Australian Capital Territory

Taxation Administration (Eligible Impacted Properties–Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2015 (No 1)

Disallowable instrument DI2015–307

made under the

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

EXPLANATORY STATEMENT

Under the Loose-fill Asbestos Insulation Eradication Scheme (the Scheme) announced on 28 October 2014, the ACT Government offered to buy all homes in the ACT affected by loose-fill asbestos (‘Mr Fluffy’) insulation. Government amendments to the *Building (Loose-fill Asbestos Eradication) Legislation Amendment Bill 2015*, extended the legislative architecture in place for ‘Mr Fluffy’ properties relating to acquisition, demolition and re-sale, to ‘eligible impacted properties’. New provisions in the *Civil Law (Sale of Residential Property) Act 2003* define an ‘eligible impacted property’ and the ‘eligible impacted property buyback program’. A property becomes an ‘eligible impacted property’ when the Minister makes a determination it is eligible. The new provisions also set out the factors the Chief Minister may consider in making such a determination. Essentially the eligible impacted property buyback program is intended to deal with properties where:

(a) the affected residential premises (the ‘Mr Fluffy’ property) is structurally dependent on the property;
(b) there is a migration pathway for loose fill asbestos insulation fibres from the affected residential premises to the property;
(c) the affected residential premises cannot be demolished because of a safety, economic or practical impediment related to the nature of the other property.

This instrument establishes a separate, but complementary duty concession scheme for eligible impacted properties to that for affected residential premises, contained in disallowable instrument *Taxation Administration (Amounts Payable—Loose-fill Asbestos Insulation Eradication Buyback Concession Scheme) Determination 2015 (No 3)* (DI2015-93). This instrument has adopted separate, but similar, eligibility criteria, concession value; conditions; and time limits for applications to that in DI2015-93.

It is important to note that the duty concession in this instrument will only apply to properties eligible impacted property owners acquire *after* the eligible impacted policy is first published on the website of the agency with portfolio responsibility for the program.

A regulatory impact statement (RIS) has not been prepared for this instrument as it is considered that the instrument:

(a) will not impose appreciable costs on the community, or a part of the community, (refer s34(1) of the *Legislation Act 2001*);

(b) does not operate to the disadvantage of anyone by adversely affecting the person’s rights or imposing liabilities on the person (refer s36(1)(b) of the Legislation Act 2001). This DI does not operate to the disadvantage of any person, and confers the benefit of a duty concession for eligible impacted property owners.