



Indian Ocean Territories Duties Overview

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

As at 3 October 2015

Introduction

Duty imposed under the *Duties Act 2008 (WA) (CI) & (CKI)* ('Duties Act') may be described as a general revenue tax. Duty is imposed, among other matters, 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 and vehicle licence duty.

Transfer Duty

Transfer duty is imposed on dutiable transactions. Chapter 2 of the Duties Act specifies a list of dutiable transactions, together with a list of dutiable property. Dutiable property includes land, rights, chattels and business assets.

For further information on transfer duty please refer to [Duties Fact Sheet 'Transfer Duty Overview'](#) which is available from the Office of State Revenue website at 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 effecting or evidencing the transaction, a transfer duty statement in the approved form must be lodged with the Commissioner of State Revenue within two months after the date liability for duty on the dutiable transaction arises. Transfer duty statement forms can be found at www.osr.wa.gov.au. Failure to lodge a transfer duty statement is an offence under the Duties Act with a maximum penalty of \$20,000.

The party to the dutiable transaction who is responsible for the payment of the duty (usually the purchaser or transferee) must ensure that the transaction record is lodged as required.

[Duties Information Requirements](#), which are available on the website at www.osr.wa.gov.au, set out the standard information which has been identified by the Office of State Revenue as being necessary to determine the correct duty applicable to certain types of dutiable transactions. The appropriate information should accompany each transaction record in accordance with the requirements.

Payment of duty

Once the liable party has lodged the transaction record, the 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 Office of State Revenue website at www.osr.wa.gov.au.

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 in cases where 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.

Objection

A taxpayer may dispute duty that has been raised and 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 the payment of duty by the due date stated in the Duties Assessment Notice.

If a taxpayer believes that the Commissioner's objection decision is incorrect, they may apply to the State Administrative Tribunal for a review of that decision within 60 days after the Commissioner serves the notice of the decision on the taxpayer.

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 on cancelled transactions please refer to the [Duties Fact Sheet 'Cancelled Transactions'](#) available from the Office of State Revenue website www.osr.wa.gov.au.

Rates of transfer duty

General rate of duty

The general rate of transfer 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

There are concessional rates of transfer duty available for dutiable transactions for a first home, residential property and certain businesses and principal places of residence.

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 on the residential rate, please refer to the [Duties Fact Sheet 'Transfer of Residential Property'](#) available at www.osr.wa.gov.au.

Principal place of residence and business concessional rate

A person may be eligible for a concessional rate of duty where 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 on the eligibility requirements for this concessional rate, please refer to the applicable Duties Fact Sheets ['Transfer of Residential Property'](#) or ['Business Acquisitions'](#) available at www.osr.wa.gov.au.

First home owner rate (FHOR)

Effective from 1 July 2008, residents of Indian Ocean Territories will be eligible to apply for the FHOR of duty. Although Indian Ocean Territory residents are not eligible to apply for the first home owner grant under the *First Home Owner Grant Act 2000*, eligibility for the FHOR of duty is aligned with the requirements under that Act.

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 of duty where:

- the transferee meets the eligibility requirements for a first home owner grant had the *First Home Owner Grant Act 2000* applied to the transferee (or would have otherwise qualified for a grant had consideration been paid for the purchase of an established home); and
- the dutiable value of the property does not exceed the thresholds outlined below.

Further information as to eligibility can be found in the [First Home Owner Grant Fact Sheet](#) and [Duties Fact Sheet 'First Home Owner Rate of Duty'](#) available from the Office of State Revenue website at www.osr.wa.gov.au.

Dutiable value thresholds for FHOR of duty

Home, as at 3 July 2014

- To be eligible for the FHOR of duty, the unencumbered value of the home must not exceed \$530,000.
- Where the dutiable value of the home does not exceed \$430,000, no duty is payable.
- Where the dutiable value of the home exceeds \$430,000 but does not exceed \$530,000, duty is payable at a rate of \$19.19 for every \$100 and any fractional part of \$100 by which the dutiable value exceeds \$430,000.

Home, from 1 July 2008 to 2 July 2014

- To be eligible for the FHOR of duty, the unencumbered value of the home must not exceed \$600,000.
- Where the dutiable value of the home does not exceed \$500,000, no duty is payable.
- Where the dutiable value of the home exceeds \$500,000 but does not exceed \$600,000, duty is payable at a rate of \$22.51 for every \$100 and any fractional part of \$100 by which the dutiable value exceeds \$500,000.

Vacant Land

- To be eligible for the FHOR of duty, the unencumbered value of the vacant land must not exceed \$400,000.
- Where the dutiable value of the land does not exceed \$300,000, no duty is payable.
- Where the dutiable value of the land exceeds \$300,000 but does not exceed \$400,000, duty is payable at a rate of \$13.01 for every \$100 and any fractional part of \$100 by which dutiable value exceeds \$300,000.

How to apply for the FHOR of duty

1. Submit the transaction record (e.g. Contract for Sale or Transfer of Land) for assessment of duty together with a fully completed and signed application form FDA8 '[First Home Owner Rate of Duty – Indian Ocean Territories](#)' to the Office of State Revenue.
2. If you are eligible for the FHOR of duty, the Office of State Revenue will assess the duty on the transaction accordingly.
3. If it is determined that you are not eligible for the FHOR of duty, upon application the residential rate of duty may apply to the transaction. The Office of State Revenue will advise

you in writing of the reasons for that determination and request Form FDA11 'Residential Rate' to be completed.

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 at the Office of State Revenue for reassessment of the transaction at the FHOR of duty. A refund of any duty overpaid will be issued.

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 definition of 'dutiable value' in 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 to be 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 for the vehicle 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) if dutiable value of the vehicle does not exceed \$25,000:
 - 2.75% of the dutiable value.
- 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) if the dutiable value of the vehicle exceeds \$50,000:
 - 6.5% of the dutiable value.

The duty payable is rounded down to the nearest 5 cents.

For the grant or transfer of a licence for a **heavy vehicle** ('heavy vehicle' means a 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 further information please contact the number shown below.

Abolition of Duty

From 1 July 2008, stamp duty was abolished on mortgages. For further details on this and the measures resulting from the implementation of the Duties Act, please refer to the circulars and other information published on the website at www.osr.wa.gov.au.

Contact the Office of State Revenue

Office	200 St Georges Terrace PERTH WA 6000	Telephone	Toll Free – 1800 245 836
Postal	Office of State Revenue GPO Box T1600 PERTH WA 6845	Web Enquiry Website	www.osr.wa.gov.au/DutiesEnquiry www.osr.wa.gov.au

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.