Submission Cover Sheet

Inquiry into Home Buyer Concession Scheme Administration

Submission number: 014

Submitter: Names Withheld

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Effectiveness and appropriateness of the self-assessment process.

The self-assessment process is flawed. The people who are most likely applying for concessions are not always best placed to understand the extent of the conditions. For example, I am well educated but was caught up by the following circumstance:

My marriage broke down after years of financial abuse and coercive control. I bought an apartment off the plan. I don't remember entirely (the whole time was a blur) but either the solicitor helping with custody arrangements or the one doing the conveyancing said I should complete a form to get stamp duty waived due to buying a property after leaving the marital property. It is entirely possible I was shown the terms and conditions but as I planned on staying in the apartment until my children finished school I didn't pay it much attention, if indeed I was shown them.

After 7 or 8 months I repartnered, and we decided to rent a place together. I was cautious and didn't want to sell the apartment in case things didn't work out. I couldn't afford to leave it empty so I rented it out. This was all done above board, through real estate agents.

After a year or so we decided to buy our own property. I then put the apartment on the market, it took a long time to sell and I ended up selling it for a loss two and half years after I had purchased it. I gave the whole thing no thought at all after that until I got a notice last year saying I owed back the waived stamp duty. I initially thought it was a scam email.

Fairness, transparency and financial impacts of the reassessment

I immediately responded to the notice saying I had no idea I was no longer entitled to the waiver and for them to let me know how to pay the $10,012 that had been waived. Following this was a series of escalating aggressive emails from ACT Revenue, first charging me $7000 in interest and penalties (for a debt I had only just found out about), then rejecting my offer to pay the amount over 2 years, then when I offered to pay $800 a month (which I have not been able to meet every month) they said they may still take debt collection activity and said I should take out a loan to pay the whole amount. The entire process appears to be aimed at people who have been purposefully avoiding paying taxes, at no stage was it acknowledged that it was a) a mistake and b) that I had offered to make repayments within my means.

Additionally, if I had known that I would need to pay $10,000 for not staying in the apartment for 12 months I would have stayed there for a couple more months so that I would have continued to have qualified.

Appropriateness and proportionality of penalties and interest charges

The way this was handled was completely unjust. Interest was charged for the period (of around 5 years) for which the ACT Government had knowledge of the debt, but I did not. They had used the bond application for the rental I had moved into as the date the interest was charged, but did not notify me of this until late last year. If they were aware that I had lost my entitlement to the stamp duty objection when I put in the bond for the rental almost 6 years ago, then I think it is grossly unfair to penalise me for the time that they knew I owed the money back and I didn't.

The interest and penalties were 70% of the initial amount waived. (over $7000 on $10,012). Additionally, although I offered a payment plan they are charging 12% per day interest while the payment plan is in effect. If this had been received by someone who was solely responsible for looking after children and not in a full time role, this would be crippling.

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

I have lodged an objection, written to the Chief Minister, appealed to the Ombudsman and have written to the Treasurer for an Act of Grace Payment.

The objection is still outstanding, since October last year, with no indication of when it might be resolved.

The Ombudsman (who have been as helpful as they can be) cannot do anything until the objection is decided.

I got no response from the Chief Minister.

The Treasurer also informed me that they cannot process the Act of Grace application until the objection is decided.

So, I am completely beholden to an objection process with no discernible end date.

Adequacy of objections and appeals

On receipt of the reassessment notice I immediately lodged an objection, and a complaint to the Minister. The only thing I have received back from either is an acknowledgement of the objection. This is pretty poor.

Other information that is likely to be relevant. Copies of email trails

My response to initial email from ACT Revenue, prior to the reassessment notice where penalty amounts were added:

> Hi [redacted]
>
> I had no idea that I was required to stay in the property for 12 months. I repartnered and the unit was not big enough for the both of us, so we moved into a rental for a year. I have since sold the unit (years ago).
>
> If there is some way to make arrangements to pay off any amount over time please let me know as I certainly don't have $11k available to me right now.
>
> Thanks
>
> (name withheld)

4 Oct 2024 – I received the reassessment notice payable by 24 October.

> The following table outlines the reassessment of your Conveyance Duty tax liability, and this represents the finalisation of our review of your affairs. In accordance with legislation, you have the right to apply in writing within 28 days to seek further information about the decision; however, for your convenience, further information has been provided below. **Summary of Charges**

Duty Payable on Dutiable Value of $442,000.00	$10,012.00

Concession Claimed: Home Buyer Concession Scheme (001)	-$10,012.00
Removal of Concession	$10,012.00
Taxation Shortfall	$10,012.00
(+) Penalty Tax (25%)	$2,503.00
(+) Interest from 09/02/2019 to 01/10/2024	$5,459.02
Total Amount Due	$17,974.02

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 conditions of the scheme. In correspondence with this Office, you have outlined that you did not occupy the property as your principal place of residence for the relevant 12-month period.

Following acknowledgement of my Objection application I decided to start paying what I could to show good faith. This is the exchange (highlights are showing threats of recovery action):

Good morning debt management

Can you please let me know how I can go about making arrangements to pay the principle amount off? I can afford a maximum of $100 per week which would clear the principle in about 2 years.

Thank you

(Name withheld)

Dear (name withheld),

Please note that your proposed payment plan is not enough to cover the debt over the payment plan period as interest will continue to accrue on the outstanding amount.

Payment plans are capped at 12 months and are inclusive of future interest charges (currently 12.36 per cent daily) and all outstanding amounts (including penalty tax and interest).

Under section 52 of the *Taxation Administration Act 1999* (the Act), an arrangement for payment of outstanding conveyance duty has been proposed as follows:

Payment Plan	
Instalment frequency	Monthly
Instalment amount	$1,600.00
First instalment due date	28 October 2024
Payment Plan Duration	12 Months

Please note, under this arrangement, accrued interest has been estimated at the current rate of **12.36** per cent.

The following condition/s will apply to this payment plan.

- Interest will accrue on any unpaid amount.
- Payment plan instalments are to be paid using BPAY or EFT, only.
- All future obligations are separately paid as and when they fall due.

If you are unable to meet a 12 month plan, you can make whatever payments you can afford but in this scenario please note that debt recovery actions may proceed. Please see here for more information.

If you would like to accept the above payment plan offer please email debtmanagement@act.gov.au confirming your acceptance no later than **23 October 2024**.

My response

> *Hi* [redacted]
>
> *I'm not sure where the ACT gov has been for the last few years but I do NOT have a spare $1600 per month in the current economic climate!*
>
> *Also, given I was advised of this debt less than 3 weeks ago, charging interest at 12.36 PER DAY is ludicrous. I am exceptionally upset and angry how at no stage anyone at the ACT government acknowledged that I have offered to pay this AS SOON as I was notified of its existence. If the ACT government had notified me of this when they first became aware (in 2019) that I was no longer eligible I would have paid it off then.*
>
> *As stated below – to be given $7000+ in penalties after knowing about the debt for 2 weeks is disgusting and I will continue to object to this through the AAT if required.*
>
> *I will pay the capital amount of $10,012 over the 12 months – I already have an objection to the penalty as you can see from below.*
>
> *This is $834 per month. If this is acceptable I will pay this via PBAY. If it is not acceptable I will continue to wait for my objection to be heard.*
>
> *I am lodging a complaint to the Ombudsman now.*
>
> *Thank you*
>
> *(name withheld)*

This amount was never accepted. I have made 8 instalments as I have been able so as to reduce any interest as much as possible. This was the response:

> Dear (name withheld),

Thank you for the reply email.

A payment plan can only commence after the due date, so I would encourage you to make whatever payment/s you can on/before 25 October 2024.

Whilst I acknowledge your concerns, if entered, a payment plan will consider all outstanding amounts, including the tax (you identify as 'capital amount'), penalty tax and any interest imposed, as well as an estimate of future interest that will fall due throughout the duration of the plan (being up to 12 months).

If you are unable to meet the terms of a payment plan, noted below, I would encourage you to explore alternative arrangements to pay the outstanding tax liabilities. Financial institutions, for instance, typically offer more flexible terms or a lower interest rate than the statutory rate imposed with a payment plan.

If this is not possible, I would encourage you to make whatever payment/s you can, but in this scenario, please note, debt recovery actions may commence. Please see here for more information.

Despite any objection, and under section 105 of the *Taxation Administration Act 1999*, the existence of an objection does not impact or defer your obligation to pay a disputed assessment.