

Revenue Circular DAA004.14 Home Buyer Concession Scheme

CIRCULAR HISTORY

| Circular number | Issued date | Dates of effect ¹ | | Status |
|-----------------|-------------------|------------------------------|------------------|---------|
| | | From | To | |
| DAA004.9 | 20 December 2012 | 1 January 2013 | 4 June 2013 | Ceased |
| DAA004.10 | 30 May 2013 | 5 June 2013 | 31 August 2013 | Ceased |
| DAA004.11 | 12 September 2013 | 1 September 2013 | 31 December 2013 | Current |
| DAA004.12 | 19 December 2013 | 1 January 2014 | 30 June 2014 | Current |
| DAA004.13 | 26 June 2014 | 1 July 2014 | 31 December 2014 | Current |
| DAA004.14 | | 1 January 2015 | | Current |

PREAMBLE

- The purpose of DAA004.14 is to provide details of the Home Buyer Concession Scheme (the Scheme).
- DAA004.14 operates in tandem with DAA004.11 and DAA004.12, DAA004.13; each should be read in conjunction with the information about the Scheme on the ACT Revenue Office website.
- Accordingly DAA004.11 and DAA004.12, DAA004.13 continues to operate for the relevant **application period** while DAA004.14 applies prospectively to all relevant application periods.
- The **application period** under the Scheme is as follows. An application must be received by the ACT Revenue Office by the date the duty must be paid. That is, within:
 - 90 days of the transaction date, which is the date of the grant, transfer, or agreement for transfer (whichever is first); or
 - 14 days of the occurrence of one of the events mentioned in Section 16A (1) of the *Duties Act 1999* for an Off the Plan agreement.
- To enable applications to be processed efficiently, **all** documents must be lodged with the ACT Revenue Office at least ten working days before approval is required.
- Incomplete applications may be returned to you. Late applications will only be considered where the applicant can show lodging on time would have been unduly onerous (see the Unduly Onerous Revenue Circular DAA012.2). All applications accepted over the Counter or mailed to the ACT Revenue Office are subject to application time limits and may be returned if received out of time.

CIRCULAR

Eligible Property or Eligible Vacant Block

- A concessional rate of duty is available for the purchase, by an eligible home buyer, of an eligible property or eligible vacant block. The concession only applies to new or substantially renovated properties and vacant blocks for transactions dated on or after 1 January 2015.

¹ While a circular is expressed to have specific dates of effect, the circular continues to operate for the relevant **application period**.

Eligible home buyer

8. All parties (and their domestic partners) who will have an interest in the subject property upon settlement must be an applicant for the Home Buyer Concession and must be an eligible home buyer.

Thresholds and concessional rates payable

9. Property thresholds are determined by the Minister and are regularly updated, usually every 6 months, to reflect current property prices. If sale prices fall, the thresholds may be reduced.
10. The lower threshold for residential property is the highest sale price in the lowest 40 per cent of all sale prices for the two quarters prior to the quarter before the commencement of the relevant application period.²
11. The upper threshold for residential property is the highest sale price in the lowest 65 per cent of all sale prices for the two quarters prior to the quarter before the commencement of the relevant application period.²
12. The land value thresholds are aligned to the same percentage movement in property value threshold amounts from the previous determined amount.
13. The property thresholds and concessional duty rates are worked out in accordance with the following table.

| If the Dutiable Value of an Eligible Property or Eligible Vacant Block is... | the Concessional Duty Payable... |
|---|---|
| equal to or less than the lower threshold | is \$20 |
| more than the lower threshold, but less than the upper threshold | is the concessional duty rate for each \$100 (or part thereof) by which the dutiable value exceeds the lower threshold (with a minimum of \$20 payable) |
| equal to the upper threshold or more | does not apply (i.e. there is no concession and full duty is payable) |

14. If an application applies to a share in the property being purchased, the concession is proportional to that share. However, the dutiable value of the whole property must be less than the upper threshold.
15. In addition, a person acquiring a share of a property is not eligible unless all persons acquiring shares in the property meet the criteria under the Scheme.
16. A person can be eligible for a part concession if they are acquiring an additional share in an eligible property. In all circumstances, the property must be an eligible property.

Income test

16. The total income for all persons named as the grantee or transferee and their domestic partners must not exceed the income threshold that corresponds to the number of dependent children that they have.
17. Income is calculated as a combined total income of all persons and their domestic partners during the 1 year period before the date of grant, transfer, or agreement for transfer (whichever is first).

Residency requirements

18. At least one applicant named in the grant, transfer or agreement for transfer of the subject property as the grantee or transferee must:

² This means that if the thresholds are determined in January of any given year, the sales prices between April and September of the previous year (inclusive) are used. Similarly, if they are determined in July of any given year, the sales prices between October of the previous year and March of the current year (inclusive) are used. Note that this is based on the assumption that the thresholds are re-determined every 6 months.

- (a) reside in the home as their principal place of residence for a continuous period of 12 months; and
 - (b) the period of residence must start within 1 year of:
 - (i) the date of completion of the transfer of an eligible property; or
 - (ii) the date of the certificate of occupancy following completion of construction of the residence on the eligible vacant block.
19. The Commissioner for ACT Revenue (the Commissioner) may extend the time for an applicant to meet the residency requirements, approve a shorter period of residence, or exempt an applicant from the residency requirements.
20. The Commissioner's discretions in relation to the above paragraph, are exercisable only where a written request to exercise the power is lodged with the Commissioner within 18 months of:
- (a) in relation to an eligible property—the date of the completion of the transfer of the subject property; or
 - (b) in relation to an eligible vacant block—the date of the certificate of occupancy following completion of construction of the residence on the subject property.
21. An application to the Commissioner as set out above is limited to circumstances in which the applicant is unable to reside in the property because of an unforeseen or unavoidable event e.g. a health-related issue, or a job transfer requiring residence outside the ACT. These circumstances do not include an applicant renting the property for investment purposes.
22. Applicants who fail to comply with the residency requirements may be required to pay the duty in full under an amended assessment. Depending on the circumstances, interest and penalty tax may also be applied.

Current and previous property ownership

23. The grantee or transferee of the subject property and their domestic partners must not hold or have held in the two years preceding the date of the grant, transfer, or agreement for transfer, an interest in land anywhere other than the subject property.
24. The two-year exclusion period does not apply in the following cases where the grantee or transferee and their domestic partners:
- (a) have not, either alone or jointly with another person or persons, held a legal or equitable interest in land other than the subject property in the two years, except where a person is required to relinquish an interest in land:
 - (i) under an order of a court; or
 - (ii) under a written financial agreement under section 90B, 90C, 90D, 90UB, 90UC, or 90UD of the *Family Law Act 1975* (Cth) and the relationship has ended; or
 - (iii) under a written domestic relationship agreement or a termination agreement under the *Domestic Relationships Act 1994* and the relationship has ended.
The order or agreement must be made before the date the duty on the subject property must be paid; or
 - (b) have held an interest in land only for the purpose of performing their duties as an executor or trustee of a deceased estate.
 - (c) entered into an agreement to purchase a property within the preceding 2 year period (prior to the grant, transfer, or agreement for transfer of the subject property) and subsequently rescinded this agreement under section 50 or 50A of the Act, or the relevant law of another jurisdiction.

Legal and equitable ownership

25. Under the transfer or grant, all persons named as the grantee or transferee must together be acquiring both a legal and an equitable interest in the property.

Age

26. All persons named in the grant, transfer, or agreement for transfer of the subject property as the grantee or transferee must be 18 years or over on the date of the grant, transfer or agreement for transfer.
27. The Commissioner may exempt the applicant from the requirement to be at least 18 years old if the Commissioner believes there is good reason to do so. Supporting details must be provided with the application.

Refusal of concession and/or payment of full duty, interest, penalty tax

28. Applicants must ensure the information they provide is accurate. Failure to provide accurate information may result in the concession being denied and/or payment of the duty in full under an amended assessment. Depending on the circumstances, interest and penalty tax may also be applied.

Criminal penalties

29. Giving false or misleading information is a serious offence. For details of the serious criminal offences of making, giving or producing false or misleading statements, information or documents: see the *Criminal Code 2002*.

SIGNED

Kim Salisbury
Commissioner for ACT Revenue
19 December 2014

Contact the ACT Revenue Office

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