

Revenue Ruling 2005

Public Ruling

Ruling Number	: PUB-DT-2005-1
Title	: GST on Dutiable Transactions
Tax Line	: Duties
Legislative Reference	: <i>Duties Act 2001</i>
Previous Ruling	: PUB-DT-2004-9 (16 July 2001)
Date of Ruling	: 12 April 2005
Attachments	:

This ruling replaces ruling No. PUB-DT-2004-9 and removes the requirement to submit a GST declaration.

This ruling clarifies how *ad valorem* duty under Chapter 2 of the *Duties Act 2001* applies to a 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* was replaced by the *Duties Act 2001*. This ruling relates to dutiable transactions under the *Duties Act 2001* ("the Act").

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 dutiable 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 (i.e.: 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.

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. These assessments, unless expressly indicated otherwise by the Commissioner, will be made as interim assessments in accordance with section 31(1) of the Act. In the event that GST becomes payable, the taxpayer must re-submit the contract for re-assessment in accordance with 31(3) of the Act.

It should be noted that compliance activity will be conducted on dutiable transactions with a conditional liability and also on dutiable transactions 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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