



ACT Revenue Office
Department of Treasury

OFF THE PLAN AGREEMENTS ASSESSMENT OF DUTY

On 3 November 2010, the ACT Civil and Administrative Tribunal (ACAT) released its decision in the case of *Araghi & Dorsett v Commissioner for ACT Revenue* ([2010] ACAT 78).

The decision, together with recent media attention to this issue, has created some uncertainty about the assessment of duty on off the plan agreements.

The *Taxation Administration Act 1999*, specifically deals with giving effect to ACAT decisions. An ACAT decision does not become final until 30 days have passed since the decision, and no appeal against the decision has been made.

The Commissioner for ACT Revenue has issued instructions for this matter to be appealed. Whilst under appeal, there will be no change in the way duty is assessed on off the plan agreements.

Section 16A of the *Duties Act 1999* (the Act) deals with the payment of duty on off the plan agreements.

Section 16A (4) (a) of the Act defines *off the plan purchase agreement* as follows:

an agreement for the sale or transfer of dutiable property that is, or includes, land where a residence is to be erected or developed before completion of the sale or transfer

All lodgments of interdependent contracts will continue to be considered as off the plan and will be assessed on the total value of the land contract plus the building contract. This will apply whether there is one contract or the agreement is an arrangement with more than one contract.

It is a requirement for assessment that both the land contract and the building contract are lodged, along with a Conveyance Lodgment Form and an Off the Plan Declaration.

Further advice will be provided in relation to this matter once the outcome of the appeal is known.

David Read
Commissioner for ACT Revenue
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Canberra Nara Centre 1 Constitution Avenue Canberra ACT 2601
PO Box 293 Civic Square ACT 2608
Tel: (02) 6207 0028 Fax: (02) 6207 0026
<http://www.revenue.act.gov.au/home>
ABN: 45 096 207 205