



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2025-002
Date of Application	3 January 2025
Date of Decision	17 February 2025
Processing time (in working days)	30
Fees	N/A
Decision on Access	Partial Release
Information Requested (summary)	Statistical information relating to Home Buyers Concession Scheme.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD.FOI](#)
Cc: [REDACTED]
Subject: CMTEDDFOI 2025-002 - FOI Request [SEC=UNOFFICIAL]
Date: Friday, 3 January 2025 8:53:19 AM
Importance: High

You don't often get email from [REDACTED]. [Learn why this is important](#)

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

UNOFFICIAL

Good Morning,

Under ACT freedom of information laws, I submit the following freedom of information requests:

Documents I am seeking:



6. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the Home Buyer Concession Scheme .
7. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the definitions of domestic partner and spouse.

8. Dated from 01 July 2021, any internal or external legal advice or counsel obtained by or provided to the ACT Revenue Office regarding the definitions of domestic partner and spouse.
9. Dated from 01 July 2021, any internal or external legal advice or counsel obtained by or provided to the ACT Revenue Office regarding the interpretation of the Home Buyer Concession Scheme legislation.
10. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and the MLAs Chris Steel, Rachel Stephen-Smith, Ed Cocks, Shane Rattenbury regarding the Home Buyer Concession Scheme.

I'd appreciate this information by 21 January 2025.

Please reply all for all correspondence.

Kind Regards,



From: [CMTEDD FOI](#)
To: [REDACTED]
Cc: [REDACTED]; [CMTEDD FOI](#)
Subject: FW: CMTEDDFOI 2025-002 - Final Scope
Date: Tuesday, 21 January 2025 9:43:32 AM

OFFICIAL

Good morning [REDACTED]

Apologies for the previous email.

Here is the final scope.



4. Dated from 01 January 2024, any standard operating procedure, work instruction, directive, minute, guidance or policy documents issued by or updated by the ACT Revenue Office that instruct staff how to assess or reassessing home buyer concession scheme applications.
5. From 01 November 2021:
 - The number of ACT Revenue Office conveyance duty notice of assessments relating to HBCS.
 - The number of reassessments relating to HBCS.
 - The average time period between the ACT Revenue Office conveyance duty notice of assessment relating to 013-Home Buyer Concession Scheme (Established House) and Section 82 Notice issue;
 - The number of objections submitted relating to HBCS.
 - the number of objections upheld; and
 - the time periods between the submission of the objection and the outcome
6. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the Home Buyer Concession Scheme .
7. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the definitions of domestic partner and spouse.

8. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and the MLAs Chris Steel, Rachel Stephen-Smith, Ed Cocks, Shane Rattenbury regarding the Home Buyer Concession Scheme.

If you have any objections or if you want to discuss this matter further or raise any questions, please contact the Freedom of Information Coordinator on 6207 7754 or send an email to CMTEDDFOI@act.gov.au with the subject heading **CMTEDDFOI 2025-002**

Kind Regards,

Chris

Freedom of Information Coordinator | Information Access Team

Phone: 02 6207 7754 | Email: CMTEDDFOI@act.gov.au

Corporate | Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 1, 220 London Circuit, Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | act.gov.au

From: CMTEDD FOI <CMTEDDFOI@act.gov.au>

Sent: Tuesday, 21 January 2025 9:03 AM

To: [REDACTED] >

Cc: [REDACTED] >; CMTEDD FOI <CMTEDDFOI@act.gov.au>

Subject: CMTEDDFOI 2025-002 - Final Scope

OFFICIAL

Good morning [REDACTED],

Hope all is well.

As per previous discussion on of the scope of your request, below is the final agreed scope.





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2025-002



FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 03 January 2025, in which you sought access to:



6. *Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the Home Buyer Concession Scheme .*

7. *Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the definitions of domestic partner and spouse.*
8. *Dated from 01 July 2021, any internal or external legal advice or counsel obtained by or provided to the ACT Revenue Office regarding the definitions of domestic partner and spouse.*
9. *Dated from 01 July 2021, any internal or external legal advice or counsel obtained by or provided to the ACT Revenue Office regarding the interpretation of the Home Buyer Concession Scheme legislation.*
10. *Dated from 01 July 2021, any correspondence between the ACT Revenue Office and the MLAs Chris Steel, Rachel Stephen-Smith, Ed Cocks, Shane Rattenbury regarding the Home Buyer Concession Scheme.*

On 15 January 2025, you proposed the below points of your access request to be rescoped:

4. *Dated from 01 January 2024, any standard operating procedure, work instruction, directive, minute, guidance or policy documents issued by or updated by the ACT Revenue Office that instruct staff how to assess or reassessing home buyer concession scheme applications.*


8&9 please remove at this time.

On 20 January 2025, you proposed the below points of your access request to be scoped:

5. *From 01 November 2021:*

- *The number of ACT Revenue Office conveyance duty notice of assessments relating to HBCS.*
- *The number of reassessments relating to HBCS.*
- *The average time period between the ACT Revenue Office conveyance duty notice of assessment relating to 013-Home Buyer Concession Scheme (Established House) and Section 82 Notice issue;*
- *The number of objections submitted relating to HBCS.*
- *the number of objections upheld; and*
- *the time periods between the submission of the objection and the outcome*

The revised scope is:

- 
4. *Dated from 01 January 2024, any standard operating procedure, work instruction, directive, minute, guidance or policy documents issued by or updated by the ACT Revenue Office that instruct staff how to assess or reassessing home buyer concession scheme applications.*
 5. *From 01 November 2021:*
 - *The number of ACT Revenue Office conveyance duty notice of assessments relating to HBCS.*
 - *The number of reassessments relating to HBCS.*
 - *The average time period between the ACT Revenue Office conveyance duty notice of assessment relating to 013-Home Buyer Concession Scheme (Established House) and Section 82 Notice issue;*
 - *The number of objections submitted relating to HBCS.*
 - *the number of objections upheld; and*
 - *the time periods between the submission of the objection and the outcome*
 6. *Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the Home Buyer Concession Scheme .*
 7. *Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the definitions of domestic partner and spouse.*
 8. *Dated from 01 July 2021, any correspondence between the ACT Revenue Office and the MLAs Chris Steel, Rachel Stephen-Smith, Ed Cocks, Shane Rattenbury regarding the Home Buyer Concession Scheme.”*

Authority

I am an Information Officer appointed by the Director-General of CMTEED under section 18 of the Act to deal with access applications made under Part 5 of the Act.

I am a tax officer for the purposes of the *Taxation Administration Act 1999* (TAA), and a delegate of the Commissioner of ACT Revenue for the purpose of section 96 of the TAA.

Timeframes

In accordance with section 40 of the Act, CMTEED is required to provide a decision on your access application by **17 February 2025**.

Decision on access

Searches were completed and 38 documents were identified as relevant, within the scope of your access request. I have decided to grant full access to 30 these documents and partial access to 8 of these documents, pursuant to *Sch2 s2.2(xvi, xvii) Freedom of Information Act 2016*.

Please find enclosed with this decision a schedule that provides a short description of the documents released and corresponding access decision, **Attachment A**.

The documents are provided in Document Bundle, **Attachment B**.

Please note that information such as email correspondence between yourself and ACTRO have not been included as part of this decision. Pursuant to *sections 43(1)(d) and 45(e) of the Act* I may refuse to deal with an access application, wholly or in part, if government information has already been provided to you.

Please also note some correspondence provided by yourself to this office has been included within Attachment B, as it provides a full record of email correspondence relating to the documentation provided to you within scope.

Please see below statistical information relevant for point 5 of your access request.

From 01 November 2021:

- *The number of ACT Revenue Office conveyance duty notice of assessments relating to HBCS.*

Year	2021-22	2022-23	2023-24	2024-2025 (YTD Dec)
HBCS	5059	4585	3889	1658

- *The number of reassessments relating to HBCS.*

Year	No of NoRs issued
2021-22	8
2022-23	81
2023-24	236
2024-25 (YTD Dec)	145

- *The average time period between the ACT Revenue Office conveyance duty notice of assessment relating to O13-Home Buyer Concession Scheme (Established House) and Section 82 Notice issue;*

The average time period between the two Notices can vary depending on factors such as available resources, case complexity, and changes to systems and/or legislation. For this reason, we have not calculated as there are many variables.

- *The number of objections submitted relating to HBCS.*
220 objections were received from 1 November 2021 to 3 January 2025.

- *the number of objections upheld; and*

1 November 2021 to 3 January 2025;

Outstanding objections	68
Completed	152
Disallowed	114
Allowed	3
Part-Allowed	31
Withdrawn	4

- *The time periods between the submission of the objection and the outcome;*

While there is no legislative time requirement to determining an objection, objections are ordinarily reviewed in order of receipt. This progression is to be fair to all taxpayers who lodge an objection, many of whom advise they are facing similar challengers in receiving an unexpected tax assessment. This Office has no control over the number or complexity of objections received that can affect the six-month time frame we endeavour to meet in issuing decisions. Objections are assessed in turn, and where there have been high numbers of objections causing a backlog, it can sometimes take longer than the six-month (soft) target before an objection is assessed.

Objections targets:

The ACT Revenue Office has a target of six months for determining objections, starting from the day we receive the objection. This time frame does not include:

- *time we spend waiting for additional information from you or another relevant person*
- *time we spend waiting for the outcome of a relevant legal proceeding, if you agree to put the objection on hold*
- *time that we put the objection on hold, if you have asked us to do so.*

Our Office's searches for the following requests for information within your request concluded in no results:

6. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the Home Buyer Concession Scheme.

7. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the definitions of domestic partner and spouse.

8. Dated from 01 July 2021, any correspondence between the ACT Revenue Office and the MLAs Chris Steel, Rachel Stephen-Smith, Ed Cocks, Shane Rattenbury regarding the Home Buyer Concession Scheme.

Statement of Reasons

In reaching my decision, I have taken the following into account:

- The Act.
- The *Human Rights Act 2004*,
- The TAA, particularly the secrecy provisions under Division 9.4,
- schedule 1 of the Act, to assess whether the information would be contrary to public interest to disclose;
- the TAA, particularly the secrecy provisions under Division 9.4; and
- schedule 2 of the Act, particularly factors favoring non-disclosure in the public interest.
- the content of the documents that falls within the scope of your request.

Contrary to Public Interest under schedule 1 of the Act

Particularly, I have considered section 1.3(6) and (7) of schedule 1:

1.3 Information disclosure of which is prohibited under law

(6) Any other information the disclosure of which is prohibited by a secrecy provision of the law.

(7) In this section:

secrecy provision — a provision of a law is a secrecy provision if it —

(a) applies to information obtained in the exercise of a function under the law; and

(b) prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

Division 9.4 of the TAA contains a 'secrecy provision' as defined in Schedule 1, sections 1.3(6) and (7) of the Act.

Under section 95(2) of the TAA, tax officers are prohibited from disclosing any information obtained under, or in relation to the administration of a tax law.

With respect to some documents that fall within scope of Point 4 of your request for information, some of these documents falls within favour of a non-disclosure Pursuant to *Sch.2 s2.2 (xvi and xvii) Freedom of Information Act 2016*.

2.2 Factors favouring nondisclosure in the public interest

The following are factors favouring nondisclosure in the public interest:

(a) disclosure of the information could reasonably be expected to do any of the following:

(xvi) prejudice a deliberative process of government;

(xvii) prejudice the effectiveness of testing or auditing procedures;

Charges

Pursuant to Freedom of Information (Fees) Determination 2018, processing charges may be applicable for access applications. Under section 105(1)(a) of the Act, however, a fee must not be determined for making an access application for personal information about the applicant. Accordingly, a fee has not been determined for this request.

Processing charges are not applicable for this request because the number of pages released to you not concerning your own personal information is below the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a [disclosure log](#).

I note that your request sought statistical information as well as your own personal information. The portion of your request that relates to personal information, section 28(6) of the Act provides that this portion of your access application will not be published.

However, the portion of your request that is statistical and not personal information will be published, as will your original access application and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may use this form [Apply-for-Ombudsman-review.pdf](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal

15 Constitution Avenue
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 0293 or email ACTRO.FOI@act.gov.au.

Yours sincerely,

J Tonna

Joseph Tonna
Information Officer
ACT Revenue Office
Chief Minister, Treasury and Economic Development Directorate
17 February 2025



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	<p data-bbox="645 448 1509 1141">[Redacted]</p> <p data-bbox="663 1174 1491 1299">4. <i>Dated from 01 January 2024, any standard operating procedure, work instruction, directive, minute, guidance or policy documents issued by or updated by the ACT Revenue Office that instruct staff how to assess or reassessing home buyer concession scheme applications.</i></p> <p data-bbox="663 1337 987 1361">5. <i>From 01 November 2021:</i></p>	<p data-bbox="1659 448 1906 480">CMTEDDFOI 2025-002</p>

	<ul style="list-style-type: none"> • <i>The number of ACT Revenue Office conveyance duty notice of assessments relating to HBCS.</i> • <i>The number of reassessments relating to HBCS.</i> • <i>The average time period between the ACT Revenue Office conveyance duty notice of assessment relating to 013-Home Buyer Concession Scheme (Established House) and Section 82 Notice issue;</i> • <i>The number of objections submitted relating to HBCS.</i> • <i>the number of objections upheld; and</i> • <i>the time periods between the submission of the objection and the outcome</i> <p>6. <i>Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the Home Buyer Concession Scheme .</i></p> <p>7. <i>Dated from 01 July 2021, any correspondence between the ACT Revenue Office and any Commonwealth agency or authority relating to the definitions of domestic partner and spouse.</i></p> <p>8. <i>Dated from 01 July 2021, any correspondence between the ACT Revenue Office and the MLAs Chris Steel, Rachel Stephen-Smith, Ed Cocks, Shane Rattenbury regarding the Home Buyer Concession Scheme.”</i></p>	
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Document No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-9	Search Results	N/A	Full	N/A	No
2	10-11	Search Results	N/A	Full	N/A	No
3	12-14	Transfer	19-10-2022	Full	N/A	No
4	15-16	Delivery notification	27-11-2024	Full	N/A	No

Document No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
5	17-19	HBC Calculator	N/A	Full	N/A	No
6	20-24	Report	12-12-2024	Full	N/A	No
7	25-27	Email	13-12-2024	Full	N/A	No
8	28-31	Email	13-12-2024	Full	N/A	No
9	32-43	Email	23-12-2024	Full	N/A	No
10	44-47	Delivery receipt	24-12-2024	Full	N/A	No
11	48-59	Email	24-12-2024	Full	N/A	No
12	60-62	Email	15-01-2024	Full	N/A	No
13	63	Email	15-01-2025	Full	N/A	No
14	64	Details	N/A	Full	N/A	No
15	65-73	Internal template	N/A	Full	N/A	Yes
16	74	Internal template	N/A	Full	N/A	Yes
17	75-79	Internal template	N/A	Full	N/A	Yes
18	80-81	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
19	82-84	Internal template	N/A	Full	N/A	Yes
20	85-86	Internal Policy	N/A	Full	N/A	Yes
21	87-95	Document	N/A	Full	N/A	Yes
22	96-101	Internal Template	N/A	Full	N/A	Yes

Document No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
23	102-107	Internal Template	N/A	Full	N/A	Yes
24	108-109	Internal Template	N/A	Full	N/A	Yes
25	110-113	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
26	114	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
27	115-126	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
28	127-134	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
29	135	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
30	136-137	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
31	138-140	Internal Template	N/A	Full	N/A	Yes
32	141-143	Internal Template	N/A	Full	N/A	Yes
33	144-145	Internal Template	N/A	Full	N/A	Yes
34	146-148	Internal Template	N/A	Full	N/A	Yes
35	149-151	Internal Template	N/A	Full	N/A	Yes
36	152	Internal Template	N/A	Full	N/A	Yes
37	153	Internal Procedure	N/A	Partial	Sch.2, 2.2(xvi, xvii)	No
38	154-155	Internal Template	N/A	Full	N/A	Yes



Taxpayer Summary Report

Report created: DD Month Year

Taxpayer under review: XX

Property: SSBU (Street Address, Suburb, ACT Postcode)

Contract of purchase: DD Month Year | Settlement of Purchase: DD Month Year | Registration: DD Month Year

Contract of sale: DD Month Year | Settlement of sale: DD Month Year

Concession Utilised: Home Buyer Concession Scheme (code used) | Amount:

Overview

THIS IS AN OVERVIEW ONLY. DO NOT PARK ALL YOUR FINDINGS HERE WITHOUT USING FOLIO NUMBERS. THIS IS NOT THE PLACE FOR LONG EXPLANATIONS OF YOUR FINDINGS.

le Taxpayer breached the requirement of XXXX. Taxpayer concedes they are not eligible.

Summary of Charges	
Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Home Buyer Concession Scheme (XXX) (includes Residential Duty Owner Occupier Concessional Rate)	-\$XXX.XX
Removal of Residential Duty Owner Occupier Concessional Rate	\$XXX.XX
Removal of Home Buyer Concession Scheme (XXX)	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Commented [RC1]: If PPR breach, remove entire 406 & HBCS). If other breach, remove HBCS and keep 406)

Taxpayer/s

Taxpayer/s: <XX>

Identification Number (if any):

Email: name.name@company.com.au

Contact Number: <XX> **(BOLD)**



Searches

Manual Text

- Notice of Assessment (Folio)
- Transfer form (Folio)
- Contract of sale (Folio)
- Historic Title Search (Folio)
- LTO Buyer verification Form (Folio)
- ACT Rego client search (Folio)
- Contact details search (Folio)
- Person Property Chronology (Folio)

List the searches you have done AND THE RELEVANT INFORMATION PERTAINED IN THOSE SEARCHES.

Correspondence

Manual text – don't forget to folio emails.

- DD MM YY – A section 82 notice was sent to the taxpayer to gather the facts and circumstances. (Folio XX).
- DD MM YY – A response was received. (Folio XX)
In the response, ...

Disallowable Instrument – DIXXXX-XX

Home Buyer Concession Scheme (HBCS):

Under the Disallowable Instrument **DI2022-157**, the following criteria must be met to obtain the relevant concession.

- All buyers are at least the required age¹ on the transaction date i.e 18 years or older.
- All eligible buyers should acquire both legal and equitable interest in the eligible property².
- A transaction is not eligible for the HBCS if, in the two years preceding the day of the transaction date, a transferee or a transferee's domestic partner held an interest in land other than in the eligible property.
- To be eligible for the HBCS, the total gross income of all transferees and their domestic partners (if any) in the previous financial year must be less than or equal to the income threshold. The stated income must reflect the usual income of each transferee or domestic partner.
- At least one of the transferees of the eligible property must occupy the property as their principal place of residence³ continuously for a period of at least one year. That period must commence within one year of completion of the transfer

¹ Ibid S6(3), Disallowable Instrument **DI2022-157**

² Ibid S75A, Duties Act, 1999

³ Ibid S6(3), Disallowable Instrument **DI2022-157**



for a home, or the date that the certificate of occupancy is issued following completion of the construction of a home for vacant land.

(for PPR – Include below)

The settlement of purchase was on XX, however the property was sold on XX (settlement of sale). Therefore, the taxpayer has not met the criterion of continuously holding the property for a period of twelve months.

A condition for the home buyer scheme requires that the taxpayer must occupy the property as their principal place of residence continuously for a period of at least one year. That period must commence within one year of completion of the transfer for a home, or the date that the certificate of occupancy is issued following completion of the construction of a home for vacant land. This condition was not met in this case; hence the Commissioner had determined that the taxpayer is not eligible to claim the home buyer scheme concession for the property.

(If income risk, use one of the below table)

The income test for the HBCS in this case takes into account the taxpayer’s and their domestic partner’s gross income (including any back pay received in the relevant financial year) for the previous financial year of the contract date. The gross income is the income from all sources before tax and before any deductions for the relevant year.

Income requirements – Gross Income Threshold from 1 July 2022

Number of dependent children	Total gross income threshold
0	\$170,000
1	\$173,330
2	\$176,660
3	\$179,990
4	\$183,320
5 or more	\$186,650

Income requirements – Gross Income Threshold from 1 July 2019 to 30 June 2022

Number of dependent children	Total gross income threshold
0	\$160,000



1	\$163,330
2	\$166,660
3	\$169,990
4	\$173,320
5 or more	\$176,650

Income requirements – Gross Income Threshold before 1 July 2019

Number of dependent children	Total gross income threshold
0	\$160,000
1	\$163,330
2	\$166,660
3	\$169,990
4	\$173,320
5 or more	\$176,650

Per the tax return information provided, the combined total income of the taxpayers is \$XXXXXX. As the taxpayers 20XX-20XX gross income exceeded the threshold of \$1XX,XXX (with the taxpayer having X dependent child), the taxpayers have not met the income requirement of the HBCS and as a result were not eligible for the duty concession granted under the HBCS.

Owner Occupier Duty Concessional Rate

Under the Disallowable Instrument **DI2021-171** (reference: <https://www.revenue.act.gov.au/publications/disallowable-instruments>), the following criteria must be met to obtain the relevant concessional rate:

- at least 1 transferee will occupy the eligible property as the transferee's principal place of residence –
 - (i) Beginning within 1 year after the residence start date; and
 - (ii) For the duration of the residence period.

(Apply owner occupier concessional rate if the transaction date is after 1 July 2021)



Residency requirements:

15. At least one applicant must:

- a) reside in the property as their principal place of residence for a continuous period of 1 year; and
- b) (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. (ii) the date of the certificate of occupancy following completion of construction of the residence on the eligible vacant block.

16. 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.

17. The Commissioner's discretion 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.

18. 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 an involuntary job transfer requiring residence outside the ACT. These circumstances do not include an applicant renting the property for investment purposes.

19. 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.

Under ACTRO Circular DAA004.17 Home Buyer Concession Scheme, the Commissioner has the discretion to approve a shorter (or longer) period of residence (section 16) if an applicant is unable to reside in the property due to an unforeseen or unavoidable event, such as a health-related issue or an involuntary job transfer requiring residence outside the ACT (section 18). However, this discretion can only be exercised if a written request is submitted to the Commissioner within 18 months (section 17).

Regardless, this discretion cannot be utilised as the ACT Revenue Office was not notified within the relevant 18-month period and the case is outside the 18-month period, therefore, an exemption is not applicable in this instance. *(if 18 month cannot be applied).*

(Add more details if discretion applied).

Penalties and interest

Penalty Tax



Section 31 of the *Taxation Administration Act 1999* ('the TA Act') sets out circumstances in which the amount of penalty tax applies:

31 Amount of penalty tax

(1) The amount of penalty tax payable in relation to a tax default is 25% of the amount of tax unpaid, subject to this division.

(2) The commissioner may increase the amount of penalty tax payable in relation to a tax default to 50% of the amount of tax unpaid if the commissioner is satisfied that the tax default –

- (a) Was caused wholly or partly by the taxpayer (or a person acting on behalf of the taxpayer)—
 - (i) delaying the payment of tax; or
 - (ii) delaying the provision of information required for the assessment of tax; or
 - (iii) providing information required under a tax law that is incorrect, incomplete or misleading; or

(b) is the taxpayer's second or subsequent tax default in relation to a tax liability, or in relation to a similar or related tax liability.

(3) Subs (2) applies to a tax default in the same way whether the tax default happened before or after the subs commenced.

(4) The commissioner may increase the amount of penalty tax payable in relation to a tax default to 75% of the amount of tax unpaid if the commissioner is satisfied that the tax default was caused wholly or partly by the intentional disregard by the taxpayer (or a person acting on behalf of the taxpayer) of a tax law.

(5) No penalty tax is payable in relation to a tax default if the commissioner is satisfied that—

- (a) the taxpayer (or a person acting on behalf of the taxpayer) took reasonable care to comply with the tax law; or
- (b) the tax default happened solely because of circumstances beyond the taxpayer's control (or if a person acted on behalf of the taxpayer, because of circumstances beyond either the person's or the taxpayer's control) but not amounting to financial incapacity.

The Senior Member Beacroft accepted the respondent's assertion in the ACAT decision for *K&W Childcare*

Pty Ltd v Commissioner for ACT Revenue (Administrative Review) [2020] ACAT 12 (13 February 2020), [31]

that sub-s 31(2) may be 'enlivened by an unintentional omission, by 'the taxpayer being careless or reckless'.

Under section 31 (1) of the TA Act, the standard rate of penalty tax for a tax default is 25 per cent of the amount of unpaid tax. The taxpayer did not continuously own the property for 12 months as it was sold before the 12-month period OR The taxpayer did not meet the income threshold and therefore, has not met the conditions of the HBCS. The taxpayer also did not notify the Revenue Office when the PPR criterion was not met. The taxpayer did not take reasonable care to comply with the tax law. Therefore, under these circumstances, penalty of 25 per cent should be imposed.

It is our opinion that it was fully apparent that the transaction was not an eligible owner occupier

transaction OR home buyer concession scheme and that the taxpayer did not give the Commissioner written notice within 14 days when it became apparent (i.e., when he/she decided to sell the property) that the transaction was not an eligible transaction.

It is our opinion that had the taxpayer taken reasonable care to review the conditions of the HBCS that they would have determined they were not eligible for the conditions of the scheme.

Manual text – brief explanation of why particular level of penalty tax applied.

- A tax default occurred on X (15 days after settlement), therefore, penalty tax of 25 per cent is payable on the amount of tax unpaid under sub-s 31(1).
- Consider if 50% penalty tax or more is appropriate according to the facts of the case.
- You **MUST** outline if the taxpayer took reasonable care under s 31(5). If the taxpayer failed to take reasonable care, say why and outline what factors you considered.

Voluntary disclosure – Penalty Tax Reduction (Delete if not applicable)

Section 32 of the TA Act states:

32 Reduction in penalty tax for voluntary disclosure

The amount of penalty tax determined under section 31 is reduced by 80% if, before the Commissioner informs the taxpayer that an investigation relating to the taxpayer is to be carried out, the taxpayer discloses to the Commissioner, in writing, sufficient information to enable the nature and extent of the tax default to be determined.

Section 33 of the TA Act states:

33 Reduction in penalty tax for disclosure before investigation

The amount of penalty tax determined under section 31 is reduced by 20% if, after the Commissioner informs the taxpayer that an investigation relating to the taxpayer is to be carried out and before it is begun, the taxpayer discloses to the Commissioner, in writing, sufficient information to enable the nature and extent of the tax default to be determined.

The first element to consider in both sections 32 and 33 is whether the Commissioner had begun an investigation relating to the taxpayer.

The Court of Appeal of the Supreme Court of the ACT in 2011 considered the meaning of the word ‘investigation’ and whether the general meaning of the word applied or whether it involves the exercise of the compulsory powers in Division 9.2 of the TA Act.⁴ The word ‘investigation’ is not defined in the TA Act.

It was held that the ordinary meaning of the word ‘investigation’ applied because there was no clear legislative intention that the word should be narrowly constructed.⁵ It was held that:

In our view “investigation” in ss 32 and 33 [of the TA Act] should bear its ordinary or natural meaning of “the act or process of searching or inquiring in order to ascertain facts.”⁶

⁴ *Commissioner for ACT Revenue v Dataflex Pty Ltd and ACT Civil and Administrative Tribunal* [2011] ACTCA (28 July 2011) [30] (Gray P, Refshauge & Katzmann JJ).

⁵ *Commissioner for ACT Revenue v Dataflex Pty Ltd and ACT Civil and Administrative Tribunal* [2011] ACTCA (28 July 2011) [49] (Gray P, Refshauge & Katzmann JJ).

⁶ *Commissioner for ACT Revenue v Dataflex Pty Ltd and ACT Civil and Administrative Tribunal* [2011] ACTCA (28 July 2011) [49] (Gray P, Refshauge & Katzmann JJ) citing *Health Insurance Commission v Freeman* [1998] FCA

The legislation seems to only require notification from the commissioner to that specific taxpayer that an investigation is commencing rather than a requirement to notify the taxpayer of an investigation into a specific tax liability. As both ss 32 and 33 refer to “an investigation relating to the taxpayer” not an investigation relating to a tax liability.

- Identify when you first started completing searches for the taxpayer. That would technically be the ‘date’ that you began an investigation into the taxpayer as you starting a process of searching to ascertain facts. It is not the date you sent a s 82 notice to taxpayers.
- As a result of our processes, that we always do searches prior to contacting the taxpayer, we will rarely ever use s 33. As we will nearly always have started an investigation prior to contacting the taxpayer.
- For s 32, it is intended to operate as a completely out of the ordinary voluntary disclosure with no contact from the Commissioner. No prompt that we are looking at them for tax compliance.
- If you have a case where a taxpayer has made a disclosure pertaining to a transaction that we were not investigating, then its still unlikely that they will meet the criteria for ss 32 or 33 as the requirements pertain to an investigation of the taxpayer not the specific tax liability.
- If you still feel like you want to grant a reduction in penalty tax to a taxpayer for disclosing something you were never going to investigate, for example, prior to the period we are conducting investigations for, you can always use the general powers of remission under section 37.

Section 37 of the TA Act states:

37 Remission of penalty tax

The commissioner may, if the commissioner considers it appropriate in the circumstances, remit penalty tax by any amount.

Manual text – brief explanation of whether remitting penalty tax is appropriate in the circumstances.

It is not appropriate to remit penalty tax in these circumstances as there are no exceptional circumstances in this case. One of the aims of the Revenue Circular (GEN006.3) for penalty tax identifies that the purpose of imposing penalty tax is to deter non-compliance by making it unprofitable for taxpayers.⁷

Interest

S 25 of the TA Act states:

25 Interest in relation to tax defaults

(1) If a tax default happens, the taxpayer is liable to pay interest on the amount of tax unpaid calculated on a daily basis from the end of the last day for payment until the day it is paid at the

1340; (1998) 88 FCR 544 at 552; *Freeman v Health Insurance Commission* [2000] FCA 54; (2000) 97 FCR 249 at [20].

⁷ ACT Revenue Office, *Penalty Tax – Taxation Administration ACT 1999 and tax laws* (GEN006.3, 01 July 2019), 2.



interest rate from time to time applying under this division.

Manual text – from when does interest apply. NOTE – INTEREST ACCRUES ON THE 15TH DAY FROM REGISTRATION WITH REGISTRAR GENERAL

Interest is imposed under Section 25 of the TA Act from **XX** (when tax default occurred on the 15th day from when the transfer was registered with the registrar-general after the agreement was completed, under Section 16(2) of the Duties Act 1999) until **XX** (a day before the response was provided by the taxpayer).

Section 29 of the TA Act states:

29 Remission of Interest

The commissioner may, if the commissioner considers it appropriate in the circumstances, remit interest by any amount.

Manual text – why is it/is it not appropriate to remit interest.

Interest has been reviewed according to the TA Act s 29. It is recommended that interest should not be remitted as the circumstances that resulted in the tax default were not exceptional, and it would not be fair and reasonable to remit interest in this situation and place the taxpayer in a better position than a taxpayer who had paid their tax on time.

Recommendations

- The Taxpayer, **(name them)** is assessed for a liability for Conveyance duty on their acquisition of **(Property Name)** on **(Date)**
- The Owner Occupier Concessional Transfer Rate and the Home Buyer Concession Scheme is not applicable as the property/land was sold within 12 months of acquisition OR income threshold was not met OR the Taxpayer did not reside in the property for 12 months within 12 months of settlement.
- A 25 per cent penalty tax be imposed on the taxpayer as there was a tax default.
- Full interest be imposed from DateXX until DateXX.

Officer's Name:

Signature: _____ Date:

Supervisor's Name: Shaun Lonergan

Signature: _____ Date:



Telephone: 02 620X XXXX
Case Officer: XXX
Email: compliance@act.gov.au

(Taxpayer's name)
Address: (xxx)
Email: (xxx)

Dear Mr/Ms xxx

RE: Conveyance Duty Section 82 Notice
Taxation Administration Act 1999 (the TA Act)

The Property: SUBURB Section XXX Block XX Unit XX (Address)

Date of Transfer: Date
Concession utilised: 001 – Home Buyer Concession Scheme (House)

A request has been received for an extension of time to respond to the Section 82 notice sent on (Date) due to the (Reason) for the next three weeks/ until XX.

The Commissioner approves this extension request until (Date).

If you have any questions or would like to discuss this matter, please contact me on 02 XXXX XXXX or email compliance@act.gov.au.

Yours sincerely,

(Officer Name)
Delegate of the Commissioner
for ACT Revenue
XX XXXX 2023



Amount Due: \$ 0.00

CRN: ?

Taxpayer Name

C/- Accountant/Solicitor Name

480 QUEEN STREET
BRISBANE QLD 4000

Dear Sir/Madam,

Conveyance Duty Notice of Assessment

I refer to the decision made on 28 October 2022, and the assessment below.

Summary of Charges

Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed	-\$XXX.XX
Removal of Concession	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax	\$XXX.XX
(+) Interest	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

This Office confirms receipt of payment for \$XXX,XXX.00. The closing balance for the account is now \$0.00.

Yours sincerely,

Officer Name

Delegate of the Commissioner
for ACT Revenue

4 November 2022



CRN: XXXXXX

Due Date: XX Month 2025
Telephone: 02 6207 XXXX
Case Officer: Your Name
Email: compliance@act.gov.au

Taxpayer's name
Address: XXX
Email: XXX

Dear First Names,

**RE: Conveyance Duty and Land Tax Section 82 Notice
Taxation Administration Act 1999 (the TA Act)**

**The Property: SUBURB Section XXX Block XX Unit XX (Address)
Contract Date: XX XXXX 20XX | Registration Date: XX XXXX 20XX
Concession utilised: 001 – Home Buyer Concession Scheme (House)
Value of Concession: \$XX,XXX.XX**

The ACT Revenue Office is investigating your acquisition of Address and the claimed concession from conveyance duty under the Home Buyer Concession Scheme (001).

Under the Disallowable Instrument DXXXX-XXX¹, the following criteria must be met to obtain the relevant concession:

- Criterion 1: A transaction is not eligible for the HBCS if, in the two years preceding the day of the transaction date, a transferee or a transferee's domestic partner held an interest in land other than in the eligible property.
 - For Criterion 1, a beneficiary of a landholding unit trust is considered a relevant equitable interest in land.
- Criterion 2: To be eligible for the HBCS, the total gross income of all transferees and their domestic partners (if any) in the financial year preceding the transaction date must be less than or equal to the income threshold. The stated income must reflect the usual income of each transferee or domestic partner.
 - See the attached Disallowable Instrument for the relevant income thresholds.
- Criterion 3: At least one of the transferees of the eligible property must occupy the property as their principal place of residence continuously for at least one year. That period must commence within one year of completion of the transfer for a home or the date that the certificate of occupancy is issued following completion of the construction of a home for vacant land.
- Criterion 4: All transferees must be 18 years or older.

Pursuant to section 82 of the TA Act, you are required to answer the following questions:

Prior properties:

¹ Disallowable Instrument DXXXX-XXX, Taxation Administration (Amounts payable - Home Buyer Concession Scheme) Determination XXXX. Appendix 1 attached.

- 1) Provide a statement and supporting documentation to ascertain that you meet Criterion 1 of the eligibility criteria for the HBCS duty concession for your purchase of the property at address.
 - a) Provide a list of all properties held (anywhere in the world) within two years prior to Contract Date. Also disclose the date of purchase and if relevant, the date of sale for each.
 - b) If you had a domestic partner or spouse as at Contract Date provide their full name and a list of any property interests, they held (anywhere in the world) within two years prior to Contract Date.
 - c) If it is your position that your (and/or your spouse or domestic partners') prior interest in property should not impact upon your eligibility for the HBCS due to you having relinquished that interest as per; an order of a court, a financial agreement made under 90B, 90C, 90UB or 90UC of the *Family Law Act 1975 (Cwlth)*, or a domestic relationship agreement or termination agreement under the *Domestic Relationships Act 1994*, provide supporting evidence to corroborate your position.
- 2) {ONLY INCLUDE IF: overlap in ownership period for properties} Identify the period (if any) during which you considered Address and the properties disclosed in question 3 a) and 3 b) to be your principal place of residence.

Income Threshold

- 1) Provide a statement to ascertain that you meet the Criterion 2 eligibility criteria for the HBCS duty concession for your purchase of the property at Address.
 - a) Advise if you had a domestic partner or spouse as at Contract Date. If yes, provide their full name.
 - b) Advise how many dependent children (if any) you had as at Contract Date.
 - c) Provide a copy of your and your domestic partner or spouses' **Income Tax Returns and Notice of Assessments** for the financial year ending **30 June 20XX**. Ensure all attachments, including Rental Schedules are included.
 - For your personal privacy, please redact **all** references to your Tax File Number **before sending** the requested documents.
 - Please note an ATO PAYG summary is not a satisfactory substitution to the requested documentation.

Commented [SL1]: If you include prior properties delete this qn

Sold within 12 months:

ACT Records indicate that on Sale Settlement Date, the property Address appears to have been sold to XXXX.

- d) Did you still consider this property to be your principal place of residence after Sale Settlement Date.
- e) Provide a supporting statement detailing whether you have satisfied eligibility Criterion 3. Provide evidence to corroborate your statement.
- f) Did you contact the ACT Revenue Office to disclose that the residency requirements of the concession had not been met? If yes, provide details and evidence of payment of conveyance duty or;
- g) If you have been granted an exemption to the residency requirements, provide evidence of exemption approval.

Rented within 12 months:

- 2) ACT Revenue Office records indicate that the above-mentioned property has been rented since DATE. Or (We note that a Rental Bond for \$XXXX.XX was lodged on DATE for a tenancy commencing on DATE. Advise if you consider this property to be your principal place of residence.

- a) Identify the relevant dates during which the property was your principal place of residence and provide evidence that you meet the criteria set out Criterion 3.
- b) **{ONLY INCLUDE IF: possibly a partial rental}** If it is your position that the property remained your principal place of residence during the above-mentioned tenancy period, provide evidence of cohabitation during this period.
- c) **{ONLY INCLUDE IF: residential address is not the HBCS property}** Our records indicate your residential address was **Address** on or around **DATE**, advise what impact this has on your ability to meet Criterion 3.
- d) **{ONLY INCLUDE IF: Community has not been updated to show LTX variation}** We note that your Land Tax liability is currently being calculated using the Principal Place of Residence Exemption (Code-164). Do you believe you are eligible to claim this exemption?
– If no, advise what date you ceased to be eligible.
- e) Did you contact the ACT Revenue Office to disclose that the residency requirements of the concession had not been met? If yes, provide details and evidence of payment of conveyance duty or;
- f) If you have been granted an exemption to the residency requirements, provide evidence of exemption approval.

Under-valued property:

- 3) Per Section 20 of the *Duties Act 1999*, conveyance duty is calculated using the dutiable value of the eligible property, being the greater value of either the consideration or the unencumbered value of the property. Do you believe the consideration value of **\$X,XXX,XXX.XX** is representative of the correct dutiable value? Provide supporting evidence to corroborate your position.
 - a) What was your relationship to **Vendor Name** as at **Contract Date**?
 - b) Did you provide any non-monetary consideration for the purchase of **Address**?
 - c) Did you receive any valuations for **Address** prior to purchase? If yes, provide evidence of the valuation and the instructions which were provided to the valuer.
 - d) How was the contract for sale initiated? (i.e. at auction, via a real estate agent, by private agreement, etc).

Concluding questions:

- 4) Following our enquiry, do you have any other supporting information/statements about the claim for the HBCS duty concession?
- 5) Do you have any disclosures/amendments you would like to make with regard to your Land Tax liability?

Concluding questions – owner occupier exemption:

- 6) Should the ACT Revenue Office find that you are ineligible to claim the HBCS concession, outline any other duty concessions or exemptions you feel may be applicable, and provide evidence to support your eligibility.
 - a) Advise if you have met the Principal Place of Residence requirement as outlined in Criterion 3. Provide dates of commencement and if relevant end of the residency period.

Your response, including any related documents, is required by **XX Month 2025** to compliance@act.gov.au.

Failure to supply the above information by the due date may result in the imposition of up to 90 per cent penalty tax in respect of a tax default.



Please note, giving false or misleading information is a serious offence.

If you have any questions or would like to discuss this matter, please contact me on **02 6207 XXXX** or email compliance@act.gov.au.

Yours sincerely,

(Signature)

NAME
Delegate of the Commissioner
for ACT Revenue
XX XXXX 2025

DI Effective date	Home Buyer Concession
01/07/2019 to 15/12/2019	DI2019-137
16/12/2019 to 30/06/2021	DI2019-271
01/07/2021 to 30/06/2022	DI2021-172
01/07/2022 to 30/06/2023	DI2022-157
01/07/2023 to 26/11/2023	DI2023-163
27/11/2023 - 30/6/2024	DI2023-288
01/07/2024 - 30/6/2025	DI2024-175
DI Effective date	Owner Occupier Duty Concession
4/06/2020 to 30/06/2021	DI2019/141
01/07/2021 to 30/06/2022	DI2021-171
01/07/2022 to 30/06/2023	DI2022-155
01/07/2023 to 26/11/2023	DI2023-162
27/11/2023 - 30/6/2023	DI2023-286
01/07/2024	DI2024-174

Tax payer name

NAME

Duty Shortfall	\$0.00
Registration Date	10/12/2016
Interest Start Date (15 DAYS FROM REGISTRATION)	25/12/2016

Penalty Tax Payable	25%	\$0.00
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Interest

9.76%	From	01/01/2017	to	30/06/2017	181	\$0.00
9.73%	From	01/07/2017	to	31/12/2017	184	\$0.00
9.72%	From	01/01/2018	to	30/06/2018	181	\$0.00
9.96%	From	01/07/2018	to	31/12/2018	184	\$0.00
9.94%	From	01/01/2019	to	30/06/2019	181	\$0.00
9.54%	From	01/07/2019	to	31/12/2019	184	\$0.00
8.91%	From	01/01/2020	to	30/06/2020	182	\$0.00
8.10%	From	01/07/2020	to	31/12/2020	184	\$0.00
8.02%	From	01/01/2021	to	30/06/2021	181	\$0.00
8.04%	From	01/07/2021	to	31/12/2021	184	\$0.00
8.04%	From	01/01/2022	to	30/06/2022	181	\$0.00
9.00%	From	01/07/2022	to	31/12/2022	184	\$0.00
11.06%	From	01/01/2023	to	30/06/2023	181	\$0.00
11.90%	From	01/07/2023	to	31/12/2023	184	\$0.00
12.38%	From	01/01/2024	to	30/06/2024	182	\$0.00
12.36%	From	01/07/2024	to	31/12/2024	184	\$0.00
12.42%	From	01/01/2025	to	30/06/2025	181	\$0.00

Total interest	\$	-
Total Penalty	\$	-
Less duty paid	\$	-
Total	\$	-

Home Buyer Concession Email Templates – Add to Quick Parts

Section 82

Subject

Formal Notice from the ACT Revenue Office - Home Buyer Concession Scheme

Email

Dear **First Name**,

Attached is a notice issued pursuant to section 82 of the *Taxation Administration Act 1999*.

The purpose of this notice is to establish your eligibility for the concession claimed for your property purchase in **Suburb**.

Your response is required by **Day Month Year**.

Should you have any questions, please do not hesitate to contact me.

Kind regards,

NFA

Dear **First Name**,

The review of your Home Buyer Concession eligibility is now complete.

Please find attached a notice confirming that no further action will be taken into this matter, as the Commissioner is satisfied that you met the income requirements of the concession.

Should you have any queries, please don't hesitate to contact me.

Kind Regards,

Extension grant

Dear **First Name**,

Thank you for your email.

I confirm that an extension has been granted until **Day Month Year**.

Let me know if you have any questions in the meantime, or require further time to respond.

Kind regards,

Follow up email

Dear First Name,

I refer to the section 82 notice sent on **Day Month Year**.

Your response was due on **Day Month Year**, and you are now in breach of this notice.

You must provide the Commissioner with an update by close of business **today**.

A failure to supply the requested documentation may result in the imposition of up to 90 per cent penalty tax, should a tax liability exist.

Kind regards,

Notice of Reassessment - ACT Revenue Office

Dear **First Name**,

This Office has now finalised its investigation into your eligibility for the Home Buyer Concession Scheme (HBCS). In this instance, the Commissioner has found that you were not eligible to claim the home buyer concession for your property.

Please find attached a notice of reassessment for further information regarding your liability and method of payment.

If you are concerned that you may not be able to make full payment by the due date, please contact our debt management team by emailing DebtManagement@act.gov.au or by calling 02 6207 0028 and selecting option 6, then option 1 to discuss what payment options may be available to you.

Additionally, if you feel that an incorrect decision has been made in the reassessment, you may wish to exercise your rights to an internal review. Please refer to page **X** of your reassessment for more information regarding the internal review process.

Kind regards,

Home Buyer Concession Scheme – What is the Transfer date?

The Home Buyer Concession Scheme (HBCS), via the enforceable Disallowable Instrument(s), imposes a number of eligibility criteria upon transferees, which must be met in order to claim the concession. The criteria are summarised as follows:

- Criterion 1: A transaction is not eligible for the HBCS if, in the two years preceding the day of the transaction date, a transferee or a transferee’s domestic partner held an interest in land other than in the eligible property.
- Criterion 2: To be eligible for the HBCS, the total gross income of all transferees and their domestic partners (if any) in the financial year preceding the transaction date must be less than or equal to the income threshold. The stated income must reflect the usual income of each transferee or domestic partner.
- Criterion 3: At least one of the transferees of the eligible property must occupy the property as their principal place of residence continuously for at least one year. That period must commence within one year of completion of the transfer for a home or the date that the certificate of occupancy is issued following completion of the construction of a home for vacant land.
- Criterion 4: All transferees must be 18 years or older.

Criterion 1 and 2 require the transferee to consider their eligibility with reference to the “transaction date”. The term “transaction date” is defined as being “the date that liability for duty arises under the Act, section 11”¹, referring to *the Duties Act 1999 (The Act)*.

Section 11 of The Act states:

11 When does a liability for duty arise?

(1) A liability for duty payable under this chapter arises—

(a) when a transfer of dutiable property occurs; or

(b) if a transfer of dutiable property is effected by an instrument— when the instrument is first executed.

Note First executed, for an instrument—see s 243.

The Act Dictionary defines the term ‘instrument’ as including “a document and written statement”. The Commissioner considers a contract for purchase to be a document, and therefore instrument, which effects the transfer of dutiable property.

It is further necessary to identify the date upon which the instrument is executed. To understand this, the Commissioner relies upon section 243 of the Act which states:

243 Execution of instruments

¹ Disallowable Instrument section 6(3).

(1) For this Act, an instrument is taken to be first executed the first time that it is signed and sealed, or signed (as the case may be) by any party to it.

(2) However, a contract made by acceptance of an offer contained in an instrument is taken to be first executed when the offer is accepted.

In application of section 243, the Commissioner considers the signing of the contract for purchase by the transferee as being the date upon which the instrument is first executed, and as evidence of acceptance of the offer for sale of the dutiable property. It is, therefore, appropriate for the contract date for the purchase of the dutiable property to be utilised in assessing the eligibility of transferees to claim the HBCS concession in accordance with criteria 1 and 2.

On this basis, the Commissioner confirms his position that the “transfer date” for the purposes of HBCS eligibility criteria is to be applied with reference to the contract date for the purchase of the dutiable property.



DISCUSSION PAPER: HOME BUYER CONCESSION SCHEME

The ACT Government has a concession scheme to help people buy a home or residential land. The scheme is administered by the Revenue Office.

The purpose of this paper is to provide the key facts and discuss about the eligibility or concessions under this scheme which will help people to buy the home that's right for them by removing or reducing duty on any property they want to buy.

Dutiable Property

Chapter 2 of the Duties Act, 1999 explains that Dutiable Property is any of the following:

Dutiable property is a land in the ACT¹, a Crown lease,² a declared land sublease,³ a land use entitlement,⁴ a commercial lease with premium,⁵ a partnership interest,⁶ and any goods in the ACT defined under section 10(1)(g).⁷

Conveyance Duty

Conveyance duty, also known known as stamp duty, is a tax you pay when you buy property in the ACT, whether it's a home, land, or a commercial property.

Under certain circumstances, you may also be eligible to *defer your duty payment*⁸ or be eligible for an *exemption*⁹.

Deferred payment of Duty – Part 2.6A of the Duties Act

Under Section 2.6A.1 of the Duties Act, it outlines the two deferral methods:

- Home buyer concession scheme (HBCS)
- First home owner grant scheme (FHOGS)

Under this division (Division 2.6A.1), *an eligible person*¹⁰ means a person who:

- (a) is an eligible home buyer under the home buyer concession scheme; or
- (b) is eligible for a first home owner grant under the *First Home Owner Grant Act 2000*¹¹; or
- (c) would be eligible for a first home owner grant under the First Home Owner Grant Act 2000 apart from the person's home not being a new home ¹²under that Act, section 12B.

Under 2.6A.1, *an eligible property*¹³ means:

¹ Ibid s 10(1)(a)

² Ibid s 10(1)(b).

³ Ibid s 10(1)(c).

⁴ Ibid s 10(1)(d).

⁵ Ibid s 10(1)(e).

⁶ Ibid s 10(1)(f).

⁷ Ibid s 10(1)(g).

⁸ Ibid s 75, 75A, 75AB, AC, AD

⁹ Ibid s 2.5.1, 2.5.2, 2.5.3 Exemptions, Duties Act 1999

¹⁰ Ibid Part 2.6A.1, (75)

¹¹ First Home Owner Grant Act 2000 – Part 2

¹² Ibid S 12 B, First Home Owner Grant, 2000

¹³ Ibid S 75A, Duties Act, 1999



(a) for a home buyer concession scheme—property determined under the scheme as eligible property for the scheme; or

(b) in any other case—a residential lease with a value not more than—

(i) \$750 000; or

(ii) if another amount is determined by the Minister—the amount determined.

(2) A determination under subsection (b) (ii) is a *disallowable instrument*.

Note: A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act¹⁴.

Application to defer payment of duty¹⁵

(1) An eligible person may apply to the commissioner to defer payment of duty payable by the person on a dutiable transaction that is—

(a) the transfer of an eligible property; or

(b) an agreement for the sale or transfer of an eligible property.

(2) The application must be made at the same time as the instrument effecting the dutiable transaction is lodged with the registrar-general under the Land Titles Act 1925, ¹⁶section 47C (Registration of instruments effecting dutiable transaction).

(3) If there is more than 1 transferee or purchaser of the property, each transferee or purchaser must be an eligible person.

(4) An applicant must provide the commissioner with any information the commissioner reasonably requires to decide the application.

Note: Other deferral methods are further explained in Section 2.6A.2.

Home Buyer Concession Scheme

The ACT Government has a concession scheme to help people buy a home or residential land. The scheme is administered by the ACT Revenue Office.

The scheme helps people to buy the home that's right for them by removing or reducing duty on any property they want to buy.

HBCS can be further classified based on the dates of the transactions i.e

- Transactions entered from 1 July 2019
- Transactions entered into on or before 30 June 2019

1. Transaction entered from 1 July 2019

¹⁴ Legislation Act 2001 (ACT Government)

¹⁵ Ibid S75 AB, Duties Act, 1999

¹⁶ Land Titles Act, 1925 – ACT Legislation Register

Taxation Administration (Amounts Payable – HBCS) Determination 2022¹⁷

Disallowable Instrument DI2022 -157 (Commenced on 1 July 2022)

In this instrument:

eligible transaction means a transfer with a **transaction date on or after 1 July 2022 that meets the following requirements:**

- (a) all eligible home buyers acquire both a legal and an equitable interest in eligible property¹⁸ on completion of the transaction;
- (b) on the transaction date, all eligible home buyers¹⁹ and their domestic partners (if any) have not held a legal or equitable interest in land within the previous 2 years, other than an interest—
- (i) in the eligible property; or
 - (ii) that a person is required to relinquish under—
 - (A) an order of a court; or
 - (B) a financial agreement²⁰ made that is binding on the person; or
 - (C) a part VIIIAB financial agreement²¹ made that is binding on the person; or
 - (D) a domestic relationship agreement or termination agreement²² to which the person is a party; or
 - (iii) that a person acquires—
 - (A) as an executor or trustee (but not a beneficiary) under a will; or
 - (B) under an agreement for the sale or transfer of the interest within the 2-year period that was subsequently cancelled and, sections 50 or 50A of the Act²³, or relevant provisions of a corresponding Act were applied so as to result in no duty payable;
- (c) the total gross income of all eligible home buyers and their domestic partners (if any) in the previous financial year²⁴—
- (i) is less than or equal to the income threshold; and
 - (ii) reflects the usual income of each person;
- (d) at least 1 eligible home buyer will occupy the eligible property, as the eligible home buyer’s principal place of residence²⁵, within 1 year after the residence start date²⁶ for the duration of the residence period²⁷; and
- (e) all eligible home buyers are at least the required age²⁸ on the transaction date

¹⁷ Taxation Administration Act 1999, s 139 (Determination of amounts payable under tax laws)

¹⁸ Ibid Section 4 of the Disallowable Instrument DI2022-157

¹⁹ Ibid Section 5 of the Disallowable Instrument DI2022-157

²⁰ Ibid section 90B, section 90C, or section 90D of the *Family Law Act 1975* (Cwlth)

²¹ Ibid section 90UB, section 90UC, or section 90UD of the *Family Law Act 1975* (Cwlth)

²² Ibid the *Domestic Relationships Act 1994*

²³ Duties Act, 1999

²⁴ Ibid S 6 (3), Disallowable Instrument DI2022-157

²⁵ Ibid S 6 (3), Disallowable Instrument DI2022-157

²⁶ Ibid S 6 (3), Disallowable Instrument DI2022-157

²⁷ Ibid S 6 (3), Disallowable Instrument DI2022-157

²⁸ Ibid S 6 (3), Disallowable Instrument DI2022-157

Income requirements – Gross Income Threshold from 1 July 2022

Number of dependent children	Total gross income threshold
0	\$170,000
1	\$173,330
2	\$176,660
3	\$179,990
4	\$183,320
5 or more	\$186,650

Income requirements – Gross Income Threshold from 1 July 2019 to 30 June 2022

Number of dependent children	Total gross income threshold
0	\$160,000
1	\$163,330
2	\$166,660
3	\$169,990
4	\$173,320
5 or more	\$176,650

Duty Concession

For the purposes of section 31 of the Act²⁹, I determine that the amount of duty payable by an eligible home buyer on an eligible transaction under this instrument is calculated using the specified rate of duty in column 2 of table 1 applied to the dutiable value listed opposite in column 1.

Column 1 Dutiable value	Column 2 Rate of Duty
less than or equal to \$1,000,000	nil
more than \$1,000,000 but not more than \$1,455,000	\$6.40 for every \$100, or part of \$100, of the dutiable value that is more than \$1,000,000
more than \$1,455,000	a flat rate of \$4.54 per \$100 applied to the total dutiable value, less an amount of \$34,790

Concession Cap

From 1 July 2021, the amount of Home Buyer Concession is capped.

Year	Maximum Concession Amount
2022-23	\$34,790
2021-22	\$35,910

²⁹ Duties Act, 1999

2. Transaction entered into on or before 30 June 2019³⁰

For transactions entered into on or before 30 June 2019, the HBCS applies to the purchase of a new home³¹ or a block of vacant residential land³².

A **new home** means a home that has not been previously occupied, and that has not previously been sold as a place of residence. This is a two-limbed test where both conditions must be satisfied.

An **'off the plan'** purchase agreement, where a home is built on the land before settlement of the agreement, is treated as a new home under the HBCS.

Vacant land means land without a home or other dwelling built on it.

As of 7 June 2017, a substantially renovated home is no longer eligible for the HBCS.

Eligibility

To claim the HBCS, you need to meet the following requirements:

- you must be purchasing a new home or vacant land; and
- the home's total value must be less than the upper property value **threshold** amount; and
- all buyers of the home or land must be at least 18 years old; and
- the total gross income of all buyers including their partners (if any) must not be greater than the relevant total **gross income threshold amount**. A partner includes your spouse, civil union partner, civil partner or de facto partner; and
- all buyers including their partners (if any) must satisfy a current and previous home ownership test; and
- at least one buyer must satisfy the **residence requirements**.

Thresholds – Transactions entered into or before 30 June 2019

6 June 2018 to 30 June 2019

New home only		Vacant Land	
Dutiable Value	Concessional Duty Payable	Dutiable Value	Concessional Duty Payable
\$470,000 or less	\$0 (zero duty)	\$281,200 or less	\$0 (zero duty)
More than \$470,000 but less than \$607,000	\$12.35 for each \$100 (or part of \$100) that the dutiable value is more than \$470,000 (\$20 minimum duty)	More than \$281,200 but less than \$329,500	\$12.30 for each \$100 (or part of \$100) that the dutiable value is more than \$281,200 (\$20 minimum duty)

³⁰ ACT Revenue Office, 'Home Buyer Concession Scheme' <[Home buyer concession scheme \(including First Home Owner Grant\) | ACT Revenue Office - Website](#)>.

³¹ Ibid S 3, Disallowable Instrument DI2022-157

³² Ibid S 3, Disallowable Instrument DI2022-157



\$607,000 or more	No concession	\$329,500 or more	No concession
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18 September 2017 to 5 June 2018

New home only		Vacant Land	
Dutiable Value	Concessional Duty Payable	Dutiable Value	Concessional Duty Payable
\$470,000 or less	\$0 (zero duty)	\$281,200 or less	\$0 (zero duty)
More than \$470,000 but less than \$607,000	\$13.05 for each \$100 (or part of \$100) that the dutiable value is more than \$470,000 (\$20 minimum duty)	More than \$281,200 but less than \$329,500	\$13.05 for each \$100 (or part of \$100) that the dutiable value is more than \$281,200 (\$20 minimum duty)
\$607,000 or more	No concession	\$329,500 or more	No concession

7 June 2017 to 17 September 2017

New home only		Vacant Land	
Dutiable Value	Concessional Duty Payable	Dutiable Value	Concessional Duty Payable
\$470,000 or less	\$20 (minimum duty)	\$281,200 or less	\$20 (minimum duty)
More than \$470,000 but less than \$607,000	\$13.05 for each \$100 (or part of \$100) that the dutiable value is more than \$470,000 (\$20 minimum duty)	More than \$281,200 but less than \$329,500	\$13.05 for each \$100 (or part of \$100) that the dutiable value is more than \$281,200 (\$20 minimum duty)
\$607,000 or more	No concession	\$329,500 or more	No concession

1 January 2017 to 6 June 2017

New or substantially renovated home		Vacant Land	
Dutiable Value	Concessional Duty Payable	Dutiable Value	Concessional Duty Payable



\$468,000 or less	\$20 (minimum duty)	\$280,000 or less	\$20 (minimum duty)
More than \$468,000 but less than \$590,000	\$14.70 for each \$100 (or part of \$100) that the dutiable value is more than \$468,000 (\$20 minimum duty)	More than \$280,000 but less than \$323,300	\$15.55 for each \$100 (or part of \$100) that the dutiable value is more than \$280,000 (\$20 minimum duty)
\$590,000 or more	No concession	\$323,300 or more	No concession

Income requirements – Gross Income Threshold

Number of dependent children	Total gross income threshold
0	\$160,000
1	\$163,330
2	\$166,660
3	\$169,990
4	\$173,320
5 or more	\$176,650

Property requirements

Every buyer of the home must not have owned any other properties in the two years leading up to the transaction date, with limited exceptions*. This requirement also applies to the partner of a buyer, even if the partner will not be an owner of this home.

** Exceptions include court orders and agreements made under the Family Law Act 1975 and the Domestic Relationships Act 1994. These orders or agreements must be made before the transaction date.*

Residence requirements

At least one person who will own the home must live in the home continuously for at least one year, beginning within 12 months of settlement date or completion of construction.

The Commissioner for ACT Revenue can exempt you from the residence requirements, in full or in part, but only if:

- you cannot live at the home because of an unavoidable or unforeseen circumstance, such as a health-related issue; and
- you request an exemption in writing no later than 18 months after:
 - the settlement date (for an eligible home)
 - the date you receive the Certificate of Occupancy and Use once construction of the new home is finished (for vacant land).

Buyers who do not meet the residency requirement and that do not have an exemption will need to pay full duty. Penalty tax or interest may also apply if the requirements are not met.

How to Claim?

From 18 September 2017, the tax payer do not need to fill out an application for the HBCS instead can self-assess your eligibility.

If an individual is eligible, to claim the concession then you will need to reference the concession code number on the [Buyer Verification Declaration](#) before you register the title transfer with Access Canberra. The individual does not need to provide any other documents at this time.

For transactions dated before 18 September 2017, the individual only has a limited window to apply for the HBCS. The Revenue Office must receive their completed application by the date the duty must be paid, which is 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 buyer's interest is transferred
 - it's been one year since the date of the agreement, or
 - a Certificate of Occupancy and Use has been issued.

First Home Owner Grant

This scheme provides financial assistance to eligible people buying their first new or substantially renovated home. First Home Owner Grant (FHOG) payments are not available for applicants who enter into a transaction with a commencement date **on or after 1 July 2019**.

Eligibility

To be eligible for the FHOG:

1. Applicant to be an individual³³
1(a) – Applicant to be at least 18 years old
2. Applicant to be Australian citizen or permanent resident³⁴
3. Applicant (or applicant's partner) must not have received an earlier grant³⁵
4. Applicant (or applicant's partner) must not have had relevant interest in residential property³⁶
5. Residence requirements³⁷
6. Applicant must not have been convicted of offence against Act³⁸

First home owner grant cap³⁹

(1) The first home owner grant cap applies to an eligible transaction with a commencement date on or after 1 January 2011.

(2) The amount of the first home owner grant cap is:

(a) \$750 000; or

³³ Ibid Division 2.2 (8) of First Home Owner Grant Act 2000

³⁴ Ibid Division 2.2 (9) of First Home Owner Grant Act 2000

³⁵ Ibid Division 2.2 (10) of First Home Owner Grant Act 2000

³⁶ Ibid Division 2.2 (11) of First Home Owner Grant Act 2000

³⁷ Ibid Division 2.2 (12) of First Home Owner Grant Act 2000

³⁸ Ibid Division 2.2 (12A) of First Home Owner Grant Act 2000

³⁹ Ibid Division 13 A of First Home Owner Grant Act 2000

(b) if another amount is prescribed by regulation—the prescribed amount.

Grant Amount ⁴⁰

Commencement Dates	Grant Amount
1 January 2017 to 30 June 2019	\$7,000
1 January 2016 to 31 December 2016	\$10,000
1 September 2013 to 31 December 2015	\$12,500

Concession code for the lodgement

Concession Code	Concession Description
1	001-Home buyer Scheme-House
2	002-Home buyer Scheme-Land
3	003-Pensioner Home Buyer Scheme - House
4	004-Pensioner Home Buyer Scheme - Land
7	007-Deferral HBC House
9	009-Deferral Established Property / FHO
13	013-Home Buyer Concession Scheme (Established House)
14	014-Pensioner Duty Concession Scheme Deferral (House)
401	401-Owner Occupier (Land)
402	402-Owner Occupier (Off the plan - unit)
405	405- off the plan
406	406- residential duty owner occupier

⁴⁰ ACT Revenue Office, [First Home Owner Grant | ACT Revenue Office - Website](#)

CRN: XXXXXX

 Taxpayer Name
 Email:

Due Date: DD MMMM 2025
Notice Date: DD MMMM 2025
Amount Due: \$X,XXX,XXX.XX

Bill Code: 828442
Reference No.: XXX

BSB: 037844
Account No.: XXX

Dear Taxpayer Name,

NOTICE OF REASSESSMENT
**Modifying the Transfer Rate to the Non-Eligible Owner Occupier Rate and Removal of the Home Buyer Concession Scheme (code – Concession Type)
 Suburb Section XXX Block XX Unit XX (Address)**

The following table outlines the reassessment of the Conveyance Duty associated with your acquisition of XXXXXXXX. This concludes our review of this matter. You can request more information about this decision in writing within 28 days. For your convenience, further information has been provided below.

Summary of Charges	
Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Utilisation of Owner Occupier Concessional Rate & Home Buyer Concession Scheme (XXX)	-\$XXX.XX
Removal of the Owner Occupier Concessional Rate (406) & Home Buyer Concession Scheme (XXX)	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Reasons for Decision

The Home Buyer Concession (HBCS) investigation has found that you did not reside in the property as your principal place of residence for a continuous period of twelve months in accordance with the scheme's conditions.

The Home Buyer Concession (HBCS) investigation has found that the transaction was not eligible for the HBCS as, in the two years preceding (contract date), you (or spouse) held a legal or equitable interest in land other than (address).

The Home Buyer Concession (HBCS) investigation has found that in the financial year ending 30 June 20XX, you (and your spouse) exceeded the relevant income threshold of \$XXX,XXX.00 for the HBCS. Your gross income is your income from all sources before tax and before any deductions for the relevant financial year. As your (financial year) gross income exceeded the HBCS threshold of \$XXX,XXX (with you having (one) dependent child), you did not meet the income requirement of the HBCS and, as a result, were not eligible for the duty concession under the HBCS.

The Home Buyer Concession (HBCS) investigation has found that as of XX XXXX (contract date) you (or name of relevant taxpayer) were under the age of 18 years, and therefore ineligible to claim the HBCS concession.

Following a review of the Disallowable Instrument (DI2022-157), section 6 (1) legislated under the *Taxation Administration Act 1999* (TA Act), the Commissioner has determined that no concession should be applied to your acquisition. Due to the removal of the concession, conveyance duty is payable.

The decision to remove the concession has been partially informed by the disclosures made in the correspondence dated DD MMMM YYYY, which stated the following:

“Excerpt of communications”

If it is your position that the tax default occurred without your knowledge or as a result of incorrect advice from your representative/ agent, please note that the obligations of ACT taxpayers with respect to compliance with tax laws were addressed by the ACT Civil and Administrative Tribunal (ACAT) decision in *Steele v Commissioner for ACT Revenue (Administrative Review)* [2010] ACAT 15, where at paragraphs 12 and 16, respectively, Senior Member Brian Hatch stated:

“the expectation at least for tax law in the ACT is that the tax payer is meant to find out what liability exists.

... the expectation under our law is that the taxpayer needs to ascertain what tax liabilities may exist.”

Additionally, in the ACAT matter of *Van Duren & Anor v Commissioner for ACT Revenue* [2016] ACAT 121, the ACAT discussed taxpayers’ obligations, even when represented by an agent. Senior Member Beacroft stated at [39]:

‘Liability for penalty tax falls on the owners of property, in this case the applicants, even though one of them appointed an agent... Liability does not shift to an agent once appointed.’

Eligible Owner Occupier Transaction – Concessional Rate

It is the opinion of the Commissioner that you are **not** eligible to claim the Eligible Owner Occupier Conveyance Duty (code- type) concessional rate. To utilise this rate, at least one buyer must live in the home continuously for at least one year, starting within 12 months of the date of completion (settlement date). On the facts, you have **not** met this criterion and the Commissioner has therefore **granted you/ removed** the concessional rate in accordance with **DIXXXX-XXX**.

Penalty Tax

Penalty tax is imposed when a taxpayer fails to pay the whole or part of any tax that the taxpayer is liable to pay.

Section 31(1) of the TA Act provides that where a tax default has occurred, penalty tax is to be applied at a rate of 25 per cent of the amount of unpaid tax. In this matter, the tax default occurred on DD MMMM YYYY (being the 15th day following when the transfer was registered with the registrar-general after the agreement was completed, which took place on DD MMMM YYYY) per Section 16 of the *Duties Act 1999*.

Only include for settlements from July 2022 onwards:

On DATE, this Office issued you with a reminder email that identified your obligations as a claimant of the concession. The email also identified the steps that should be taken, being the lodgement an Application for Concession, Exemption, or Correction of Duty after Registration of Title form if the conditions were not met. However, this Office did not receive this notification from you, and hence the Commissioner has determined that you did not take reasonable care to comply with your tax obligations, despite a secondary opportunity to come forth.

50% Penalty tax

Section 31(2) of the TA Act provides that where a taxpayer has either wholly or partially caused tax default as a result of (delaying the payment of tax/ delaying the provision of information required for the assessment of tax/ providing incorrect, incomplete or misleading information which is required under tax law) the Commissioner may apply penalty tax at a rate of 50 per cent of the amount of unpaid tax. In this matter tax default occurred on DD MMMM YYYY (being the 15th day following when the transfer was registered with the registrar-general after the agreement was completed), per Section 16 of the *Duties Act 1999*.

In accordance with the abovementioned legislation the Commissioner has found that you wholly or partially caused tax default by (reasons).

75% PENALTY TAX

Section 31(4) of the TA Act provides that where tax default has been wholly or partially caused by the intentional disregard by the taxpayer of a tax law, the Commissioner may apply penalty tax at a rate of 75 per cent of the amount of unpaid tax. Note, in this matter tax default occurred on DD MMMM YYYY (being the 15th day following when the transfer was registered with the registrar-general after the agreement was completed) per Section 16(2) of the *Duties Act 1999*.

In accordance with the abovementioned legislation the Commissioner has found that you wholly or partially caused tax default by (reasons).

REMISSION OF PENALTY TAX

The penalty tax has been reviewed according to Section 37 of the TA Act, and the Commissioner has determined that penalty tax should not be remitted, as it is not appropriate in the circumstances.

Regarding the imposition of penalty tax, the Commissioner notes that financial incapacity is not a sufficient reason for penalty tax remission. In this, decisions are guided by Revenue Circular Penalty Tax (GEN006.3) Page 6¹, which states:

“Mere financial incapacity to pay a tax liability does not constitute circumstances beyond the ... taxpayer’s control.”

Interest

Interest has been imposed on the duty shortfall from DD MMMM YYYY until DD MMM YYYY. The start date for the interest period is based upon the tax default which occurred on the 15th day following when the transfer was registered with the registrar-general, under Section 16 (2) of the *Duties Act 1999*, interest was stopped on DD MMMM YYYY (a day before you provided complete information) under Section 25 of the TA Act. The relevant interest rate is pursuant to Section 26 of the TA act and is both the premium and market rates prescribed in the attached table.

¹ Available at <https://www.revenue.act.gov.au/publications/circulars>.

The Commissioner has determined that interest should not be remitted in these circumstances as the purpose of imposing interest is to deter non-compliance, and you did not comply with your tax obligations.

Further Interest

The amount of **\$XXXX.XX** is payable by **DD MMM 2025**. Should you fail to pay this amount, further interest will accrue in relation to unpaid tax amounts (including penalty tax amounts). The current rate is 12.42 per cent, interest is calculated and charged daily.

Debt Management

The debt recovery team can be contacted by emailing DebtManagement@act.gov.au or by calling 02 6207 0028 and selecting option 6, then option 1.

Objection Rights

Refer to the attached Internal Review Notice for information relating to your objection rights. Note that lodging an objection does not cancel the liability to pay outstanding amounts. If amounts for which you are liable remain outstanding, interest will accrue, and debt recovery actions could commence. If, after payment, the objection is allowed in full or in part, an appropriate adjustment will be made at this time.

Officer

Delegate of the Commissioner
ACT Revenue Office
DD MMMM 2025

INTERNAL REVIEW NOTICE

The Commissioner for ACT Revenue has made the decision attached.

The Commissioner decided on this matter on **DD MMMM 2025**. If you are dissatisfied for any reason, you have the following rights.

Your rights to seek further information about the decision.

If you wish to obtain more information about the decision, you may apply **in writing** to the Commissioner within **28 days** after the date of the decision as follows:

By post: The Commissioner for ACT Revenue
 GPO Box 293
 CANBERRA ACT 2601

Internet: <https://www.revenue.act.gov.au/contact-us>

Email: compliance@act.gov.au

Your rights to object to the decision

If you wish to object to the decision, you must apply **in writing** to the Commissioner by post to the address set out above or by email to objections@act.gov.au within **60 days** after the date of the service of the decision. Your objection must state fully and in detail the grounds upon which you rely. You should include any supporting documentation with your objection that you want to be considered at the time your objection is determined. You bear the burden of showing that your objection should be upheld.

You are responsible for any expenses that you incur in relation to the objection e.g. your legal fees and/or your valuer's fees. Except where the reason for the objection is dissatisfaction with an unimproved land value, a late objection may be allowed by the Commissioner if an application is made in writing for late lodgement together with the reasons for the delay.

An objection is determined by a senior officer who is independent of the original decision-maker on the basis of the information provided in the objection and by the decision-maker. Additional information may be requested to assist in determining the objection. The Commissioner will give you notice in writing of the determination of your objection.

Your rights to seek merits review of the determination of your objection—*ACT Civil and Administrative Tribunal Act 2008*

If you wish to seek a review of the determination of your objection, you must apply in writing to the ACT Civil and Administrative Tribunal (the ACAT) within **28 days** of the date of the determination.

The application must state clearly your reasons for seeking a review. For further information, contact the ACAT Registry. There may be a fee associated with lodging an application to the ACAT. For current fee schedules, and for information on fee waivers, contact the ACAT Registry.

Other rights

Your rights to a review of the decision do not preclude the exercise of any other rights you may have under the laws of the Australian Capital Territory. You may also have rights under the Ombudsman Act, Administrative Decisions (Judicial Review) Act and the Freedom of Information Act. If you have any further questions concerning your rights to a review of a decision, or you require assistance, contact the ACAT Registry.

INTEREST

Interest is imposed under section 26 of the *Taxation Administration Act 1999* for unpaid overdue home buyer concession duty and is applied at the following rates.

Interest Period	Premium component	Market rate component
01/01/2006 – 30/06/2006	8.00%	5.63%
01/07/2006 – 31/12/2006	8.00%	5.87%
01/01/2007 – 30/06/2007	8.00%	6.37%
01/07/2007 – 31/12/2007	8.00%	6.37%
01/01/2008 – 30/06/2008	8.00%	7.15%
01/07/2008 – 31/12/2008	8.00%	7.75%
01/01/2009 – 30/06/2009	8.00%	4.76%
01/07/2009 – 31/12/2009	8.00%	3.13%
01/01/2010 – 30/06/2010	8.00%	3.95%
01/07/2010 – 31/12/2010	8.00%	4.80%
01/01/2011 – 30/06/2011	8.00%	5.02%
01/07/2011 – 31/12/2011	8.00%	5.00%
01/01/2012 – 30/06/2012	8.00%	4.62%
01/07/2012 – 31/01/2012	8.00%	3.66%
01/01/2013 – 30/06/2013	8.00%	3.24%
01/07/2013 – 31/12/2013	8.00%	2.82%
01/01/2014 – 30/06/2014	8.00%	2.59%
01/07/2014 – 31/12/2014	8.00%	2.69%
01/01/2015 – 30/06/2015	8.00%	2.75%
01/07/2015 – 31/12/2015	8.00%	2.15%
01/01/2016 – 30/06/2016	8.00%	2.22%
01/07/2016 – 31/12/2016	8.00%	2.01%
01/01/2017 – 30/06/2017	8.00%	1.76%
01/07/2017 – 31/12/2017	8.00%	1.73%
01/01/2018 – 30/06/2018	8.00%	1.72%
01/07/2018 – 31/12/2018	8.00%	1.96%
01/01/2019 – 30/06/2019	8.00%	1.94%
01/07/2019 – 31/12/2019	8.00%	1.54%
01/01/2020 – 30/06/2020	8.00%	0.91%
01/07/2020 – 31/12/2020	8.00%	0.10%
01/01/2021 – 30/06/2021	8.00%	0.02%
01/07/2021 – 31/12/2021	8.00%	0.04%
01/01/2022 – 30/06/2022	8.00%	0.04%
01/07/2022 – 31/12/2022	8.00%	1.00%
01/01/2023 – 30/06/2023	8.00%	3.06%
01/07/2023 – 31/12/2023	8.00%	3.90%
01/01/2024 – 30/06/2024	8.00%	4.38%
01/07/2024 – 31/12/2024	8.00%	4.36%
01/01/2025 – 30/06/2025	8.00%	4.42%

CRN: XXXXXXTaxpayer Name
Email:**Due Date:** DD MMMM 2025
Notice Date: DD MMMM 2025
Amount Due: \$X,XXX,XXX.XX**Bill Code:** 828442
Reference No.: xxx**BSB:** 037844
Account No.: xxx

Dear Taxpayer Name,

NOTICE OF REASSESSMENT**Removal of the Home Buyer Concession Scheme (code – Concession Type)
Suburb Section XXX Block XX Unit XX (Address)**

The following table outlines the reassessment of the Conveyance Duty associated with your acquisition of XXXXXXXX. This concludes our review of this matter. You can request more information about this decision in writing within 28 days. For your convenience, further information has been provided below.

Summary of Charges	
Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Home Buyer Concession Scheme (XXX)	-\$XXX.XX
Removal of the Home Buyer Concession Scheme (XXX)	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Reasons for Decision

The Home Buyer Concession (HBCS) investigation has found that you did not reside in the property as your principal place of residence for a continuous period of twelve months in accordance with the scheme's conditions.

The Home Buyer Concession (HBCS) investigation has found that the transaction was not eligible for the HBCS as, in the two years preceding (contract date), you (or spouse) held a legal or equitable interest in land other than (address).

The Home Buyer Concession (HBCS) investigation has found that in the financial year ending 30 June 20XX, you (and your spouse) exceeded the relevant income threshold of \$XXX,XXX.00 for the HBCS. Your gross income is your income from all sources before tax and before any deductions for the relevant financial year. As your (financial year) gross income exceeded the HBCS threshold of \$XXX,XXX (with you having (one) dependent child), you did not meet the income requirement of the HBCS and, as a result, were not eligible for the duty concession under the HBCS.

The Home Buyer Concession (HBCS) investigation has found that as of XX XXXX (contract date) you (or name of relevant taxpayer) were under the age of 18 years, and therefore ineligible to claim the HBCS

concession.

Following a review of the Disallowable Instrument (DI2022-157), section 6 (1) legislated under the *Taxation Administration Act 1999* (TA Act), the Commissioner has determined that no concession should be applied to your acquisition. Due to the removal of the concession, conveyance duty is payable.

The decision to remove the concession has been partially informed by the disclosures made in the correspondence dated DD MMMM YYYY, which stated the following:

"Excerpt of communications"

If it is your position that the tax default occurred without your knowledge or as a result of incorrect advice from your representative/ agent, please note that the obligations of ACT taxpayers with respect to compliance with tax laws were addressed by the ACT Civil and Administrative Tribunal (ACAT) decision in *Steele v Commissioner for ACT Revenue (Administrative Review)* [2010] ACAT 15, where at paragraphs 12 and 16, respectively, Senior Member Brian Hatch stated:

*"the expectation at least for tax law in the ACT is that the tax payer is meant to find out what liability exists.
... the expectation under our law is that the taxpayer needs to ascertain what tax liabilities may exist."*

Additionally, in the ACAT matter of *Van Duren & Anor v Commissioner for ACT Revenue* [2016] ACAT 121, the ACAT discussed taxpayers' obligations, even when represented by an agent. Senior Member Beacroft stated at [39]:

'Liability for penalty tax falls on the owners of property, in this case the applicants, even though one of them appointed an agent... Liability does not shift to an agent once appointed.'

Owner Occupier (Off the plan – Unit/ Land) Concession

It is the opinion of the Commissioner that you are eligible to claim the Owner Occupier concession (code). For this concession, at least one buyer must live in the home continuously for at least one year, starting within 12 months of the date of completion (settlement date). On the facts, you have met this criterion, and the Commissioner has therefore granted you the concession in accordance with DXXXX-XXX.

Penalty Tax

Penalty tax is imposed when a taxpayer fails to pay the whole or part of any tax that the taxpayer is liable to pay.

Section 31(1) of the TA Act provides that where a tax default has occurred, penalty tax is to be applied at a rate of 25 per cent of the amount of unpaid tax. In this matter, the tax default occurred on DD MMMM YYYY (being the 15th day following when the transfer was registered with the registrar-general after the agreement was completed, which took place on DD MMMM YYYY) per Section 16 of the *Duties Act 1999*.

Only include for settlements from July 2022 onwards:

On DATE, this Office issued you with a reminder email that identified your obligations as a claimant of the concession. The email also identified the steps that should be taken, being the lodgement an

Application for Concession, Exemption, or Correction of Duty after Registration of Title form if the conditions were not met. However, this Office did not receive this notification from you, and hence the Commissioner has determined that you did not take reasonable care to comply with your tax obligations, despite a secondary opportunity to come forth.

50% Penalty tax

Section 31(2) of the TA Act provides that where a taxpayer has either wholly or partially caused tax default as a result of (delaying the payment of tax/ delaying the provision of information required for the assessment of tax/ providing incorrect, incomplete or misleading information which is required under tax law) the Commissioner may apply penalty tax at a rate of 50 per cent of the amount of unpaid tax. In this matter tax default occurred on DD MMMM YYYY (being the 15th day following when the transfer was registered with the registrar-general after the agreement was completed), per Section 16 of the *Duties Act 1999*.

In accordance with the abovementioned legislation the Commissioner has found that you wholly or partially caused tax default by (reasons).

75% PENALTY TAX

Section 31(4) of the TA Act provides that where tax default has been wholly or partially caused by the intentional disregard by the taxpayer of a tax law, the Commissioner may apply penalty tax at a rate of 75 per cent of the amount of unpaid tax. Note, in this matter tax default occurred on DD MMMM YYYY (being the 15th day following when the transfer was registered with the registrar-general after the agreement was completed) per Section 16(2) of the *Duties Act 1999*.

In accordance with the abovementioned legislation the Commissioner has found that you wholly or partially caused tax default by (reasons).

REMISSION OF PENALTY TAX

The penalty tax has been reviewed according to Section 37 of the TA Act, and the Commissioner has determined that penalty tax should not be remitted, as it is not appropriate in the circumstances.

Regarding the imposition of penalty tax, the Commissioner notes that financial incapacity is not a sufficient reason for penalty tax remission. In this, decisions are guided by Revenue Circular Penalty Tax (GEN006.3) Page 6¹, which states:

“Mere financial incapacity to pay a tax liability does not constitute circumstances beyond the ... taxpayer’s control.”

Interest

Interest has been imposed on the duty shortfall from DD MMMM YYYY until DD MMM YYYY. The start date for the interest period is based upon the tax default which occurred on the 15th day following when the transfer was registered with the registrar-general, under Section 16 (2) of the *Duties Act 1999*, interest was stopped on DD MMMM YYYY (a day before you provided complete information) under Section 25 of the TA Act. The relevant interest rate is pursuant to Section 26 of the TA act and is both the premium and market rates prescribed in the attached table.

The Commissioner has determined that interest should not be remitted in these circumstances as the purpose of imposing interest is to deter non-compliance, and you did not comply with your tax

¹ Available at <https://www.revenue.act.gov.au/publications/circulars>.

obligations.

Further Interest

The amount of **\$XXXX.XX** is payable by **DD MMM 2025**. Should you fail to pay this amount, further interest will accrue in relation to unpaid tax amounts (including penalty tax amounts). The current rate is 12.42 per cent, interest is calculated and charged daily.

Debt Management

The debt recovery team can be contacted by emailing DebtManagement@act.gov.au or by calling 02 6207 0028 and selecting option 6, then option 1.

Objection Rights

Refer to the attached Internal Review Notice for information relating to your objection rights. Note that lodging an objection does not cancel the liability to pay outstanding amounts. If amounts for which you are liable remain outstanding, interest will accrue, and debt recovery actions could commence. If, after payment, the objection is allowed in full or in part, an appropriate adjustment will be made at this time.

Officer

Delegate of the Commissioner
ACT Revenue Office
DD MMMM 2025

INTERNAL REVIEW NOTICE

The Commissioner for ACT Revenue has made the decision attached.

The Commissioner decided on this matter on **DD MMMM 2025**. If you are dissatisfied for any reason, you have the following rights.

Your rights to seek further information about the decision.

If you wish to obtain more information about the decision, you may apply **in writing** to the Commissioner within **28 days** after the date of the decision as follows:

By post: The Commissioner for ACT Revenue
 GPO Box 293
 CANBERRA ACT 2601

Internet: <https://www.revenue.act.gov.au/contact-us>

Email: compliance@act.gov.au

Your rights to object to the decision

If you wish to object to the decision, you must apply **in writing** to the Commissioner by post to the address set out above or by email to objections@act.gov.au within **60 days** after the date of the service of the decision. Your objection must state fully and in detail the grounds upon which you rely. You should include any supporting documentation with your objection that you want to be considered at the time your objection is determined. You bear the burden of showing that your objection should be upheld.

You are responsible for any expenses that you incur in relation to the objection e.g. your legal fees and/or your valuer's fees. Except where the reason for the objection is dissatisfaction with an unimproved land value, a late objection may be allowed by the Commissioner if an application is made in writing for late lodgement together with the reasons for the delay.

An objection is determined by a senior officer who is independent of the original decision-maker on the basis of the information provided in the objection and by the decision-maker. Additional information may be requested to assist in determining the objection. The Commissioner will give you notice in writing of the determination of your objection.

Your rights to seek merits review of the determination of your objection—*ACT Civil and Administrative Tribunal Act 2008*

If you wish to seek a review of the determination of your objection, you must apply in writing to the ACT Civil and Administrative Tribunal (the ACAT) within **28 days** of the date of the determination.

The application must state clearly your reasons for seeking a review. For further information, contact the ACAT Registry. There may be a fee associated with lodging an application to the ACAT. For current fee schedules, and for information on fee waivers, contact the ACAT Registry.

Other rights

Your rights to a review of the decision do not preclude the exercise of any other rights you may have under the laws of the Australian Capital Territory. You may also have rights under the Ombudsman Act, Administrative Decisions (Judicial Review) Act and the Freedom of Information Act. If you have any further questions concerning your rights to a review of a decision, or you require assistance, contact the ACAT Registry.

INTEREST

Interest is imposed under section 26 of the *Taxation Administration Act 1999* for unpaid overdue home buyer concession duty and is applied at the following rates.

Interest Period	Premium component	Market rate component
01/01/2006 – 30/06/2006	8.00%	5.63%
01/07/2006 – 31/12/2006	8.00%	5.87%
01/01/2007 – 30/06/2007	8.00%	6.37%
01/07/2007 – 31/12/2007	8.00%	6.37%
01/01/2008 – 30/06/2008	8.00%	7.15%
01/07/2008 – 31/12/2008	8.00%	7.75%
01/01/2009 – 30/06/2009	8.00%	4.76%
01/07/2009 – 31/12/2009	8.00%	3.13%
01/01/2010 – 30/06/2010	8.00%	3.95%
01/07/2010 – 31/12/2010	8.00%	4.80%
01/01/2011 – 30/06/2011	8.00%	5.02%
01/07/2011 – 31/12/2011	8.00%	5.00%
01/01/2012 – 30/06/2012	8.00%	4.62%
01/07/2012 – 31/01/2012	8.00%	3.66%
01/01/2013 – 30/06/2013	8.00%	3.24%
01/07/2013 – 31/12/2013	8.00%	2.82%
01/01/2014 – 30/06/2014	8.00%	2.59%
01/07/2014 – 31/12/2014	8.00%	2.69%
01/01/2015 – 30/06/2015	8.00%	2.75%
01/07/2015 – 31/12/2015	8.00%	2.15%
01/01/2016 – 30/06/2016	8.00%	2.22%
01/07/2016 – 31/12/2016	8.00%	2.01%
01/01/2017 – 30/06/2017	8.00%	1.76%
01/07/2017 – 31/12/2017	8.00%	1.73%
01/01/2018 – 30/06/2018	8.00%	1.72%
01/07/2018 – 31/12/2018	8.00%	1.96%
01/01/2019 – 30/06/2019	8.00%	1.94%
01/07/2019 – 31/12/2019	8.00%	1.54%
01/01/2020 – 30/06/2020	8.00%	0.91%
01/07/2020 – 31/12/2020	8.00%	0.10%
01/01/2021 – 30/06/2021	8.00%	0.02%
01/07/2021 – 31/12/2021	8.00%	0.04%
01/01/2022 – 30/06/2022	8.00%	0.04%
01/07/2022 – 31/12/2022	8.00%	1.00%
01/01/2023 – 30/06/2023	8.00%	3.06%
01/07/2023 – 31/12/2023	8.00%	3.90%
01/01/2024 – 30/06/2024	8.00%	4.38%
01/07/2024 – 31/12/2024	8.00%	4.36%
01/01/2025 – 30/06/2025	8.00%	4.42%



CRN: XXXXXX

Due Date: [Abstract]
Telephone: [Company Phone]
Case Officer: [Manager]
Email: compliance@act.gov.au

(Taxpayer's name)
Email: (xxx)

Dear **First Name**,

RE: Conveyance Duty Section 82 Notice
Taxation Administration Act 1999 (the TA Act)

The Property: [Company Address]
Contract Date: [Comments]
Concession claimed: **013 – Home Buyer Concession Scheme (Established House)**
Value of Concession: \$XX,XXX

The ACT Revenue Office is investigating your acquisition of [Company Address] and the associated concession claim under the **013 – Home Buyer Concession Scheme (Established House)**.

Summarised Eligibility Criteria (Disallowable Instrument **DI2021-172)¹:**

- Property Ownership Restriction:** Eligibility is void if any transferee or their domestic partner owned land in the last two years, other than the property in question.
 - Unit trust-related land ownership is considered relevant.
- Income Threshold:** Combined gross income of all transferees and their partners must be less than or equal to the set limit for the financial year prior to the transaction.
 - Refer to footnote one for the Disallowable Instrument income limits.
- Residency Requirement:** At least one transferee must live in the property continuously for one year, starting within one year of transfer completion.
- Age Requirement:** All transferees must be at least 18 years old.

Pursuant to section 82 of the TA Act, you are required to answer the following questions and provide the following documents:

Required Actions

Questions:

- 1) Do you believe you meet the income threshold criterion (Criterion 2) for the HBCS for the property at [Company Address]? Provide supporting arguments.

¹ To access the information about the relevant legislation (and your threshold), follow these steps:

1. Go to the Australian Capital Territory Revenue Office's publications webpage by visiting <https://www.revenue.act.gov.au/publications/disallowable-instruments>
2. Once on the page, look for the section or link specifically mentioning "Home Buyer Assistance"
3. Locate your relevant concession determination ensuring you utilise the contract date as the relevant date.



- a) Do you meet all other eligibility criteria?
- 2) Were you in a domestic partnership or married to someone other than the titleholder on [Comments]? If so, provide the full name of your partner.
- 3) How many dependent children did you have as of [Comments]?

Documents to Submit:

- Complete Income Tax Return(s) for the financial year ending 30 June 20XX
 - If applicable, include your domestic partner's Income Tax Return for the same period (attachments included)
- Fringe Benefit Tax (FBT) Statement, if relevant
- Redact all Tax File Numbers for privacy
- *Please note an ATO PAYG summary and/or Notice of Assessment are not satisfactory substitutions to the requested documentation.*

Your response, including any related documents, is required by [Abstract] to compliance@act.gov.au.

Failure to supply the above information by the due date may result in the imposition of up to 90 per cent penalty tax in respect of a tax default.

Providing false or misleading information is a serious offence.

If you have any questions or would like to discuss this matter, please contact [Manager] on [Company Phone] or email compliance@act.gov.au.

Yours sincerely,

Authorised by [Manager]
as the Delegate for the Commissioner for the ACT Revenue Office
XX XXXX 2024

Taxpayer Summary Report – EQUITABLE INTEREST IN PROPERTY - 25% Penalty Only.

Taxpayer under review: XX

CRN: 4XXXXXX | Email: XXXX

Property: SSBU (Street Address, Suburb, ACT Postcode)

Contract Date: DD Month Year | Registration Date: DD Month Year | Settlement Date: DD Month Year

Concession Utilised: Home Buyer Concession Scheme (code used) | Amount:

Overview

Source of investigation: Referral from BI

The taxpayer never occupied the property as their Principal Place of Residence (PPR) / or moved out prior to (1 year plus settlement). The taxpayer sold (insert date)/ rented (insert start date)/ resided elsewhere (insert).

Disallowable Instrument	
	DI2023-163 for contracts exchanged between 1 July 2023 – 26 November 2023
	DI2023-162 for contracts exchanged between 1 July 2023 (Reduced Duty)
	DI2022-31 for contracts exchanged between 1 April 2022 – 30 June 2023
	DI2022-157 for contracts exchanged between 1 July 2022 – 30 June 2023
	DI2021-173 for contracts exchanged between 1 July 2021 – 1 April 2022
	DI2021-172 for contracts exchanged between 1 July 2021 – 30 June 2022
	DI2020-205 for contracts exchanged between 4 June 2020 – 30 June 2021
	DI2019-271 for contracts exchanged between 16 December 2019 – 15 30 June 2021
	DI2019-137 for contracts exchanged between 1 July 2019 – 15 December 2019
	DI2019-70 (No 1) for contracts exchanged between 5 June 2019 to 30 June 2019 (CHECK FHOG)
	DI2018-117 (No 1) for contracts exchanged between 6 June 2018 – 4 June 2019 (CHECK FHOG)
	DI2017-226 for contracts exchanged between 18 September 2017 – 5 June 2018 (CHECK FHOG)
Taxpayer admitted to PPR Breach	Y/N

Taxpayer Commentary on Breach	Input any comments here – whether taxpayer disagrees/is unsure ETC.
Evidence of TP owning other property	Input evidence of equitable ownership of property within the 2years. Folio all searches and reference in this commentary
Commissioner Commentary in Response	Summary/explanation of breach
Taxpayer arguments for Remission of PT/Interest	(If any)
Commissioners Position – Penalty Tax	It is not appropriate to remit penalty tax in these circumstances as there are no exceptional circumstances in this case. One of the aims of the Revenue Circular (GEN006.3) for penalty tax identifies that the purpose of imposing penalty tax is to deter non-compliance by making it unprofitable for taxpayers. ¹
Commissioners Position – Interest	Interest has been reviewed according to the TA Act s 29. It is recommended that interest should not be remitted as the circumstances that resulted in the tax default were not exceptional, and it would not be fair and reasonable to remit interest in this situation and place the taxpayer in a better position than a taxpayer who had paid their tax on time.
Grant of 402 Off the Plan Unit Duty Concession OR	Per DI 2020-205, for contracts exchanged between 4 June 2020 and 30 June 2021, home buyers are eligible for the Off the Plan Unit Duty Concession if they reside in the property as their PPR for 1 continuous year following settlement. For units less than or equal to \$500,000, duty is reduced by the amount of duty payable in entirety. For units less than or equal to \$750,000, but greater than \$500,000, an exemption of \$11,400 is applicable. The home buyers exchanged contracts on 16 December 2020, and their home has a dutiable value of \$599,990. A review demonstrates indicates that the taxpayers have resided in the property since settlement occurred. Hence, they are eligible for the 402 Off the Plan Unit Duty Concession.
Grant of 406 Residential Duty Owner Occupier Concession	It is the opinion of the Commissioner that the taxpayers are eligible to claim the Residential Duty Owner Occupier (406) concession. This criterion requires that at least one owner of the property, must live in the home continuously for at least one year, starting within 12 months of the date of completion (settlement date). On the facts, the taxpayers appear to have met this criterion and the Commissioner has therefore granted you the concession in accordance with DI2022-155.

Summary of Charges

¹ ACT Revenue Office, *Penalty Tax – Taxation Administration ACT 1999 and tax laws* (GEN006.3, 01 July 2019), 2.

Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Home Buyer Concession Scheme (code used)	-\$XXX.XX
Removal of Concession	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Date	Folio #	Correspondence
XX/XX/XXXX		Section 82 notice sent via post/ email to gather facts.
Xx/XX/XXXX		Response

Recommendations

- The Home Buyer Concession Scheme is not applicable as the taxpayer/s has/have held an equitable interest in land within the previous 2 years of the transaction date.
- A 25 per cent penalty tax be imposed on the taxpayer as there was a tax default.
- Full interest imposed from the date tax is payable until the day before a complete response to the s82 notice was received.

Officer's Name:

Signature: _____ Date: _____

Supervisor's Name:

Signature: _____ Date: _____

Taxpayer Summary Report – INCOME BREACH ONLY – CLAIM BELOW \$40k.

Taxpayer under review: **XX**

CRN: **4XXXXXX** | Email: **XXXX**

Property: **SSBU (Street Address, Suburb, ACT Postcode)**

Contract Date: **DD Month Year** | Registration Date: **DD Month Year**

Concession Utilised: **Home Buyer Concession Scheme (code used)** | Amount:

Overview

Source of investigation: Referral from BI

XXXX Income per tax return

Taxpayer 1 (Folio 7A)		Taxpayer 2 (Folio 7B)	
PAYG	\$ 0.00	PAYG	\$ 0.00
Interest	\$ 0.00	Interest	\$ 0.00
Total	\$ 0.00	Total	\$ 0.00
Gross Sum		\$ 0.00	

Disallowable Instrument	
Dependents	
Income Threshold	
Taxpayer admitted to Breach	Y/N
Taxpayer Commentary on Breach	Input any comments here – whether taxpayer disagrees/is unsure ETC.
Commissioner Commentary in Response	
Taxpayer arguments for Remission of PT/Interest	
Commissioners Position – Penalty Tax	It is not appropriate to remit penalty tax in these circumstances as there are no exceptional circumstances in this case. One of the aims of the Revenue Circular (GEN006.3) for penalty tax identifies that the purpose of imposing penalty tax is to deter non-compliance by making it unprofitable for taxpayers. ¹
Commissioners Position – Interest	Interest has been reviewed according to the TA Act s 29. It is recommended that interest should not be remitted as the circumstances that resulted in the tax default were not exceptional, and it would not be fair and reasonable to remit

¹ ACT Revenue Office, *Penalty Tax – Taxation Administration ACT 1999 and tax laws* (GEN006.3, 01 July 2019), 2.

Grant of 402 Off the Plan Unit Duty Concession OR	<p>interest in this situation and place the taxpayer in a better position than a taxpayer who had paid their tax on time.</p> <p>Per DI 2020-205, for contracts exchanged between 4 June 2020 and 30 June 2021, home buyers are eligible for the Off the Plan Unit Duty Concession if they reside in the property as their PPR for 1 continuous year following settlement.</p> <p>For units less than or equal to \$500,000, duty is reduced by the amount of duty payable in entirety. For units less than or equal to \$750,000, but greater than \$500,000, an exemption of \$11,400 is applicable.</p> <p>The home buyers exchanged contracts on 16 December 2020, and their home has a dutiable value of \$599,990. A review demonstrates indicates that the taxpayers have resided in the property since settlement occurred. Hence, they are eligible for the 402 Off the Plan Unit Duty Concession.</p>
Grant of 406 Residential Duty – Eligible Owner Occupier Transfer Rate	<p>It is the opinion of the Delegate of the Commissioner that the taxpayers are eligible to claim the Residential Duty Owner Occupier (406) concessional rate. This criterion requires that at least one owner of the property, must live in the home continuously for at least one year, starting within 12 months of the date of completion (settlement date). On the facts, the taxpayers appear to have met this criterion and the Commissioner has therefore granted you the concessional rate in accordance with DI2022-155 (1/7/2022-30/6/2023) DI2023-162 (1/7/2023-26/11/2023).</p>

Summary of Charges	
Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Home Buyer Concession Scheme (code used) and Owner Occupier Concessional Rate	-\$XXX.XX
Removal of Home Buyer Concession	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Correspondence

Date	Folio #	Correspondence
XX/XX/XXXX		Section 82 notice sent via post/ email to gather facts.



Xx/XX/XXXX		Response

Recommendations

- The Home Buyer Concession Scheme is not applicable as the income threshold was not met.
- A 25 per cent penalty tax be imposed on the taxpayer as there was a tax default.
- Full interest imposed from the date tax is payable until the day before a complete response to the s82 notice was received.

Officer's Name:

Signature: _____ Date:

Supervisor's Name: Shaun Lonergan

Signature: _____ Date:

NFA Taxpayer Summary Report

Taxpayer under review: XX

CRN: 4XXXXXX | **Email:**

Property: SSBU (Street Address, Suburb, ACT Postcode)

Contract of purchase: DD Month Year | **Registration:** DD Month Year

Concession Utilised: Home Buyer Concession Scheme (code used) | **Amount:**

Overview

Source of investigation: Referral from BI

	Taxpayer 1	Taxpayer 2 (if any)
Financial Year		
Dependants		
Income Per Tax Return		
Disallowable Instrument		
Income Threshold		
Reason for NFA	Under the income threshold.	

Recommendations

- The Taxpayer, is provided an NFA letter to finalise the investigation.

Officer's Name:

Signature: _____ Date:

Supervisor's Name: Shaun Lonergan

Signature: _____ Date:



ACT
Government

ACT Revenue Office
ABN: 45 096 207 205

Taxpayer Summary Report – PPR BREACH ONLY – past 18mths and 25% Penalty Only.

Taxpayer under review: XX

CRN: 4XXXXXX | **Email:** XXXX

Property: SSBU (Street Address, Suburb, ACT Postcode)

Contract Date: DD Month Year | **Registration Date:** DD Month Year

Settlement Date: DD Month Year

Concession Utilised: Home Buyer Concession Scheme (code used) | **Amount:** \$XX,XXX.XX

Overview

Source of investigation: Referral from BI

The taxpayer never occupied the property as their Principal Place of Residence (PPR) / or moved out prior to (1 year plus settlement). The taxpayer sold (insert date)/ rented (insert start date)/ resided elsewhere (insert).

Disallowable Instrument	DI2023-163 for contracts exchanged between 1 July 2023 – 26 November 2023 DI2022-157 for contracts exchanged between 1 July 2022 – 30 June 2023 DI2022-31 (OTP) for contracts exchanged between 1 April 2022 – 30 June 2023 DI2021-172 for contracts exchanged between 1 July 2021 – 30 June 2022 DI2021-173 (OTP) for contracts exchanged between 1 July 2021 – 1 April 2022 DI2020-205 (Covid) for contracts for contracts exchanged between 4 June 2020 – 30 June 2021 DI2019-271 for contracts exchanged between 16 December 2019 – 15 30 June 2021 DI2019-137 for contracts exchanged between 1 July 2019 – 15 December 2019 DI2019-70 (No 1) for contracts exchanged between 5 June 2019 to 30 June 2019 (CHECK FHOG) DI2018-117 (No 1) for contracts exchanged between 6 June 2018 – 4 June 2019 (CHECK FHOG) DI2017-226 for contracts exchanged between 18 September 2017 – 5 June 2018 (CHECK FHOG)
Taxpayers admitted to PPR Breach	Y/N

Taxpayer Commentary on Breach	Input any comments here – whether taxpayer disagrees/is unsure ETC.
Evidence of Property being rented/sold	Input evidence of property being rented or sold within 12mths of settlement/completion date. Folio all searches and reference in this commentary
Evidence of Taxpayer PPR at another address	Input evidence of property within 12mths of settlement/completion date. Folio all searches and reference in this commentary
Commissioner Commentary in Response and Unforeseen Circumstances	<p>Summary/explanation of breach</p> <p>DXXXX-XXX requires that at least 1 eligible owner buyer will occupy the eligible property, as the eligible owner buyer's principal place of residence, within 1 year after the residence start date for the duration of the residence period (being a continuous period of at least 1 year).</p> <p>It is proven and admitted to by the TP that the property has been rented from DATE and not occupied again by the TP.</p> <p>Under ACTRO Circular DAA004.17 Home Buyer Concession Scheme, the Commissioner has the discretion to approve a shorter (or longer) period of residence (section 16) if an applicant is unable to reside in the property due to an unforeseen or unavoidable event, such as a health-related issue or an involuntary job transfer requiring residence outside the ACT (section 18). However, this discretion can only be exercised if a written request is submitted to the Commissioner within 18 months (section 17).</p> <p>Regardless, this discretion cannot be utilised as the ACT Revenue Office was not notified within the relevant 18-month period and the case is outside the 18-month period, therefore, an exemption is not applicable in this instance.</p>
Taxpayer arguments for Remission of PT/Interest	(If any)
Commissioners Position – Penalty Tax	It is not appropriate to remit penalty tax in these circumstances as there are no exceptional circumstances in this case. One of the aims of the Revenue Circular (GEN006.3) for penalty tax identifies that the purpose of imposing penalty tax is to deter non-compliance by making it unprofitable for taxpayers. ¹
Commissioners Position – Interest	Interest has been reviewed according to the TA Act s 29. It is recommended that interest should not be remitted as the circumstances that resulted in the tax default were not

¹ ACT Revenue Office, *Penalty Tax – Taxation Administration ACT 1999 and tax laws* (GEN006.3, 01 July 2019)

exceptional, and it would not be fair and reasonable to remit interest in this situation and place the taxpayer in a better position than a taxpayer who had paid their tax on time.

Summary of Charges	
Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Home Buyer Concession Scheme (code used)	-\$XXX.XX
Removal of Concession	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Date	Folio #	Correspondence
XX/XX/XXXX		Section 82 notice sent via post/ email to gather facts with a due date of XX/XX/XXXX.
XX/XX/XXXX		Response

Recommendations

- The Home Buyer Concession Scheme is not applicable as the PPR requirement was not met.
- A 25 per cent penalty tax be imposed on the taxpayer as there was a tax default.
- Full interest imposed from the date tax is payable until the day before a complete response to the s82 notice was received.

Officer's Name:

Signature: _____ Date: _____

Supervisor's Name:

Signature: _____ Date: _____

Taxpayer Summary Report – PPR BREACH ONLY – before 18mths and 25% Penalty Only.

Taxpayer under review: XX

CRN: 4XXXXXX | Email: XXXX

Property: SSBU (Street Address, Suburb, ACT Postcode)

Contract Date: DD Month Year | Registration Date: DD Month Year

Concession Utilised: Home Buyer Concession Scheme (code used) | Amount:

Overview

Source of investigation: Referral from BI

Disallowable Instrument	DI2023-163 for contracts exchanged between 1 July 2023 – 26 November 2023 DI2022-157 for contracts exchanged between 1 July 2022 – 30 June 2023 DI2022-31 (OTP) for contracts exchanged between 1 April 2022 – 30 June 2023 DI2021-172 for contracts exchanged between 1 July 2021 – 30 June 2022 DI2021-173 (OTP) for contracts exchanged between 1 July 2021 – 1 April 2022 DI2020-205 (Covid) for contracts for contracts exchanged between 4 June 2020 – 30 June 2021 DI2019-271 for contracts exchanged between 16 December 2019 – 15 30 June 2021 DI2019-137 for contracts exchanged between 1 July 2019 – 15 December 2019 DI2019-70 (No 1) for contracts exchanged between 5 June 2019 to 30 June 2019 (CHECK FHOG) DI2018-117 (No 1) for contracts exchanged between 6 June 2018 – 4 June 2019 (CHECK FHOG) DI2017-226 for contracts exchanged between 18 September 2017 – 5 June 2018 (CHECK FHOG)		
	-		
Taxpayer admitted to PPR Breach	Y/N		Y/N
Taxpayer Commentary on Breach	Input any comments here – whether taxpayer disagrees/is unsure ETC.		
Evidence of Property being rented/sold	Input evidence of property being rented or sold within 12mths of settlement/completion date. Folio all searches and reference in this commentary		

Evidence of Taxpayer PPR at another address	Input evidence of property within 12mths of settlement/completion date. Folio all searches and reference in this commentary
Commissioner Commentary in Response and Unforeseen Circumstances	<p>Summary/explanation of breach Has TP lodged an application for PPR exemption?</p> <p>Under ACTRO Circular DAA004.17 Home Buyer Concession Scheme, the Commissioner has the discretion to approve a shorter (or longer) period of residence (section 16) if an applicant is unable to reside in the property due to an unforeseen or unavoidable event, such as a health-related issue or an involuntary job transfer requiring residence outside the ACT (section 18). However, this discretion can only be exercised if a written request is submitted to the Commissioner within 18 months (section 17).</p> <p>EDIT depending if TP submitted circumstances Regardless, as no application has been lodged and the Taxpayer has not specified any unforeseen circumstances in their responses this discretion cannot be utilised as the ACT Revenue Office was not notified within the relevant 18-month period, an exemption is not applicable in this instance.</p>
Taxpayer arguments for Remission of PT/Interest	
Commissioners Position – Penalty Tax	It is not appropriate to remit penalty tax in these circumstances as there are no exceptional circumstances in this case. One of the aims of the Revenue Circular (GEN006.3) for penalty tax identifies that the purpose of imposing penalty tax is to deter non-compliance by making it unprofitable for taxpayers. ¹
Commissioners Position – Interest	Interest has been reviewed according to the TA Act s 29. It is recommended that interest should not be remitted as the circumstances that resulted in the tax default were not exceptional, and it would not be fair and reasonable to remit interest in this situation and place the taxpayer in a better position than a taxpayer who had paid their tax on time.

Summary of Charges	
Duty Payable on Dutiable Value of \$XXX,000.00	\$XXX.XX
Concession Claimed: Owner Occupier Rate concessional rate (code used) and Home Buyer Concession Scheme (code used)	-\$XXX.XX

¹ ACT Revenue Office, *Penalty Tax – Taxation Administration ACT 1999 and tax laws* (GEN006.3, 01 July 2019), 2.

Transfer to non owner occupier transfer rate and Removal of Home Buyer Concession. Duty Payable.	\$XXX.XX
Taxation Shortfall	\$XXX.XX
(+) Penalty Tax (25%)	\$XXX.XX
(+) Interest from XX/XX/XXXX - XX/XX/XXXX	\$XXX.XX
Total Amount Due	\$XX,XXX.XX

Date	Folio #	Correspondence
XX/XX/XXXX		Section 82 notice sent via post/ email to gather facts.
Xx/XX/XXXX		Response

Recommendations

- The Owner Occupier Concessional Rate and the Home Buyer Concession Scheme is not applicable as the PPR requirement was not met.
- A 25 per cent penalty tax be imposed on the taxpayer as there was a tax default.
- Full interest imposed from the date tax is payable until the day before a complete response to the s82 notice was received.

Officer's Name:

Signature: _____ Date:

Supervisor's Name: Shaun Lonergan

Signature: _____ Date:

CRN: XXXXXX

Telephone 02 6207 XXXX
Contact officer: XXXX
Email: compliance@act.gov.au

(Taxpayer's name)
Email: (xxx)

Dear Taxpayer,

RE: NOTICE OF WITHDRAWAL OF ASSESSMENT
PROPERTY ADDRESS: SUBURB SECTION XX BLOCK XX UNIT XX

Pursuant to section 13 of the *Taxation Administration Act 1999* (the TA Act), the home buyer concession reassessment issued to you on (Date) for the above property has been withdrawn.

This notice of withdrawal has been issued pursuant to section 14(4) of the TA Act. A notice of reassessment has been issued to you on XX XXXX XXXX with an adjustment to the percentage of home buyer concession of the original assessment.

Yours sincerely

Case Officer
Delegate of the Commissioner
for ACT Revenue
XX XXXX 2025