

Australian Capital Territory

Taxation Administration (Amounts Payable—Duty) Determination 2018 (No 1)

Disallowable instrument DI2018–116

made under the

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

EXPLANATORY STATEMENT

This instrument commences on 6 June 2018.

Under section 139 of the *Taxation Administration Act 1999*, the Minister may determine by disallowable instrument the rate or differential rates, or the method by which, an amount of duty payable under the *Duties Act 1999* (Duties Act) is to be calculated.

This instrument determines for the purposes of the Duties Act differential rates of duty, or the method by which, an amount of duty is payable for different types of dutiable transactions. Part 2 of this instrument determines the transfer rates of duty for the purposes of section 31 of the Duties Act. Part 3 determines commercial transfer rates of duty for the purposes of sections 31 and 90 of the Duties Act. Part 4 determines the rate of duty for the purposes of section 33 of the Duties Act.

Updates

As part of the 2018-19 Budget, the Government is continuing its implementation of reform to the Territory's taxation system. This instrument reduces conveyance duty rates for transactions of residential properties as part of the Government's reform program to reduce conveyance duty rates each year. This instrument fully phases out conveyance duty for transactions of commercial properties with a dutiable value of \$1.5 million or less, maintaining a flat 5 per cent duty rate for commercial transactions above that value.

Transfer rate (part 2)

Part 2 applies to a dutiable transaction of dutiable property used, or that will be used, wholly for purposes other than a commercial purpose. For example, for a residential purpose (such as a house, a unit, or a block of apartments), a primary production purpose (such as farm land or grazing land) or a home business (such as a bookkeeping business or florist working from home). This is irrespective of the permitted uses of the property as may be specified in a Crown lease.

Table 1 sets out the differential rates of duty, and the method by which, an amount of duty is payable for a dutiable transaction that is not for a commercial purpose.

The previous and new rates (effective 6 June 2018) are listed below for comparison.

Dutiable value	2017-18 (%)	2018-19 (%)
Less than or equal to \$200,000	1.40	1.30
More than \$200,000 but not more than \$300,000	2.40	2.30
More than \$300,000 but not more than \$500,000	3.80	3.60
More than \$500,000 but not more than \$750,000	4.78	4.56
More than \$750,000 but not more than \$1,000,000	6.30	6.10
More than \$1,000,000 but not more than \$1,455,000	6.80	6.60
More than \$1,455,000*	4.91	4.73

*This rate is a flat rate on the entire value of the transaction. The threshold has been marginally adjusted to ensure transactions with a value of exactly \$1,455,000 do not fall in the highest bracket.

Commercial transfer rate (part 3)

Part 3 applies to a dutiable transaction of dutiable property used, or that will be used, partly or wholly for a commercial purpose.

‘Commercial purpose’ means a purpose other than a residential purpose, a primary production purpose or a home business. This definition has its basis in section 6 of the Duties Act and (for a home business) section 247 (3) of the *Planning and Development Act 2007*.

For the purposes of this instrument, a property that is used or that will be used, partly or wholly for commercial purposes includes, but is not limited to:

- mixed-use land, or land with mixed-use buildings where part of the land or the building is used or will be used for a commercial purpose and the other part for a residential or primary production purpose, for example:
 - land that is or will be used partly for the owner’s bed and breakfast business and partly as a farm; or
 - a building with a shop on the ground floor and a residential apartment on the first floor;
- vacant land on which a building or buildings will be constructed or developed wholly for a commercial purpose, for example:
 - vacant land on which an office building will be constructed; or
 - vacant land on which a hotel will be constructed.
- land with an existing building or buildings that will be wholly or partly developed, refurbished, converted or re-purposed by the transferee for commercial purposes, for example:

- a row of shops on top of which apartments will be built and the apartments individually on-sold to others;
- a warehouse conversion into a hotel and shopping complex; or
- a single shop refurbishment where the ground floor will be used as an office and the first floor will be converted into a residence.

This part also applies to a chapter 3 transaction (landholder provisions of the Duties Act) for which duty is payable at the determined rate in accordance with section 90 of the Duties Act.

Table 2 sets out the differential rates of duty, and the method by which, an amount of duty is payable for a dutiable transaction that is for a commercial purpose.

The previous and new rates (effective 6 June 2018) are listed below for comparison.

Dutiable value or landholder amount	2017-18 (%)	2018-19 (%)
Less than or equal to \$200,000	0.70	nil
More than \$200,000 but not more than \$300,000	1.20	nil
More than \$300,000 but not more than \$500,000	1.90	nil
More than \$500,000 but not more than \$750,000	2.39	nil
More than \$750,000 but not more than \$1,000,000	3.15	nil
More than \$1,000,000 but not more than \$1,500,000	3.40	nil
More than \$1,500,000*	5.00	5.00

*This rate is a flat rate on the entire value of the transaction. The threshold has been marginally adjusted to ensure transactions with a value of \$1,500,000 exactly do not fall in the highest bracket.

Certain business assets (part 4)

This Part applies to determine the duty rate for section 33 of the Duties Act. The rate is unchanged from the previous instrument.

Revocation

This instrument revokes *Taxation Administration (Amounts Payable—Duty) Determination 2017 (No 1)* DI2017-79.

DI2017-79 continues to apply to a transaction in the period 7 June 2017 to 5 June 2018, inclusive.

Authorised by the Treasurer
Andrew Barr MLA