

COMMISSIONER'S GUIDELINE

CG-SD-015:

Transfers of trade debts

Guideline History

Version	Issued	Dates of effect	
		From:	To:
1	28 August 2009	28 August 2009	Current

Purpose

This Guideline clarifies Territory Revenue Office's (TRO's) position on the treatment of trade debts for conveyance stamp duty purposes.

Trade debts

In this Guideline, trade debts means amounts of money owed to a business by customers who have purchased goods or services from the business. It does not refer to a business' future right to receive income or ongoing income streams such as contingency fees and trailing commissions.

Trade debts may be transferred separately from the sale of other business assets, such as to a financier under a factoring agreement or may be transferred with other assets such as land, goodwill and plant and equipment when a business is sold.

Dutiable property

The *Stamp Duty Act* ('the Act') imposes stamp duty on the conveyance of dutiable property. Dutiable property includes chattels, if they are part of a transaction in which other dutiable property is conveyed, acquired or created or the beneficial ownership is changed.

Stamp duty is assessed on the proportion of the dutiable property situated in the Territory or related to the business undertaking carried on in the Territory.

However, paragraph (j) of the definition of **dutiable property** in section 4(1) of the Act excludes the following chattels from being dutiable property:

- 1) goods, wares or merchandise that are stock-in-trade;
- 2) materials held for use in manufacture;
- 3) goods under manufacture;
- 4) livestock such as cattle;
- 5) any motor vehicle for which a motor vehicle certificate of registration is or will, in the opinion of the Commissioner, be issued to the conveyee;

- 6) cash or money in an account at call; or
- 7) negotiable instruments and money on deposit with any person.

Meaning of chattels

The term **chattels** is not defined in the Act. Accordingly, it is to be given its ordinary meaning in the context of the language, character and purpose of the Act.

It is a wide term used in relation to personal property and covers choses in possession, which are tangible property such as plant and equipment and other goods. It also covers **choses in action**, which are intangible property that a person has an enforceable right of action, such as a debt.

Stamp duty treatment of trade debts

Trade debts are a chose in action and therefore fall within the definition of chattels. However, TRO regards trade debts as falling within the class of excluded chattels, so they are not subject to stamp duty when conveyed.

This is because trade debts (but not other choses in action in the nature of future rights to income such as trailing commissions) are akin to the financial nature of the excluded choses in action referred to in paragraph (j), (vi) and (vii) of the definition of dutiable property. On this basis TRO will treat trade debts the same as cash, money in an account at call, negotiable instruments and money on deposit with any person.

Evidence of value

Trade debts are generally transferred for an amount equal to or less than the amount actually owed. This takes into account the likelihood that not all of the debts will be recovered due to some customers defaulting on payment.

Although trade debts are not liable to stamp duty, TRO may require evidence of the value of the dutiable property conveyed as part of the same transaction. This could occur if an excessive amount of the consideration has been allocated to trade debts.

See Commissioner's Guideline CG-SD-010: *Tax assessments requiring evidence of value* for more information on TRO's power to require a taxpayer to provide written evidence of the value of property.

Commissioner's Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from TRO's website.

Date of effect

This Guideline takes effect from the date of issue.



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DEPUTY COMMISSIONER OF TERRITORY REVENUE

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