Submission Cover Sheet

Inquiry into Home Buyer Concession Scheme Administration

Submission number: 019

Submitter: Names Withheld

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1) the effectiveness and appropriateness of the self-assessment process;

Based on our experience, we believe the self-assessment process not to be appropriate or effective as it currently stands.

As first home buyers we had no knowledge of conveyancing law and therefore sought professional advice. We understood this to be our due diligence. At the time of purchasing our property, I was pregnant, ill, working full-time in the community sector and experiencing debilitating levels of anxiety. My husband, a tradesman was also working overtime to provide financial stability for our growing family. We therefore relied heavily upon the paid professional advice and guidance from our conveyancing lawyer, who provided both verbal and written advice through the purchase process that stamp duty was not payable.

We believe that we are not alone in relying upon paid professional advice, especially at a time of vulnerability. With the current stressors of everyday life that many people face, interpreting and understanding the relevant legislation relating to the self-assessment process can be overwhelming.

2) the fairness, transparency and financial impacts of reassessments;

Fairness is not applied to reassessments. The reassessment determination provided referred to the fact that there were no exceptional circumstances we faced. At no stage was this asked of us. Therefore, the determination was made without adequate procedural fairness being applied.

In our experience, the reassessment process has not been transparent with no opportunity to present our individual circumstances. Instead, our individual circumstances were met with the opportunity to appeal.

In addition, correspondence sent by the office were sent late on Friday afternoon. Although it is not expected that a public servant will be aware of individual people's vulnerabilities or circumstances, they should be cognisant that requests and demands of this nature hold the potential to case significant distress. On two occasions, the notice of reassessment and determination were delivered at such time, causing me debilitating levels of stress and anxiety. Due to being late on a Friday afternoon, I was unable to access professional psychological care.

3) the appropriateness and proportionality of penalties and interest charges;

Although we understand the need for compliance to make sure people are not defrauding the ACT Government, this is not always going to be the case as it certainly has not been the case for us. We did not intend to evade our tax obligations as first home buyers, and when we first became aware of this issue, we accepted in full the need to pay stamp duty. We were advised the outstanding amount, including interest and tax penalties totalling more than $30,000 was required to be paid within **21 days,** or the arrears would be forwarded to debt management for collection, in addition to accruing 11.9% interest. We accepted our obligation to pay the stamp duty owed, to which we paid in full within the 21-day period.

Our notice of reassessment was issued in January 2023, almost 2 years after the purchase of our property. It is of concern that the penalties imposed were backdated to January 2023, (see below quote from received correspondence).

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 $34,362.25 is payable by 31 January 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.

These penalties are excessive for a young family who simply made a mistake and relied on professional advice. As soon as we were made aware of the error, we made immediate amends to correct it despite the stressful circumstances and financial implications we faced. We do not believe such deterrence is appropriate or required where there was no ill intent from a young family of good character and have left us feeling like deliberate tax evaders or even criminals.

4) the scope and exercise of administrative discretion by the Commissioner for ACT Revenue, the Treasurer and Minister for Finance;

In our dealings with the delegate for ACT Revenue, discretion was non-existent. This was evident through communication that dismissed our circumstances and continued to make us feel like feeling like deliberate tax evaders.

5) the adequacy of the objections and appeals process, including limitations on external review;

We engaged in the appeal process not to object the payment of stamp duty, but to object the excessive penalties that were applied because of non-payment, given the presence of exceptional circumstances. The response we received, close to 6 months after our submission, was that our objection was disallowed. What followed in the reasons statement was a lack of consideration, empathy or acknowledgement. It was a double-down of the initial reassessment, intended to further impose the feelings of being a deliberate tax evader, and criminal. It consisted of references to case law, and paid no consideration or discretion to our circumstances.

The appeals process is extremely limited, particularly the potential for review of the excessive interest charged, as there is not further options beyond that of the appeal. Remittance of interest charges is not a reviewable decision by ACAT (see quote below from the reviewable decision and reasons statement).

"A decision under section 29 refusing to remit interest is listed in Schedule 2 to the TAA. Schedule 2 provides that such a decision is reviewable by the Commissioner only, and section 107 defines it as being a commissioner-reviewable decision. A decision under section 29 refusing to remit interest cannot be reviewed by the ACAT under section 108A because it is not a reviewable decision under section 107A of the TAA. Therefore, that part of this decision which relates to the non-remission of interest under section 29 is not reviewable by ACAT".

Considering the time taken, and funding used to procure to lawyer who responded, it is worth considering if the expense would be better spared waiving the initial interest charges. As it currently stands, there is little point to going through the stress and anxiety of raising an objection. The appeals process is outdated, and its only achievement is prolonging the generation of government revenue.

6) potential legislative or policy reforms to improve the application and reassessment processes;

We are appreciative of the opportunity to participate in this inquiry and contribute the following recommendations for reform. We hope that the ACT Government considers our recommendations.

- **Reduction of the reassessment time frame from 5 years to 6 months**. If the office exceeds this timeframe, accrual of interest ceases accruing for that period. This avoids first time home buyers accruing extensive interest charges. It also ensures the office is held accountable for prioritising processing reassessments within a reasonable time frame and does not use the process for the generation of revenue.
- **Implementation of a fault-based tiered interest regime**. In cases where the buyers were not at fault due to factors such as reliance on professional advise/tools or a genuine mistake with full disclosure, apply a *base rate or no penalty*. Where buyer negligence is responsible, apply a base rate and reduced interest rate. Where it is evident that deliberate concealment, or evasion has occurred, a higher rate of interest and penalties may be imposed.
- **Introduce a cap for total interest charged and interest pause**. For example, 20% of the initial stamp duty amount, and provide an interest free window of 60 days after the notice of reassessment.

- **Withhold delivery of notice of reassessment and determinations on Fridays**. The office should sustain from delivering communication relating to notice of reassessments or determination on Friday's, or immediately before weekends or public holidays. Delivering such communication at these times has the potential to cause individuals' significant distress, with inability to access professional advice, support or psychological care. Restricting communication to earlier weekdays shows consideration and support to an individuals' mental health and ensures due diligence.
- **Reduction of the appeals process from 6 months to 60 days and accrual of interest.** The appeals process should be time-limited to a maximum of 60 days, with the accrual of interest ceasing through this period. Setting a clear timeframe and ceasing interest accrual provides transparency, reduces prolonged stress and supports outcomes that are both fair, and financially proportionate.

7) the reassessment process, including timeframes, and the use of Business Intelligence; and 8) any other relevant matter.

The reassessment process has caused us, and no doubt many others facing similar circumstances, unnecessary stress, financial strain and emotional harm. Whilst we acknowledge that the process is important, it should not come at the expense of peoples' wellbeing. A fairer, timelier and compassionate approach is required.