

REVENUE CIRCULAR DAA019

Barrier Free Model: Transactions before 18 September 2017 – *Duties Act 1999*

Issue Date: 18 September 2017

Status: Current – Effective 18 September 2017

Previous Circular: N/A

Introduction

Conveyance duty

Chapter 2 of the *Duties Act 1999* (Duties Act) imposes conveyance duty on specific dutiable transactions. These transactions include a transfer of dutiable property, an agreement for sale or transfer of dutiable property, a declaration of trust, and a grant of a Crown lease. Dutiable property includes Crown leases and other land in the ACT.

Duty liability arises when a transaction is first executed (section 11) and the duty is payable by the transferee (section 12). Duty is charged on the dutiable value of the dutiable property subject to the transaction (section 18 and part 2.3).

Barrier Free model

The *Revenue Legislation Amendment Act 2017*, effective 18 September 2017, introduces the Barrier Free model for the payment of conveyance duty. Under the Barrier Free model property buyers will no longer pay their conveyance duty before the settlement of a property.

The new model will allow property buyers and solicitors to pay duty after lodging the property transfer for registration with the Registrar-General of Land Titles (Access Canberra). The registration will ‘trigger’ the payment and a Notice of Assessment will be delivered to the email address nominated on registration at Access Canberra. Payments must be made online via BPAY or EFT.

The purpose of this circular is to explain the ACT Revenue Office’s process for handling transactions initiated before the commencement of the Barrier Free model under the transitional provisions in chapter 19 of the Duties Act.

General information about the Barrier Free model and the typical timeline for transactions is set out in the related Revenue Circular *Barrier Free Model* (DAA018), available on www.revenue.act.gov.au.

Transactions before 18 September 2017

This circular applies to any dutiable transaction where:

- the liability for duty arose before 18 September 2017; and
- the duty had not been assessed and paid in full before 18 September 2017.

In other words, the conveyance process was commenced ('in flight') prior to the implementation of the Barrier Free model but was not finalised as at 18 September 2017.

Transitional provisions

The main principle is that if the contract was executed before the commencement of the Barrier Free model on 18 September 2017, the old conveyancing rules apply. Duty must be paid either:

- within 90 days of the transaction date; or
- for an off-the-plan agreement, within 14 days of whichever comes first:
 - the agreement is completed;
 - the purchaser's interest is transferred;
 - one year has passed since the date of the agreement; or
 - a Certificate of Occupancy and Use has been issued.

Stamping of the dutiable instrument is required.

The transitional provisions under chapter 19 of the Duties Act ensure that there is a distinction between 'old' or pre-Barrier Free transactions and 'new' Barrier Free transactions.

The above deadline also applies to the submission of application forms for duty concession schemes (such as the Home Buyer Concession Scheme). Applications received after 90 days or 14 days of the relevant date for the transaction are still regarded as late applications for concession.

The Commissioner will apply the relevant disallowable instrument in force as at the transaction date when deciding whether to accept late applications.

Processing of transactions dated before 18 September 2017

If documents have not been lodged with the ACT Revenue Office

Following implementation of the Barrier Free model, Access Canberra will no longer accept over-the-counter lodgements or payments if the transaction is dated before 18 September 2017.

The transaction date is the date of grant, date of transfer, or date of agreement for sale or transfer, whichever occurs first (not the settlement date).

If you need to lodge conveyance documents for the transaction after 18 September 2017, you will need to use an online SmartForm to submit the transaction for duty assessment. You must attach supporting documentation and any associated applications for concessions or exemptions to the submission. The relevant SmartForm is available on the ACT Revenue Office website at www.revenue.act.gov.au.

You will be emailed a Notice of Assessment with the duty amount payable, together with unique electronic payment details. After making payment you will need to take your documents to the Dickson Access Canberra Environment, Planning and Land Shopfront to have them stamped. You will need to present a copy of the Notice of Assessment for the transaction at the same time.

For cancelled transactions dated before 18 September 2017, the rescission form must be completed and submitted to the ACT Revenue Office with the required attachments in order for the transaction to be cancelled and where applicable a refund issued.

If documents have been lodged, but duty has not been paid

If you lodged documents at Access Canberra before 18 September 2017 but did not make payment you will be required to pay using BPAY or Electronic Funds Transfer.

If you received a Notice of Assessment prior to the implementation date, you will be re-issued a Notice of Assessment with unique electronic payment details to pay your duty liability online. This will be a new notice of your existing assessment, not a brand-new assessment.

The details in the original Notice of Assessment issued for your transaction, including the duty due date and your timeframe to lodge an objection remain unchanged.

If you are lodging your transaction via the online eLodge Conveyance Smart Form a Notice of Assessment will be issued once the duty liability for the transaction has been assessed, which will include your unique electronic payment details for the transaction.

After making payment you will need to take your Notice of Assessment to the Dickson Access Canberra Environment, Planning and Land Shopfront to collect your documents and have them stamped.

Signed

Kim Salisbury
Commissioner for ACT Revenue
18 September 2017