



## Business Licences

Sections 14, 79 to 86 and 136 of the *Duties Act 2008*

As at 11 July 2016

### Introduction

Under the *Duties Act 2008* ('Duties Act'), transfer duty is chargeable on a dutiable transaction relating to a Western Australian business asset which includes a business licence. Dutiable transactions involving business licences (such as a transfer of a business licence or an agreement to transfer a business licence) will therefore be subject to transfer duty. Transfer duty is also chargeable in circumstances where a person agrees to relinquish a licence, or to not apply for a renewal of a licence, so that it or another similar licence can be issued to another person.

For further information on dutiable transactions relating to Western Australian business assets, see Duties Fact Sheet '[Business Acquisitions](#)'.

### Business licences

A **business licence** means a licence, permit or authority that is issued, granted or given under:

- a) a Western Australian law and which is required by a Western Australian law to be held by a person carrying out an activity for gain or reward; or
- b) a law of the Commonwealth and which is required by a law of the Commonwealth to be held by a person carrying out an activity in Western Australia for gain or reward.

Business licences include, but are not limited to:

- an authorisation or entitlement under the *Fish Resources Management Act 1994*;
- a pearling licence, hatchery licence or quota under the *Pearling Act 1990*;
- a taxi plate under the *Taxi Act 1994*;
- a licence under the *Liquor Licensing Act 1988*;
- a commercial radio broadcasting licence or commercial television broadcasting licence under the *Broadcasting Services Act 1992* of the Commonwealth; and
- a subscription based broadcasting licence under Part 7 of the *Broadcasting Services Act 1992* of the Commonwealth.

### Plant and Equipment

The transfer of a chattel, such as plant and equipment, is a dutiable transaction when the chattel is transferred with a business licence. However, as prescribed in section 3 of the Duties Act, a chattel does not include:

- chattels that are stock-in-trade, held for use in manufacture, under manufacture, or held or used in connection with the business of primary production;
- livestock;
- a vehicle the transfer or grant of a licence for which is chargeable with, or exempt from, vehicle licence duty; or
- a ship or vessel.

## How is duty calculated?

Duty is calculated by determining the dutiable value of the dutiable transaction and applying the appropriate rate of transfer duty. The method of calculating the dutiable value will be dependent on the nature of the business and business licence.

The dutiable value of a **Western Australian business licence** is the greater of:

- a) the consideration for the dutiable transaction; or
- b) the unencumbered value of the business licence at the time when the liability for duty arises.

The dutiable value of a **Commonwealth business licence** held by a person carrying out an activity in Western Australia (but where there is no business being conducted in or from Western Australia) is the greater of:

- a) the value of the business licence so far as it authorises the carrying out of an activity in Western Australia; or
- b) the portion of the consideration for the transaction that relates to the carrying out of an activity in Western Australia under the authority of the business licence.

The dutiable value of a Commonwealth business licence held by a business that is conducted in Western Australia will be calculated under section 85 or 86 of the Duties Act, depending on the location of the business's head office or principal place of business.

The dutiable value of chattels located in Western Australia will be the greater of the consideration given for, or the unencumbered value of, the chattels.

Transfer duty is charged at the applicable rate by reference to the dutiable value. The rate of transfer duty will be the general rate, or a concessional rate if the business concession criteria set out in section 147 of the Duties Act are met.

## Business licences held under the Fish Resources Management Act

Section 136 of the Duties Act provides for nominal duty to be charged on a dutiable transaction involving a business licence under the *Fish Resources Management Act 1994* in circumstances where the Commissioner is satisfied that the transaction has not, and will not, result in the passing of a beneficial interest in the business licence.

Commissioner's Practice '[DA 11 - Dutiable Transactions Involving a Unit Entitlement under the Fish Resources Management Act 1994 - Claim of No Passing of a Beneficial Interest](#)' outlines the duty treatment of a transfer or lease of a unit entitlement under the *Fish Resources Management Act 1994* where it is claimed that there is no change in beneficial ownership.

## General rate of transfer duty

The general rate of transfer duty is as follows:

\$	0 – \$ 80,000		\$1.90	per \$100 or part thereof
\$ 80,001 – \$100,000	\$ 1,520 +	\$2.85	per \$100 or part thereof above \$ 80,000	
\$100,001 – \$250,000	\$ 2,090 +	\$3.80	per \$100 or part thereof above \$100,000	
\$250,001 – \$500,000	\$ 7,790 +	\$4.75	per \$100 or part thereof above \$250,000	
\$500,001 and upwards	\$19,665 +	\$5.15	per \$100 or part thereof above \$500,000	

## Concessional rate of transfer duty – section 147

Section 147 of the Duties Act provides that a dutiable transaction that is the sale of a business licence may be assessed at the concessional rate of transfer duty where:

- the dutiable property is business property;
- the dutiable value of the dutiable property does not exceed \$200,000; and
- the purchaser is an eligible purchaser, being a person who is not a government body and that intends to carry on the business for an indefinite period.

The concessional rate of transfer duty is as follows:

\$	0 – \$ 100,000	\$1.50	per \$100 or part thereof
\$	100,001 – \$200,000	\$ 1,500 +	\$4.39 per \$100 or part thereof above \$100,000

An application for an assessment at the concessional rate of transfer duty should accompany the relevant transaction record when it is lodged with the Commissioner of State Revenue for duty endorsement. The appropriate application form is available from the [State Revenue website](#).

## Lodging requirements

### Self assessment

Certain dutiable transactions involving Western Australian business assets may be self assessed by an approved agent through Revenue Online.

### Lodgment with the Commissioner

An instrument in hard copy form that effects or evidences a dutiable transaction, or a transfer duty statement in the approved form where there is no hard copy instrument, must be lodged within two months after the date that liability for duty on the dutiable transaction arises. Approved transfer duty statements are accessible on the [State Revenue website](#).

The Duties Information Requirements set out the standard information that should accompany each instrument or transfer duty statement in order to determine the correct transfer duty applicable to a transaction.

## Aggregation of dutiable transactions

Where a business licence is acquired as part of a number of separate transactions which form substantially one arrangement, all instruments and transfer duty statements in the series of acquisitions should be lodged together under the one Duties Document Lodgment and Assessment Form, or if lodged separately, sufficient reference must be made to ensure that the bundles can be cross-referenced to each other.

Where the transfer of a business licence involves separate transactions for the transfer of a business licence and the transfer of a chattel, section 14(2) of the Duties Act provides that the transaction over the chattel is a dutiable transaction if the separate transactions form substantially one arrangement. In these circumstances, the transactions will be aggregated and treated as a single dutiable transaction. For further information regarding aggregation, please see Revenue Ruling [DA 14 'Aggregation of Dutiable Transactions'](#).

In circumstances where two or more of the transactions are treated as a single transaction and one of the transactions relates to residential property, provided the residential concessional criteria is satisfied, the residential concessional rate of duty will be chargeable on the single

transaction. For further information on the residential concessional rate please see Duties Fact Sheet 'Transfer of Residential Property'.

## Contact the Office of State Revenue

<b>Office</b>	200 St Georges Terrace PERTH WA 6000	<b>Telephone</b>	(08) 9262 1100  1300 368 364 (local call charge - WA country callers only)
<b>Postal</b>	Office of State Revenue GPO Box T1600 PERTH WA 6845	<b>Web Enquiry</b>  <b>Website</b>	<a href="http://www.osr.wa.gov.au/DutiesEnquiry">www.osr.wa.gov.au/DutiesEnquiry</a>  <a href="http://www.osr.wa.gov.au">www.osr.wa.gov.au</a>

**Note:** The information contained in this DUTIES FACT SHEET is issued for guidance purposes only. It is not an exhaustive explanation of the provisions of the *Duties Act 2008* and reference should be made to the Act for complete details.