



## Indian Ocean Territories

### Duties Overview

*Duties Act 2008 (WA) (CI) & (CKI)*

As at 1 January 2019

---

Duty is imposed under the *Duties Act 2008 (WA) (CI) & (CKI)* ('Duties Act') on transactions over dutiable property and on the grant or transfer of a motor vehicle licence. This fact sheet is limited to information on transfer duty, foreign transfer duty, and vehicle licence duty.

#### Transfer Duty

Chapter 2 of the Duties Act identifies what is considered a dutiable transaction and dutiable property. Dutiable property includes land, rights, chattels and business assets.

All references to dutiable transactions in this fact sheet includes a reference to foreign dutiable transactions.

For more information, please see [Duties Fact Sheet 'Transfer Duty Overview'](#) available from the State Revenue website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).

#### Lodgment

The Duties Act requires an instrument in hard copy form that effects or evidences a dutiable transaction to be lodged within two months after the date liability for duty on the dutiable transaction arises.

Where there is no hard copy instrument, lodge a transfer duty statement in the approved form with the Commissioner of State Revenue within two months after the date liability for duty arises. Access transfer duty statement forms on the State Revenue website.

The party responsible for the payment of the duty (usually the purchaser or transferee) must ensure the transaction record is lodged as required. Failure to lodge a transfer duty statement is an offence under the Duties Act.

All transactions involving land (or any interest in land), must be accompanied by [Form FDA41 'Foreign Transfer Duty Declaration'](#) for each person or entity acquiring or receiving the land.

The information and evidence required to accompany transaction records is detailed in the [Duties Information Requirements](#), available on the State Revenue website, and individual application forms, Commissioner's practices and revenue rulings.

#### Payment of duty

Duty is due for payment:

- within three years of the date of a Subdivision or Issue of Title Conditional Agreement;
- within one year of the date of a Mining Tenement, Farming Land or General Conditional Agreement;

- within one year of the day on which liability for duty arises on one of:
  - 1) a transfer of dutiable property;
  - 2) an agreement for the transfer of dutiable property;
  - 3) a declaration of trust over dutiable property; or
  - 4) a vesting of dutiable property by statute law or a court order,
 provided that a transfer form relating to the transaction must be lodged with Landgate (under the *Transfer of Land Act 1893* or the *Registration of Deeds Act 1856*), or the Department of Mines and Petroleum (under the *Mining Act 1978*); or
- otherwise within one month of the Duties Assessment Notice.

Further details on the alternative payment periods are available on the [Duties Fact Sheet 'Conditional Agreements'](#), available from the State Revenue website.

Upon application, the Commissioner may allow the duty to be paid in specified instalments. Interest payable at the prescribed rate will be charged under such an arrangement. A transaction record will not be released until all outstanding duty, penalties and/or interest have been paid.

### **Penalty tax**

Penalty tax may be imposed if a transaction record is not lodged, or the duty is not paid, within the required time period.

#### *Late lodgment penalty tax*

Transaction records not lodged within the required time period will be liable to penalty tax.

#### *Late payment penalty tax*

A Late Payment Penalty Tax Assessment Notice will be issued if the required duty is not paid by the due date. The maximum penalty tax for late payment is 20% of the outstanding transfer duty.

### **Objections**

You can object to an assessment of duty within 60 days of issue of the Duties Assessment Notice. The objection must be in writing and set out in full detail the grounds of the objection.

Lodging an objection does not suspend or defer your requirement to pay duty by the due date stated in the Duties Assessment Notice.

If you believe the Commissioner's objection decision is incorrect, you can apply to the State Administrative Tribunal for a review of that decision within 60 days after the Commissioner serves the notice of the decision.

### **Cancelled transactions**

Duty is not chargeable on certain dutiable transactions that are cancelled. A cancelled transaction is a dutiable transaction that has not, and will not, be carried into effect. However, duty is chargeable on a cancelled transaction if the transaction has been cancelled so that a replacement transaction or subsale transaction can be entered into.

For further information, see [Duties Fact Sheet 'Cancelled Transactions'](#), available from the State Revenue website.

## Rates of transfer duty

### General rate of duty

The general rate of duty applies to a dutiable transaction, unless the Duties Act provides otherwise. The general rate of transfer duty is set out below.

\$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 rates of duty

You can make an application for a concessional rate of duty to apply to dutiable transactions for a first home, residential property and certain businesses and principal places of residence.

Please note, foreign transfer duty may still apply to a transaction eligible for a concessional rate of duty.

#### Residential rate

The residential rate applies to residential property, including rental properties and land on which a residence is constructed within 5 years from the date the liability to duty arose. It is irrelevant whether the home will be occupied by the owner as a place of residence, occupied by a tenant as a place of residence under a lease with the owner, or occupied as a holiday home for part of the year. The residential rate also applies to mixed use property, for example a restaurant with a residence above it.

For further information, see [Duties Fact Sheet 'Transfer of Residential Property'](#) available from the State Revenue website.

#### Principal place of residence and business concessional rate

You may be eligible for a concessional rate of duty if the dutiable property is either a principal place of residence or a Western Australian business asset, and the dutiable value does not exceed \$200,000.

For further information, see Duties Fact Sheets '[Transfer of Residential Property](#)' or '[Business Acquisitions](#)' available from the State Revenue website.

#### First home owner rate (FHOR)

Although Indian Ocean Territory residents are not eligible to apply for the first home owner grant under the *First Home Owner Grant Act 2000*, they may be eligible to receive the FHOR of duty.

A transfer or an agreement to transfer a home or vacant land upon which a new home has been or will be built, may qualify for the FHOR if:

- the transferee meets the eligibility requirements for a first home owner grant under the *First Home Owner Grant Act 2000*; and
- the dutiable value of the property does not exceed the thresholds outlined in the relevant fact sheet.

For further information, see the [First Home Owner Grant Fact Sheet](#) and [Duties Fact Sheet 'First Home Owner Rate of Duty'](#) available from the State Revenue website.

Apply for the FHOR by submitting the transaction record (e.g. Contract for Sale or Transfer of Land), Foreign Transfer Duty Declaration Form and signed application [Form F-FHOG1 'FHOG Application and/or Pre-approval for the First Home Owner Rate of Duty'](#) to the Office of State Revenue.

If it is determined that you are not eligible for the FHOR, State Revenue will advise you in writing of the reasons for that determination and request that you complete [Form FDA11 'Residential Rate'](#).

Note: where the transaction has previously been assessed for duty at the residential or general rate of duty, the application form **and** the original duty endorsed transaction record must be lodged for reassessment at the FHOR of duty. You will be refunded any overpaid duty.

### ***Foreign Transfer Duty***

Foreign transfer duty applies to dutiable transactions involving residential property purchased or acquired by foreign persons. Foreign transfer duty is calculated on 7% of the dutiable value or unencumbered value of the residential property. Refer to Fact Sheet ['Foreign Transfer Duty'](#) for further information.

### **Vehicle licence duty**

Duty is payable on the grant or transfer of a motor vehicle licence and is calculated on the dutiable value of a vehicle.

The Duties Act distinguishes between a 'new vehicle', 'other vehicles' and 'specialised vehicles' for the purpose of determining the dutiable value.

#### ***New vehicles***

The dutiable value of a new vehicle is the sum of the retail selling price and the additional amount fixed by the manufacturer for the retail sale of each optional feature in or of the vehicle.

#### ***Other vehicles***

The dutiable value for a vehicle that is not a new vehicle is calculated on the amount for which the vehicle might reasonably be sold, free of encumbrances, in the open market.

#### ***Specialised vehicles***

The dutiable value for a specialised vehicle (vehicle B) is calculated as if the specialised equipment attached to it at the time of the application for the grant or transfer of the licence were not attached to it if:

- the applicant holds the licence for another specialised vehicle (vehicle A); and
- the applicant is the last person to hold a licence for vehicle A; and
- the duty paid for vehicle A was assessed on the dutiable value of vehicle A including the value of the specialised equipment; and
- the specialised equipment has been removed from vehicle A and attached to vehicle B; and
- the application for the grant or transfer of the licence for vehicle B includes a declaration in the approved form.

## Rates of vehicle licence duty

For the grant or transfer of a licence for a vehicle that is not a heavy vehicle, the amount of duty is:

- a) 2.75% of the dutiable value if the dutiable value of the vehicle does not exceed \$25,000:
- b) if the dutiable value of the vehicle exceeds \$25,000 but does not exceed \$50,000, the percentage rate of:

$$\left[ 2.75 + \left( \frac{DV - 25,000}{6,666.66} \right) \right] \% \quad \text{of the dutiable value (DV).}$$

- c) 6.5% of the dutiable value if the dutiable value of the vehicle exceeds \$50,000:

For the grant or transfer of a licence for a 'heavy vehicle' (with a gross vehicle mass of more than 4.5 tonnes), the amount of duty is the lesser of –

- a) 3% of the dutiable value; and
- b) \$12,000.

**NOTE:** This is only a sample of some of the more common transactions that attract duty. For more information please contact the Office of State Revenue.

## Contact the Office of State Revenue

<b>Office</b>	200 St Georges Terrace PERTH WA 6000	<b>Telephone</b>	Toll Free – 1800 245 836
<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 (WA) (CI) & (CKI)* and reference should be made to the Acts for complete details.