

Taxation Administration (Off the Plan Unit Duty Exemption Scheme) Determination 2026

Disallowable instrument DI2026–158

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 2026*.

2 Commencement

This instrument commences on 1 July 2026.

3 Definitions

In this instrument:

Act means the *Duties Act 1999*.

Commissioner—see the Act, dictionary.

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 residential unit 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*.

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.

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.

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

transfer means the execution of an off the plan agreement.

transferee—see the Act, dictionary.

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

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

4 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 residential unit.

- (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 residential unit other than in the individual’s personal capacity.
- (5) An eligible home buyer must be the required age on the transaction date.

5 Meaning of eligible transaction

- (1) In this instrument:

eligible transaction means a transfer of a residential unit to an eligible home buyer:

- (a) with a transaction date on or after 1 July 2026; and

- (b) where at least 1 transferee will own and occupy the residential unit, 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.
- (3) If a person claims the duty exemption 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 exemption.

Example—transaction not an eligible transaction

A person claims the exemption 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 exemption 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).

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

- (1) In this instrument:
 - 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.
- (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 eligible home buyer is unable to occupy the residential unit for a continuous period of 1 year because of an unforeseen circumstance.
- (3) 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 the eligible home buyer is unable to begin occupying the residential unit because of an unforeseen circumstance.

7 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 residential unit, 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 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.

8 Application for Duty exemption

- (1) A transferee may apply to the Commissioner for the duty exemption under this instrument on the lodgement of the transfer of the residential unit 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 exemption may be lodged.
- (3) An application to extend the time to lodge the duty exemption must—
 - (a) be in writing addressed to the Commissioner;
 - (b) specify—
 - (i) the name and address of the transferee; 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 residential unit with the registrar-general.

- (4) The Commissioner may extend the time to make the application to lodge the duty exemption as specified in subsection (1).
- (5) In this section:
registrar-general means the registrar-general under the *Land Titles Act 1925*.

9 Determination

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

10 Revocation

This instrument revokes the *Taxation Administration (Off the Plan Unit Duty Exemption Scheme) Determination 2025*, DI2025-149.

11 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.

Rachel Stephen-Smith MLA
Minister for Finance

26 June 2026