

Frequently Asked Questions

Assessing dutiable property

Introduction

This document discusses dutiable property under chapter 2 of the [Duties Act 2001](#) (the Act), which includes land, fixtures to land and dutiable goods (chattels). ***It does not concern motor vehicle or insurance duty.***

The FAQs contain references and links to other State Revenue Office (SRO) guidelines and rulings.

All public guidelines, revenue rulings and forms referred to in this document are available at sro.tas.gov.au/resources.

Who is liable to pay duty?

Transfer of land or other dutiable property: The transferee (the purchaser) is the liable party.

Declaration of trust: The person declaring the trust is the liable party.

What documents do I need to lodge?

In all cases your lodgement should be accompanied by a [Duty lodgement cover sheet](#), available at sro.tas.gov.au/resources/forms. Because there is a number of dutiable transactions under the Act the required documentation varies.

The table on the next page sets out the documents that must be lodged for the most common transaction types.

For a comprehensive list of evidence requirements, particularly relating to the evidence required when claiming an exemption or concession, please refer to the [Documentary evidence requirements guideline](#), available at sro.tas.gov.au/resources/guidelines.

Documents for the most common transaction types

Dutiable transaction	Documents that must be lodged
<p>Transfers of land (including real estate, deceased estates and sale of business with freehold land).</p>	<p>Either:</p> <ul style="list-style-type: none"> • A Transferee Transaction Certificate (obtained through registering with Tasmanian Revenue Online for a Duties Account and completing the duty transaction in full); or • A Transferor Transaction Certificate (obtained through registering with Tasmanian Revenue Online for a Duties Account and completing the duty transaction as it relates to the Transferor) and point 1 below together with forms as applicable under point 2 below. <ol style="list-style-type: none"> 1. Transaction information form This form is used to collect information about land transfers and details of the transaction. 2. As applicable to the parties to the transaction, use one of the following forms for each party to the transaction: <ul style="list-style-type: none"> • Duty transferee information form This form is used to collect information about the transferee (purchaser) of land if the transferee is a natural person or company or Government body (i.e. not a natural person). • Duty transferor information form This form is used to collect information about the transferor (vendor) of land if the transferor is a natural person or company or Government body. <p>Alternatively for the forms above, a Transfer Certificate for each part can be provided. A Transfer Certificate is obtained through registering as a user for Tasmanian Revenue Online and creating a Transfer Certificate.</p>
<p>Transfer of real estate.</p>	<ul style="list-style-type: none"> • The original signed and dated Land Titles Office transfer form. • A copy of the agreement for sale (if there was no written agreement, please provide a written notification that no agreement was entered into). • If the transaction was not negotiated through the open market (for example through a real estate agent), then any evidence required to be lodged according to the Revenue Ruling, PUB- DT-2016-6 Evidence of Value, available at sro.tas.gov.au/resources/rulings. • See below if the transfer is from a deceased estate.

<p>Transfers from a deceased estate.</p>	<p>Transfer by Way of Assent:</p> <ul style="list-style-type: none"> • Original signed and dated Transfer by Way of Assent form. • Copy of probate with the will attached. <p>Transfers from a deceased estate:</p> <ul style="list-style-type: none"> • Original signed and dated transfer instrument (Land Titles Office Transfer form). • Copy or original deed of family arrangement (if there is one). • In the case of a grant of probate, a copy of probate including the relevant will to which probate was granted. • Copy of Short Form Affidavit, lodged with probate application (if applicable). • In the case of a grant of letters of administration, a copy of the grant together with full details of any spouse and/or issue of the deceased so entitled to a distribution of the estate. • Schedule of estate assets as at or approximate to the date of the deed of family arrangement together with full details of any distributions already made from the estate.
<p>Sale of business.</p>	<ul style="list-style-type: none"> • Original signed and dated transfer, assignment of lease or grant of lease instrument. • A copy (or the original) of the agreement for sale (if there was no written agreement, please provide a written notification that no agreement was entered into). • Apportionment of the consideration between the dutiable and non dutiable property, including. <ul style="list-style-type: none"> • the value of motor vehicle(s) (if any) and evidence of duty paid on the transfer of registration. • the value of site goodwill (relevant to Tasmanian real property if any). • the value of plant and equipment supported by a depreciation schedule. • For more information about the evidence of dutiable value where appropriate, please read the Duty payable on the purchase of business assets guideline. • For information about the duty concession for goods under section 24 of the Act, please read the Revenue Ruling PUB-DT-2016-1 Discretion to disregard the value of goods.
<p>Trust deed (for example a superannuation trust deed or family trust deed).</p>	<ul style="list-style-type: none"> • A copy of the original trust deed which has been signed and dated. (*Only relevant for trust deeds dated prior to 1 July 2017).

<p>Land-rich acquisitions.</p>	<ul style="list-style-type: none"> • Original instrument by which the interest was acquired. • A copy (or the original) of the agreement for sale (if there was no written agreement, please provide written notification that no agreement was entered into). • Completed land-rich acquisition statement in accordance with section 68 of the Act – Land Rich Acquisition Statements. • For more information, please read the Land rich provisions guideline.
<p>Landholder acquisitions. *Effective 6 December 2016</p>	<ul style="list-style-type: none"> • Original instrument by which the interest was acquired. • A copy (or the original) of the agreement for sale (if there was no written agreement, please provide written notification that no agreement was entered into). • Completed landholder acquisition statement in accordance with section 68 of the Act – Landholder Acquisition Statements. • Supporting documentation/evidence as detailed in the section 68 statement. • For more information, please read the Landholder provisions guideline.
<p>Transfers following application to amend a strata plan.</p>	<ul style="list-style-type: none"> • Original signed and dated transfer instrument, if applicable. In the case of a transfer between lot owners to amend, a copy (or the original) of the agreement for sale. • In the case of a transfer by the body corporate, minutes from the body corporate evidencing the decision to amend the plan. • Copy of the new and old strata plan sheets. • Details of the area being affected, in metres squared, and any improvements (if not evident from the plans).

How much duty is payable?

Duty is calculated on the consideration (purchase price) or the unencumbered value (market value) of the dutiable property, whichever is higher. In some circumstances, the Commissioner may require evidence to show that the consideration paid was adequate. This may include a taxpayer providing an independent valuation. For more information please read the Revenue Ruling [PUB-DT-2016-6 Evidence of Value](#).

A [duty calculator](#) is available at sro.tas.gov.au/resources.

Rates and thresholds applying to dutiable transactions that occur on or before 30 September 2012

\$0 - \$1 300	\$20
\$1 301 - \$10 000	\$1.50 for every \$100, or part, of the dutiable value
\$10 001 - \$30 000	\$150 plus \$2 for every \$100, or part, by which the dutiable value exceeds \$10 000
\$30 001 - \$75 000	\$550 plus \$2.50 for every \$100, or part, by which the dutiable value exceeds \$30 000
\$75 001 - \$150 000	\$1 675 plus \$3 for every \$100, or part, by which the dutiable value exceeds \$75 000
\$150 001 - \$225 000	\$3 925 plus \$3.50 for every \$100, or part, by which the dutiable value exceeds \$150 000
Over \$225 000	\$6 550 plus \$4 for every \$100, or part, by which the dutiable value exceeds \$225 000

Rates and thresholds applying to dutiable transactions that occur on or after 1 October 2012 but before 21 October 2013

\$0 - \$1 300	\$20
\$1 301 - \$25 000	\$20 plus \$1.75 for every \$100, or part, by which the dutiable value exceeds \$1 300
\$25 001 - \$75 000	\$435 plus \$2.25 for every \$100, or part, by which the dutiable value exceeds \$25 000
\$75 001 - \$200 000	\$1 560 plus \$3.50 for every \$100, or part, by which the dutiable value exceeds \$75 000
\$200 001 - \$375 000	\$5 935 plus \$4 for every \$100, or part, by which the dutiable value exceeds \$200 000
\$375 001 - \$725 000	\$12 935 plus \$4.25 for every \$100, or part, by which the dutiable value exceeds \$375 000
Over \$725 000	\$27 810 plus \$4.50 for every \$100, or part, by which the dutiable value exceeds \$725 000

Rates and thresholds applying to dutiable transactions that occur on or after 21 October 2013

\$0 - \$3 000	\$50
\$3 000 - \$25 000	\$50 plus \$1.75 for every \$100, or part, by which the dutiable value exceeds \$3 000
\$25 001 - \$75 000	\$435 plus \$2.25 for every \$100, or part, by which the dutiable value exceeds \$25 000
\$75 001 - \$200 000	\$1 560 plus \$3.50 for every \$100, or part, by which the dutiable value exceeds \$75 000
\$200 001 - \$375 000	\$5 935 plus \$4 for every \$100, or part, by which the dutiable value exceeds \$200 000
\$375 001 - \$725 000	\$12 935 plus \$4.25 for every \$100, or part, by which the dutiable value exceeds \$375 000
Over \$725 000	\$27 810 plus \$4.50 for every \$100, or part, by which the dutiable value exceeds \$725 000

How long before I must pay the duty owing?

Liability for duty arises when a dutiable transaction occurs. Duty is payable within three months of this date. Once payment is made, the original signed transfer instrument will be stamped and returned to the lodging party.

When a transaction is effected by a written instrument, the Commissioner will generally use the date on the instrument to determine when the liability arises, eg a transfer of land is usually dated on the day of settlement, so this would be the date the dutiable transaction occurs. The Commissioner may request other evidence to determine when a dutiable transaction has occurred. The Commissioner will return the written instrument to the lodging party only after duty has been paid.

Where the transfer is not effected by a written instrument, a statement must be made under section 13 of the Act. The statement must be lodged, and duty paid within three months of the date of the transaction.

How should cheques for payment of duty be addressed?

All cheques should be made out to the Commissioner of State Revenue.

How is interest and penalty tax applied?

Interest and penalty tax may be imposed if the duty payable is not paid within three months from the date of the transaction.

Interest is split into two components, market rate and premium rate. The market rate of interest changes on 1 July each year.

The current and historical market and premium rates of interest are available at sro.tas.gov.au/resources/rates-of-interest.

In addition to interest being applied, penalty tax may also be payable if duty is not paid within three months of the date the liability was incurred.

For more information, refer to the Revenue Ruling, [PUB-GEN-2021-1 Interest and Penalty Tax](#).

Can interest and penalty tax be remitted?

Interest and penalty tax may only be remitted in exceptional circumstances. A request for remission must be in writing, clearly setting out the circumstances. Your submission will be considered, and the Commissioner will issue a written response.

IMPORTANT: Should your request for remission be denied, additional interest will have been accumulating on any outstanding duty. Therefore, every endeavour should be made to pay the total amount outstanding before lodging a request for remission.

For more information, refer to the Revenue Ruling, [PUB-GEN-2021-1 Interest and Penalty Tax](#).

How do I object to an assessment or a decision of the Commissioner?

Your objection must be in writing and be lodged with the Commissioner within 60 days of the date of service of the notice of assessment or decision.

The letter of objection must fully state the grounds for the objection. If documents have already been stamped and returned to you or your agent, a copy of these and other relevant documents should be attached to the letter of objection.

Please read the [Objections, reviews and appeals guideline](#) at sro.tas.gov.au/resources/guidelines.

Where do adjustment factors come from and how do they work?

When calculating the unencumbered value (or market value) of dutiable property, the Commissioner may accept a valuation from an independent qualified valuer or may determine the unencumbered value of the property with reference to the Adjusted Government value. (Adjusted Government value is a value provided by the [Office of the Valuer-General](#)).

The Office of the Valuer-General issues adjustment factors annually. To determine the unencumbered value of real property, the last full valuation determined by the Valuer General (the same value shown on your council rates notice) is multiplied by the appropriate adjustment factor for the relevant municipality.

Because full valuations are undertaken periodically, the adjustment factor represents the estimated trend in capital values in the area where the property is located since the last full valuation.

How do I apply for a refund?

An application for a refund of duty must be:

- in writing, setting out the grounds for the refund request; and
- made within five years of the date the duty was paid.

Where possible, the original stamped document should be forwarded with your request. However, if the original is not available, a copy of the stamped document should be provided.

A taxpayer may not apply for, and is not entitled to, a refund if the Commissioner has previously served a notice of assessment of the taxpayer's tax liability and payment was made to the Commissioner, unless a refund is requested in accordance with specific provisions under the Act [eg section 55(1A)].

I am applying for either an exemption or concession. What evidence must I send with my lodgement?

If you are claiming an exemption or concession, you must firstly state the relevant section of the Act on which you have relied. Most exemptions or concessions also require additional documentary evidence as set out in the [Documentary evidence requirements guideline](#).

The SRO does not make pre-assessments to determine whether a concession or exemption will apply. Therefore, a taxpayer should consider seeking independent advice.

How are transfers of crown land licences and leases assessed?

Transfers of Crown licences and leases are assessed on the greater of the consideration paid or the market value of the transfer. In determining the market value, the Commissioner may assess on the value of the capital improvements to the property. This usually occurs because the Crown does not own the capital improvements situated on leased land, and the rights to those improvements are generally transferring to the new holder of the licence or lease. This provides the Commissioner with an estimate of what the transfer is worth and limits the need for taxpayers to seek a valuation from an independent valuer.

For example:

Value of the land:	\$ 15 000
Value of capital improvements:	<u>\$ 10 000</u>
Total value of the property:	\$ 25 000

If the consideration in this case was less than \$10 000, the dutiable value would be calculated on the value of capital improvements.

Are transfers to partners in a marriage or personal relationship exempt from duty?

Established dwellings

An exemption from duty is available where a home is transferred to partners in a marriage or personal relationships in certain circumstances. The home must be the parties' principal place of residence and, because of the transfer, the property will be held as either joint tenants or tenants in common in equal shares.

The exemption under section 55(1) of the Act will apply where the Commissioner is satisfied that:

- the whole property will be owned by both parties to a marriage or significant relationship or caring relationship; and
- the people on the transfer will own the property as either joint tenants or tenants in common in equal shares; and
- the land has a house on it that is used as both transferees' principal place of residence as at the date of the transfer; and
- no other person is involved in the transfer (i.e. the transfer of the whole property can go from one party in the relationship to both as joint tenants or tenants in common in equal shares; or the transfer can be of an interest of one party in the relationship so the end result is that the parties hold the property jointly or as tenants in common in equal share e.g. one party may have a 60 per cent interest and transfers 10 per cent).

IMPORTANT: The exemption only applies to transfers made between parties to a marriage, significant relationship or caring relationship. It **does not apply** to transfers from third parties, and it **does not apply** to transactions where property is being transferred from both people in the relationship to one of those persons.

To apply: Please complete the [Statutory Declaration: Exemption from duty for transfers to married couples, partners in a significant relationship or caring partners](#).

Vacant land

If duty is paid on a transfer of vacant land between parties to a marriage, significant relationship or caring relationship, a refund of the duty paid may be available, providing that:

- because of the transfer (on which duty was paid), the parties hold the land as tenants in common in equal shares, or as joint tenants; and
- the parties build a house on the land; and
- the house is used as the parties' principal place of residence; and
- the above conditions are met within two years from the date of the transfer.

IMPORTANT: A section 55(1A) refund provision only applies to duty paid on a transfer between parties to a marriage, significant relationship or caring partners. It does **not** apply to transfers from third parties.

To apply: Please complete the [Statutory Declaration: Refund from duty for transfers to married couples, partners in a significant relationship or caring partners](#).

Is there an exemption from duty on the transfer of property following the breakdown of a marriage or personal relationship?

An exemption is available in these circumstances provided certain criteria are met. These are set out in sections 56, 56A and 57 of the Act.

Breakdown of a marriage

When claiming an exemption for the transfer of property following the breakdown of a marriage (section 56), the following information must also be submitted:

- a certified copy of a document registered or approved under the [Family Law Act 1975](#) (Commonwealth) (Family Law Act); or
- a certified copy of a financial agreement made under section 90B, 90C or 90D of the Family Law Act; or
- a certified copy of an order of a court under the Family Law Act.

Breakdown of a de facto relationship

When claiming an exemption for the transfer of property following the breakdown of a de facto relationship (section 56A of the Act) the following information must also be submitted:

- a certified copy of a document registered or approved under the Family Law Act; or
- a certified copy of a financial agreement made under section 90UB, 90UC or 90UD of the Family Law Act; or
- a certified copy of an order of a court under the Family Law Act.

Termination of a personal relationship

When claiming an exemption for the transfer of property following the termination of a personal relationship (section 57 of the Act) the following information must also be submitted:

- a certified copy of a copy of the personal relationship agreement, separation agreement or order made in accordance with the [Relationships Act 2003](#); and
- where appropriate, evidence that the parties sought independent legal advice in relation to the personal relationship agreement or separation agreement.

Why do I have to pay duty on a property when I am only adding a name to the title, or the transfer was the result of a gift?

Under the Act, duty is chargeable when an interest in land is acquired. When adding a name to a Certificate of Title or when a transfer is the result of a gift, the transferee is acquiring an interest in that property, therefore, duty is payable.

Are pensioners entitled to a concession or exemption on duty for the transfer of real property?

Yes, the concession provides a 50 per cent discount on property transfer duty for eligible pensioners who sell their existing home and downsize by buying another home. Further information is contained in the [Duty concession for pensioners selling their existing home to downsize to another property factsheet](#).

Is there an exemption for transfers effected as part of a corporate reconstruction?

Yes, the Act contains an exemption from duty imposed under Chapter 2 of the Act for corporate reconstructions. This exemption:

- was inserted into the Act on 6 December 2016; and
- applies to dutiable transactions that occurred on, or after, 6 December 2016.

Further information is contained in the [Corporate reconstruction and consolidation transaction exemption provisions guideline](#).

To apply for the exemption complete the [Corporate reconstruction exemption application](#) and lodge it at the State Revenue Office.

Is there an exemption for transfers effected as part of a corporate consolidation?

Yes, the Act contains an exemption from duty imposed under Chapter 2 of the Act for corporate consolidations. This exemption:

- was inserted into the Act on 6 December 2016; and
- applies to dutiable transactions that occurred on, or after, 6 December 2016.

Further information is contained in the [Corporate reconstruction and consolidation transaction exemption provisions guideline](#).

To apply for the exemption complete the [Corporate consolidation exemption application](#) and lodge it at the State Revenue Office.

Is a transfer of shares or units dutiable?

In most circumstances, the transfer of shares or units is not a dutiable transaction.

However, there are **two exceptions**:

- shares in a company or units in a trust held in an entity that is deemed to be a private or public landholder, the acquisition of shares or units may constitute a relevant acquisition and duty may be payable; or
- shares or units that provide the right for the owner of the shares or units to occupy land/property in Tasmania (land use entitlement).

For more information about the transfer of share transactions on or after 6 December 2016, please read the [Landholder provisions guideline](#).

For more information about the transfer of share transactions prior to 6 December 2016, please read the [Land rich provisions guideline](#).

Is duty payable on the establishment of a trust over non-dutiable or unidentified property?

Trust deeds establishing a trust over non dutiable or unidentified property dated on or after 1 July 2017 are not liable for duty.

Prior to 1 July 2017, section 42 of the Act charged duty of \$50.00 on a declaration of trust made over unidentified or non-dutiable property. Duplicates of these documents can be stamped for no additional charge.

Is duty payable on other trust deeds?

Trust deeds establishing a trust over identified dutiable property are liable for duty. In addition, a variation to a trust that holds dutiable property may also be subject to duty, if it results in a resettlement of the trust or vesting trust property that is dutiable property. For example, a variation to retire and appoint a new trustee of a trust will be dutiable if the trust holds dutiable property as upon variation, the property vests in the new trustee, and as such it is a vesting of dutiable property.

Where do I lodge documents for assessment?

Mail

Commissioner of State Revenue
State Revenue Office
GPO Box 1374
HOBART TAS 7001

More information from the SRO

Phone: (03) 6166 4400
(weekdays, 9:00am to 5:00pm)

Email: dutyhelp@treasury.tas.gov.au

IMPORTANT – PLEASE READ

Officers of the SRO cannot provide specific legal advice. Any information given by the SRO without the benefit of sighting all relevant documentation is indicative only.

The information in this FAQ document is provided as a guide and does not constitute legal advice.

It is the responsibility of the taxpayer or their agent to ensure that they comply with the provisions of the [Duties Act 2001](#) and the [Taxation Administration Act 1997](#).