land means land in the ACT, which has a Crown lease or declared land sublease that does not have a home built, in full or in part, on it.