

AUSTRALIAN CAPITAL TERRITORY

DUTIES ACT 1999

EXEMPTION GUIDELINES FOR CORPORATE RECONSTRUCTIONS

INSTRUMENT NO. 90 OF 1999

EXPLANATORY STATEMENT

The *Duties Act 1999* imposes stamp duty on a range of Territory related documents and transactions including:

- transfers of Crown leases, subleases, shares and trust units and of businesses operating in the ACT;
- leases of land (other than Crown leases);
- share broker transactions;
- insurance policies (both general and life)
- hiring of goods; and
- sale and transfer of motor vehicles.

2. Chapter 11 provides general exemptions from duty. Section 232, "Members of a group of corporations", exempts from duty certain dutiable transactions within a corporate group. Its purpose is to limit such exemptions to transactions where the ultimate beneficial ownership of the assets remains unchanged. That is, the assets or corporation owned by a member of the corporate group remain subject to the ownership and control of the corporate parent, either directly, or indirectly by virtue of the parent's ownership and control of the member of the corporate group. It vests in the Commissioner the power to approve certain dutiable transactions as being exempt from duty, in accordance with guidelines determined by the Minister. This determination sets those guidelines in relation to:

- subsection 232 (1), which allows the exemption for a dutiable transaction by which dutiable property is transferred, or agreed to be transferred by, or vests in, a corporation that is a member of a group of corporations to another corporation that is a member of the same group; and
- subsection 232 (2), which exempts from duty an application to register a motor vehicle by a corporation that is a member of a group of corporations if, immediately before the application was made, the motor vehicle was registered in the name of another corporation that is a member of the same group.

3. The Guidelines are to apply retrospectively from 1 March 1999, the date of the introduction of the *Duties Act 1999*. The retrospective operation of the Guidelines, which provide an exemption for certain companies undertaking corporate reconstructions, should have no detrimental effect on taxpayers.

Circulated by the authority of the Chief Minister.