

**AUSTRALIAN CAPITAL TERRITORY**  
**TAXATION ADMINISTRATION ACT 1999**

**INSTRUMENT NO. 151 OF 2001**

**EXPLANATORY STATEMENT**

The *Taxation Administration Act 1999* (Tax Admin Act) deals with the administration of various tax laws relating to the imposition and collection of certain taxes, duties and levies. These tax laws are specified in section 4 of the Tax Admin Act, and include the *Duties Act 1999* (Duties Act). Section 139 of the Tax Admin Act empowers the Minister to determine taxes, duties and levies.

The Duties Act imposes duty on a range of transactions at determined rates. The *Duties (Consequential and Transitional Provisions) Act 1999* (Duties (C&TP) Act) contains certain transitional provisions in consequence of the enactment of the Duties Act on 1 March 1999.

Sections 30 (3) and 31 (2) of the Duties (C&TP) Act provide that a determination made under the Duties (C&TP) Act of rates of duty may be revoked or varied by determination under section 139 of the Tax Admin Act. Such a determination was published in Gazette No. 43 of 27 October 1999, pages 528-531. Under sections 30 (6) and 31 (4) of the Duties (C&TP) Act, this determination was not a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989* (Subordinate Laws Act).

On 21 December 1999 the Minister made a determination under the Tax Admin Act to correct an error in a rate of duty which originated in the Duties (C&TP) Act. This determination revoked the determination published in Gazette No. 43 of 27 October 1999 and redetermined the rates of duty. It was published in Gazette No. 1 of 6 January 2000, pages 19-21, but was erroneously processed as a Government Notice and therefore was not tabled in the Legislative Assembly.

Under section 6 (6) of the Subordinate Laws Act, if a subordinate law is not laid before the Legislative Assembly within 6 sitting days after notification, it ceases to have effect, and, under section 6 (8), this has the same effect as a repeal of that law. Section 6 (9) states that where this occurs, and the relevant law repealed a previous law, the previous law is revived, from and including the date on which the relevant law ceased to have effect, as if the relevant law had not been made.

Under these circumstances, the determination published in Gazette No. 43 of 27 October 1999, pages 528-531 is revived from and including 6 January 2000. In other words, the determination published in the Gazette on 6 January had no effect and the earlier determination was deemed to continue to apply. Taxpayers have not

been disadvantaged by the revival of the earlier determination which included incorrect and higher tax rates, as administratively, taxpayers had been charged the correct rate of duty.

The purpose of this determination is to:

1. revoke the determination made under sections 30 (3) and 31 (2) of the Duties (C&TP) Act by notice published in Gazette No. 43 of 27 October 1999, pages 528-531;
2. determine, under section 139 of the Tax Admin Act, rates of duty payable under various provisions of the Duties Act by specifying:
  - the ranges of dutiable amounts of dutiable transactions and the corresponding rates of duty payable for each range (see (i) below);
  - the ranges of total cost of a lease and the corresponding rates of duty payable for each cost range (see (ii) below); and
  - the rates of duty payable on certain other specified dutiable transactions (see (iii) below).

This determination is necessary because the determination published in Gazette No. 1 of 6 January 2000, pages 19-21, ceased to have effect from that date. The original error in paragraph 5 (m) needs to be corrected, and paragraph 5 (b) is to be omitted from 1 July 2001.

Paragraph 5(m) of the revoked determination contains a rate of duty which, if applied, would result in an overcharge of duty of \$900 for transfers of vehicles valued in excess of \$45,000. The rate of duty for the purposes of subsection 208 (2) of the Duties Act on the registration of a motor vehicle valued in excess of \$45,000 and designed to carry up to 9 passengers is:

*the rate of \$5 for every \$100, or part of \$100, of the dutiable value of the motor vehicle for the purposes of subsection 208 (2).*

Duty on the first \$45,000 in value of such a vehicle should be the same as duty on a vehicle valued at up to \$45,000 and specified in paragraph 5 (l) of the determination, that is, \$3 for every \$100, or part of \$100, of the dutiable value. The correct rate in paragraph (m) is:

*the amount of \$1,350 plus \$5 for every \$100, or part of \$100, of the dutiable value of the motor vehicle in excess of \$45,000 for the purposes of section 208 (2)*

The application of paragraph 5 (m) of this determination is made retrospective to 1 March 1999, the date of commencement of the Duties (C&TP) Act. Taxpayers will not be disadvantaged by the retrospective application of this rate as the higher rate specified in the revoked determination has not been charged.

The *Financial Relations Agreement Consequential Amendments Act 2000* amends the Duties Act from 1 July 2001 in line with the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (IGA). One amendment is for the cessation of duty charged on transactions relating to quoted marketable securities under the Duties Act.

In accordance with the IGA, this applies to transfers that occur on or after 1 July 2001. Section 32 (2) of the Duties Act, which deals with the determined rate of duty for quoted marketable securities, is omitted from that date. Paragraph 5 (b) of the

determination being revoked refers to the rate of duty for section 32 (2) of the Duties Act. Paragraph 5 (b) is therefore omitted, effective from 1 July 2001.

The attached determination:

- omits paragraph 5 (b) effective from 1 July 2001;
- corrects an error in paragraph 5 (m) effective from 1 March 1999; and
- introduces the use of compressed legislative reference style, replacing, for example, “subsection 185 (2)” with “section 185 (2)”.

These are the only alterations to the determination.

For easy reference, the unchanged Tables 1 and 2 are reproduced at (i) and (ii) below. The changes in this determination are in paragraphs 5 (a) to 5 (m) shown at (iii) below, and, for comparison purposes, paragraph 5 of the revoked determination is shown at (iv) below.

**(i) Rates of duty for the purposes of section 31 of the Duties Act**

Section 31 of the Act specifies that duty at the determined rate is chargeable on all dutiable transactions except where a different rate is determined to apply.

Column 1	Column 2	Column 3
Item	Range of dutiable amounts of dutiable transactions	Rate of duty
1	Not more than \$14,000	\$1.25 for every \$100, or part of \$100, of the dutiable value or \$20, whichever is the greater
2	More than \$14,000 but not more than \$30,000	\$175 plus \$1.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$14,000
3	More than \$30,000 but not more than \$60,000	\$415 plus \$2 for every \$100, or part of \$100, by which the dutiable value exceeds \$30,000
4	More than \$60,000 but not more than \$100,000	\$1,015 plus \$2.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$60,000
5	More than \$100,000 but not more than \$300,000	\$2,015 plus \$3.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$100,000
6	More than \$300,000 but not more than \$1,000,000	\$9,015 plus \$4.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$300,000
7	More than \$1,000,000	\$40,515 plus \$5.50 for every \$100, or part of \$100, by which the dutiable value exceeds \$1,000,000

**(ii) Rates of duty for the purposes of section 141 of the Duties Act**

Column 1	Column 2	Column 3
Item	Total cost of lease	Rate of duty
1	Not more than \$14,000	\$1.25 for every \$100, or part of \$100, of the total cost or \$20, whichever is the greater
2	More than \$14,000 but not more than \$30,000	\$175 plus \$1.50 for every \$100, or part of \$100, by which the total cost exceeds \$14,000
3	More than \$30,000 but not more than \$60,000	\$415 plus \$2 for every \$100, or part of \$100, by which the total cost exceeds \$30,000
4	More than \$60,000 but not more than \$100,000	\$1,015 plus \$2.50 for every \$100, or part of \$100, by which the total cost exceeds \$60,000
5	More than \$100,000 but not more than \$300,000	\$2,015 plus \$3.50 for every \$100, or part of \$100, by which the total cost exceeds \$100,000
6	More than \$300,000 but not more than \$1,000,000	\$9,015 plus \$4.50 for every \$100, or part of \$100, by which the total cost exceeds \$300,000
7	More than \$1,000,000	\$40,515 plus \$5.50 for every \$100, or part of \$100, by which the total cost exceeds \$1,000,000

**(iii) Rates of duty for the purposes of the provisions of the Duties Act as specified in paragraphs (a) and (c) through (m) hereunder (note that (b) is deliberately omitted):**

- (a) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the marketable securities for the purposes of section 32 (1);
- (c) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the property the subject of the transaction, insofar as it is property to which section 33 (1) applies, for the purposes of section 33 (1);
- (d) the rate of 50 cents for every \$100, or part of \$100, of the total cost of the lease for the purposes of section 140;
- (e) the rate of 0.75% of the total amount of the hiring charges of the equipment financing arrangement for the purposes of section 159 (1);
- (f) the rate of 1.5% of the total amount of the hiring charges of the ordinary hire of goods for the purposes of section 159 (2);

- (g) the rate of 10% of the amount of the premium paid in relation to a contract of general insurance for the purposes of section 178;
- (h) the rate of—
  - (i) \$1 on the first \$2,000, or part of \$2,000, of the sum insured; and
  - (ii) 20 cents for every \$200, or part of \$200, in excess of the first \$2,000 of the sum insured;
 for the purposes of section 185 (1);
- (i) the rate of 5% of the first year's premium for the temporary or term insurance policy for the purposes of section 185 (2);
- (j) the rate of 5% of the first year's premium for the rider for the purposes of section 185 (3);
- (k) the rate of 10% of the premium paid to effect the insurance for the purposes of section 185 (4);
- (l) the rate of \$3 for every \$100, or part of \$100, of the dutiable value of the motor vehicle for the purposes of section 208 (1); and
- (m) the amount of \$1,350 plus \$5 for every \$100, or part of \$100, of the dutiable value of the motor vehicle in excess of \$45,000 for the purposes of section 208 (2).

**(iv) Paragraph 5 of the revoked determination for comparison purposes:  
Rates of duty for the purposes of the provisions of the Duties Act as specified in paragraphs (a) through (m) hereunder:**

- (a) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the marketable securities for the purposes of subsection 32 (1);
- (b) the rate of 30 cents for every \$100, or part of \$100, of the dutiable value of the marketable securities for the purposes of subsection 32 (2);
- (c) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the property the subject of the transaction, insofar as it is property to which subsection 33 (1) applies, for the purposes of that subsection;
- (d) the rate of 50 cents for every \$100, or part of \$100, of the total cost of the lease for the purposes of section 140;
- (e) the rate of 0.75% of the total amount of the hiring charges of the equipment financing arrangement for the purposes of subsection 159 (1);
- (f) the rate of 1.5% of the total amount of the hiring charges of the ordinary hire of goods for the purposes of subsection 159 (2);
- (g) the rate of 10% of the amount of the premium paid in relation to a contract of general insurance for the purposes of section 178;
- (h) the rate of—
  - (i) \$1 on the first \$2,000, or part of \$2,000, of the sum insured; and
  - (ii) 20 cents for every \$200, or part of \$200, in excess of the first \$2,000 of the sum insured;
 for the purposes of subsection 185 (1);

- (i) the rate of 5% of the first year's premium for the temporary or term insurance policy for the purposes of subsection 185 (2);
- (j) the rate of 5% of the first year's premium for the rider for the purposes of subsection 185 (3);
- (k) the rate of 10% of the premium paid to effect the insurance for the purposes of subsection 185 (4);
- (l) the rate of \$3 for every \$100, or part of \$100, of the dutiable value of the motor vehicle for the purposes of subsection 208 (1); and
- (m) the rate of \$5 for every \$100, or part of \$100, of the dutiable value of the motor vehicle for the purposes of subsection 208 (2).

Authorised by the Treasurer, Gary Humphries MLA