

Public Ruling

Ruling Number	: PUB-DT-2004-9
Title	: GST on Dutiable Transactions
Tax Line	: Duties
Legislative Reference	: <i>Duties Act 2001</i>
Previous Ruling	: PUB-SD-2001-2 (16 July 2001)
Date of Ruling	: 16 July 2001
Attachments	: Declaration Duties Act.doc

This ruling replaces PUB-DT-2004-4.

This ruling clarifies how *ad valorem* duty under Chapter 2 of the *Duties Act 2001* ("the Act") applies to dutiable transaction which attracts GST.

Preamble

Following the introduction of GST by the Commonwealth Government on 1 July 2000 there has been some confusion as to the duty implications relating to conveyances of property which attract GST. A ruling has been issued by the State Revenue Office entitled 'Stamp Duty on Conveyances subject to GST'. That ruling relates to conveyances assessed pursuant to items 6 and 7 of the *Stamp Duties Act 1931*. As at 1 July 2001 the *Stamp Duties Act 1931* is to be replaced by the *Duties Act 2001*. This ruling relates to dutiable transactions under the *Duties Act 2001*.

Ad valorem duty at the rate specified under Chapter 2 of the Act is charged on the greater of the consideration for, or the full unencumbered value of, the property being conveyed.

GST is imposed under *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth on taxable supplies at 10% of the value of the supply. The value of a taxable supply is 10/11ths of the price.

The price of a taxable supply is the market value or the consideration paid for the supply without any discount for the amount of GST (if any) payable on the supply. GST is payable by the person who makes the taxable supply.

Ruling

Where a dutiable transaction is silent as to whether the transferor is liable to GST in respect of the transaction, duty will be assessed on the consideration or the full unencumbered value of the property, whichever is the greater (ie: on the basis that 1/11th of the consideration or full unencumbered value is attributable to GST).

Where a dutiable transaction contains a condition that the transferee will pay the stated consideration plus an amount equal to the GST payable by the transferor, duty will be assessed on the GST "inclusive" amount. The GST component forms part of the consideration and duty is assessed on the greater of the consideration (including the GST component) or the full unencumbered value of the property, whichever is the greater.

Where a contract contains a clause or provision which indicates that the transferor's liability to GST is unknown as at the date of contract or transfer but that should it be payable, an amount equal to that liability will be paid by the transferee to the transferor, the duty will be assessed on either the consideration (exclusive of any GST component) or the full unencumbered value of the property **provided that** an undertaking from the transferee in the form of the attached declaration accompanies the lodgement. In completing the declaration, the transferee is undertaking to re-lodge the contract with the State Revenue Office in the event that GST is paid on the transaction at a later date. The power to re-assess an instrument after it has been stamped is contained in section 19 of the *Taxation Administration Act 1997*.

It is envisaged that compliance activity will be conducted on dutiable transactions with a conditional liability and also on dutiable transactions and that are 'silent' as to the payment of GST.

All rulings must be read subject to Revenue Ruling PUB-GEN-2001-1.



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