

STAMP DUTY ON HIRING ARRANGEMENTS

2000-01 Budget Amendments

Taxation (Administration) Act / Stamp Duty Act

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TERRITORY REVENUE MANAGEMENT

Postal Address: Commissioner of Taxes, GPO Box 154, Darwin NT 0801
Office Location: Commissioner of Taxes, 38 Cavenagh Street, Darwin NT
Website: www.nt.gov.au/ntt/revenue

Telephone: (08) 8999 7949
Facsimile: (08) 8999 5577
Email: ntrevenue.ntt@nt.gov.au

Purpose of this Circular

1. The purpose of this circular is to advise of proposed amendments to the *Taxation (Administration) Act* and *Stamp Duty Act* in relation to stamp duty imposed on hiring arrangements. The proposed amendments include measures announced as part of the 2000-01 Budget and consequential amendments arising from the Commonwealth's tax reform measures. All of the changes outlined in this circular are to commence from 1 July 2000.

Proposed Changes

2. In summary, the measures:
 - increase the stamp duty rate that applies to hiring arrangements from 1.5% to 1.8%;
 - include hire purchase agreements in the hiring arrangements stamp duty base;
 - revise the nexus provisions that determine the circumstances in which stamp duty is payable on hiring arrangements;
 - ensure that stamp duty is imposed on hiring receipts before the inclusion of the GST; and
 - clarify the stamp duty treatment for the hire of video cassettes.

Change in Rate

3. The stamp duty rate imposed on hiring arrangements is to increase from 1.5% to 1.8% in respect of hiring receipts received on or after 1 July 2000. The new rate will apply to existing hiring arrangements as well as new hiring arrangements entered into on or after 1 July 2000.

Hire Purchase Agreements

4. From 1 July 2000, hiring arrangements have been extended to include hire purchase agreements. Duty at the rate of 1.8% will apply to payments received by lenders in respect of their hire purchase agreements.
5. The measures apply in respect of hire purchase agreements entered into on or after 1 July 2000.
6. For the purposes of the legislation 'hire-purchase agreement' means:
 - a letting of goods with an option to purchase; or
 - an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent, hire or otherwise),

but does not include an agreement by which the property in the goods the subject of the agreement passes at the time of the agreement or on or at any time before the delivery of the goods.

New Nexus Arrangements

7. Stamp duty is currently payable on hiring arrangements in the Territory where the:
 - hiring arrangement was entered into in the Territory;
 - hired goods are supplied or delivered in the Territory; or
 - hired goods may be used in the Territory.
8. The existing legislation allows a credit where duty has been paid on a hiring arrangement in another State or Territory.
9. The present nexus arrangements lack certainty as to where stamp duty is payable, and as such, it is possible for lenders to determine where they wish to pay duty. This poses a threat as more lenders centralise their operations toward the larger financial centres and as a result of administrative expedience, return duty to the larger States. As such, the proposed amendments establish primary and secondary nexus arrangements.
10. The new primary nexus arrangements ensure that duty is paid in the Territory where the goods are **solely or predominantly used in the Territory**, and in the case of motor vehicles, the vehicle is supplied or delivered in the Territory. Where the primary nexus applies, no credit is available for duty paid in other jurisdictions. Double duty need not arise since all other jurisdictions provide crediting provisions in these circumstances.
11. Goods are taken to be solely or predominantly used in the Territory if they are used more in the Territory than any other single State or Territory.
12. A secondary nexus applies to ensure that duty is paid where a hiring arrangement is **entered into in the Territory**, or the goods (other than motor vehicles) are **supplied or delivered in the Territory**. In these circumstances, the crediting provisions will apply to recognise duty paid in other jurisdictions to reduce the Territory liability.
13. The secondary nexus for motor vehicles is where the hiring arrangement is **entered into in the Territory**. Again, the crediting provision will apply to recognise duty paid in other jurisdictions, if any, to reduce the Territory liability.
14. The difference in treatment between goods and motor vehicles recognises the mobility of motor vehicles.

Stamp Duty on Hiring Arrangements and GST

15. Stamp duty imposed on hiring arrangements interacts with the GST such that there is a compounding effect whereby stamp duty is imposed on GST and vice versa. The problem arises as a result of the stamp duty and the GST being imposed at the same taxing point.
16. The compounding effect is problematic as it creates uncertainty as to the amount of stamp duty or GST that is to be collected from a hirer in respect of a hiring arrangement.
17. To clarify the issue, stamp duty on hiring arrangements is to be imposed on the GST-exclusive price paid under a hiring arrangement. This means the amount of the hire rental prior to the calculation of any GST that may be payable on the hiring arrangement is to be used for the purpose of calculating stamp duty.

18. For example, where a hire rental is \$100, the stamp duty is to be calculated by applying the stamp duty rate (1.8%) to the \$100 rental amount (i.e. \$1.80 stamp duty is payable). GST is then payable on the combined base rental and stamp duty amount of \$101.80. More information on the GST and how it is imposed on hiring arrangements can be found by contacting the *Tax Reform Business Hotline* on 13 24 78.

Stamp Duty and Hire of Video Cassettes

19. The *Taxation (Administration) Act* specifically excludes the hire of a motion picture film from hiring duty. Case law has cast doubt on the application of this exemption to video cassette hires. The amendments confirm that video cassette hire is excluded from duty as is the case for the hire of motion picture films. This amendment confirms the existing administrative practice.

Electronic Returns Package

20. To reduce compliance costs for lenders, an electronic returns package (in Excel format) will be available from 1 July 2000 from the office's Internet website; or as a diskette version upon request. The package provides a convenient alternative as it calculates the tax, generates the monthly remittance advice and maintains your monthly work-sheets electronically.

Reference should be made to the *Taxation (Administration) Amendment Bill 2000*, *Stamp Duty Amendment Bill 2000* and the *Financial Relations Agreement (Consequential Provisions) Bill 2000* for precise details. For general information, please contact this office on ☎ (08) 8999 7949.

COMMISSIONER OF TAXES

Erratum:

This Version 1.1 (May 2000) amends paragraph 17 (2nd sentence) to correctly refer to calculating stamp duty (rather than GST).