



Duties Information Requirements

What are Duties Information Requirements?

These Information Requirements specify what a taxpayer or lodging party must submit when they lodge a transaction record or an acquisition statement with State Revenue for the assessment of transfer duty or landholder duty.

A transaction record or acquisition statement is lodged for transfer duty if it is:

- (1) self assessed by an approved agent through Revenue Online (Online Duties); or
- (2) lodged electronically, or in person or by post, with State Revenue for immediate or non-immediate assessment.

See [Self Guided Assessments](#) to ascertain whether your transaction is eligible for self assessment. If the transaction is an [approved transaction](#) that is eligible to be self-assessed using Online Duties, provide the required information to your agent.

If a transaction is of a type for which an Information Requirement exists, it must be lodged with either:

- (1) the information set out in the relevant Information Requirement; or
- (2) a written explanation identifying when the outstanding information will be provided if it cannot be supplied at the time of lodgment.

See [Commissioner's Practice DA 14 'Duties Information Requirements'](#).

Why should the information be provided at the time of lodgment?

Providing the necessary information will generally assist in the more timely issue of a duties assessment notice. There may be occasions when the Commissioner will issue a requisition to obtain additional information from the lodging party or the taxpayer.

What if the information is unavailable at the time of lodgment?

Transaction records must be lodged for assessment within two months of the date of the dutiable transaction. Acquisition statements must be lodged within two months of the date on which a relevant acquisition is taken to have occurred. Penalty tax will be imposed where these records are not submitted by the due date.

If it is not possible to supply the specified information within the required timeframe, lodge the transaction record or acquisition statement with the available information and the written explanation referred to above.

For information regarding the assessment of duty, please refer to the [Commissioner's practices](#), [revenue rulings](#) and [duties fact sheets](#) available from the Department of Finance website at www.finance.wa.gov.au.

Certain Information Requirements Not Included in This Document

In certain circumstances, the relevant application form available from www.finance.wa.gov.au contains the information required to be submitted. Where an application form is available, this information is not duplicated within this document.

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Publications containing evidentiary requirements

In addition to the Information Requirements detailed in this document, the following publications contain evidence required to be provided in relation to the relevant topic. Please refer to the document to ensure the relevant evidentiary requirements are submitted.

Publication	Purpose of Publication
Form FDA0 'Document Lodgment and Assessment'	lodge documents for duty assessment by post or in person.
Form FDA1 'Cancelled Transaction Exemption'	apply for an exemption from duty for a transaction dated on or after 1 July 2008 that has not been and will not be carried into effect
Form FDA2 'Charitable Exemption'	apply for an exemption from duty where a transaction has been entered into or occurred for charitable or similar public purposes
Form FDA3 'Concessional Rate of Duty: Certain Residential or Business Property Transactions'	apply for the concessional rate of duty where the dutiable value of business or residential land (to be used as a principal place of residence) acquired does not exceed \$200,000
Form FDA4 'Contingent Consideration'	apply for a reassessment where duty has been assessed on the total contingent consideration payable, but the full contingent consideration is not paid
Form FDA5 'Extension of Time for Payment'	apply for an extension of time to pay duty or for payment of duty by instalments
Form FDA6 'Family Farm Exemption'	apply for an exemption from duty on the transfer of farming property between family members
Form FDA7 'First Home Owner Rate of Duty'	apply for the first home owner rate of duty.
Form FDA9 'Further Concessional Transaction: Shared Equity Homes'	apply for the first home owner rate of duty in relation to a further interest in a property that was originally acquired as a shared equity property that was also charged with the first home owner rate of duty.
Form FDA10 'Reduction of Duty: Matter Not Carried Into Effect'	apply for an exemption from duty for a transaction dated on or before 30 June 2008 that has not been and will not be carried into effect
Form FDA11 'Residential Rate'	apply an assessment or reassessment of duty on a transaction at the residential rate when buying or building a residence
Form FDA13 'Spousal Exemption (Including De Facto Partners)'	apply for an exemption from duty on the transfer of property used as the principal place of residence between spouses or de facto partners
Form FDA14 'Substituted Transferees'	apply for relief from duty on the transfer of dutiable property to a transferee where the transferee and the purchaser are related
Form FDA15 'Superannuation Fund Transactions'	apply for nominal duty for certain dutiable transactions to trustees and custodians of superannuation funds
Form FDA16 'Terminated on Relevant Grounds: General Conditional Agreement'	apply to terminate a general conditional agreement which has not been carried into effect
Form FDA17 'Transfer Duty Statement: Acquisition of an Authorisation or Entitlement'	advise of a dutiable transaction relating to a business licence under the Fish Resources Management Act for which there is no hard copy instrument
Form FDA18 'Transfer Duty Statement: No Hard Copy Instrument'	advise of a dutiable transaction for which there is no hard copy instrument
Form FDA19 'Transfer Duty Statement: Family Farm Transaction'	advise of a subsequent liability following an exempt family farm transaction
Form FDA20 'Application to Lodge Periodical Statements: Landholder Acquisition'	apply to lodge periodical acquisition statements for interests in corporations or unit trust schemes
Form FDA21 'Family Farm Exemption'	apply for an exemption from duty where the land is used for primary production and the acquisition is between family members

Form FDA22 'Landholder Acquisition Statement or Determination of Liability'	advise of the acquisition of an interest in a corporation or unit trust scheme that is a landholder, or seek a determination whether duty is payable
Form FDA23 'Notice of Notifiable Event: Relevant Consolidation and Reconstruction Transactions'	lodge a notice of a notifiable event
Form FDA24 'Relevant Consolidation Transaction'	apply for an exemption from duty for a corporate consolidation. This form can also be used to apply for a ruling whether an exemption would be granted or, if an exemption is granted, whether the Commissioner would revoke the exemption
Form FDA25 'Relevant Reconstruction Transaction'	apply for an exemption from duty for a restructuring transaction. This form can also be used to apply for a ruling whether an exemption would be granted or, if an exemption is granted, whether the Commissioner would revoke the exemption
Form FDA26 'Pre-Transaction Decision Request: Revocation of Exemption For Relevant Transaction'	request whether the Commissioner would revoke an existing exemption if another transaction were entered into
Form FDA34 'Change of Use: Exempt to Non-exempt Purposes'	notify of a change in use of a vehicle from an exempt to a non-exempt purpose
Form FDA35 'Concession for Specialised Equipment on Specialised Vehicles'	apply for a duty concession when specialised equipment has been attached to a specialised vehicle
Form FDA36 'Dealer's Certificate: Exemption on Transfer of Licence'	apply for an exemption on the grant or transfer of a vehicle licence where the dealer has acquired the vehicle to sell in the ordinary course of business or to use for demonstration purposes
Form FDA37 'Dealer's Declaration: Vehicle Loaned for Certain Purposes'	apply for an exemption on the grant or transfer of a vehicle licence where the vehicle is being loaned to a charitable organisation, for school driver training, or for philanthropic purposes
Form FDA38 'Refund of Duty on the Acquisition of a Caravan'	apply for a reassessment of duty on the acquisition of a caravan
Form FDA39 'Transfer of a Motor Vehicle Licence for Nominal Duty'	apply for an assessment or reassessment of duty where the transfer is eligible to be assessed for nominal duty
Form FDA39 'Pre-Transaction Decision Request: Taxation Avoidance Scheme'	request a pre-determination as to whether the general anti-avoidance provision under section 270 of the Duties Act would apply to a scheme
Form FDA41 'Foreign Transfer Duty Declaration'	lodge with each transaction involving land to declare whether the person acquiring land is a foreign person or not
Form FDA42 'Foreign Transfer Duty – Change of Foreign Status'	apply for an exemption from foreign transfer duty where the person is foreign at the date of the agreement to transfer property, but not foreign at the date the property is transferred to them
Form FDA43 'Foreign Transfer Duty – Developer Exemptions'	apply for an exemption from foreign transfer duty where the foreign person develops the land into 10 or more dwellings or 10 or more lots that are capable of a dwelling being constructed on
Form FDA44 'Foreign Landholder Duty – Developer Exemptions'	apply for an exemption from foreign landholder duty where the foreign person develops the land into 10 or more dwellings or 10 or more lots that are capable of a dwelling being constructed on
CP DA 3 'Transfers of Dutiable Property to and from a Trustee'	includes evidentiary requirements for nominal duty on certain transfers of property to and from trustees of bare trusts
CP DA 6 'Dutiable Transactions Involving a Unit Entitlement under the Fish Resources Management Act 1994'	includes evidentiary requirements when claiming the transfer of an authorisation or entitlement under the <i>Fish Resources Management Act 1994</i> does not pass a beneficial interest
CP DA 11 'Determination of Fixtures and Chattels in Western Australia'	includes evidentiary requirements when considering whether the only items of dutiable property are fixtures or chattels
CP DA 22 'Easements'	includes evidentiary requirements when claiming no consideration, or nominal consideration paid for the grant or surrender of an easement represents fair market value
CP DA 33 'Transfer of Land Under Bailiff Seizure and Sale Order'	includes evidentiary requirements when property is transferred under a seizure and sale order

1.1 Dutiable transaction involving a business (principal place of business in WA)

For a dutiable transaction involving a business asset where the principal place of business or head office is in Western Australia, provide:

- (1) The transaction record (such as an agreement to transfer)
- (2) the total purchase consideration for the assets the subject of the transaction, including cash, assumption of liabilities, allotment or issue of shares, or any other consideration in kind, including any consideration payable contingently
- (3) allocation of the total purchase consideration to the various assets, such as goodwill, land, plant and equipment, business licences, intellectual property, stock-in-trade, etc.
- (4) the unencumbered market value of the assets where this differs from the amounts shown at (3)
- (5) if there is another transaction that together with this acquisition forms, evidences, gives effect to, or arises from, substantially one arrangement - the transaction record for the other transaction
- (6) if the transaction involves plant and equipment without any other dutiable property - the information set out in [Information Requirement 1.4 'Chattels, plant, equipment'](#)
- (7) if the business supplies commodities or services outside of Western Australia -
 - (a) the basis upon which goodwill was apportioned between each state and overseas
 - (b) the gross amount (in Australian dollars) for all commodities supplied, and services provided, by the business in the last three completed financial years preceding the transaction to customers:
 - (i) in Western Australia
 - (ii) elsewhere in Australia
 - (iii) overseas
- (8) any other relevant information that may assist in the assessment of duty.

In addition, if the only dutiable property the subject of the transaction is intellectual property such as patents, trademarks, copyright, etc., or if the parties to the transaction are:

- related by blood, marriage, co-ownership or prior business relationship
- related corporations as defined in the *Corporations Act 2001*
- partners in a partnership
- participants in the same joint venture
- trustees of trusts which have common beneficiaries
- joint owners of property
- not at arms' length by any other circumstances

provide:

- (1) complete financial statements for the business for the three years ending at the date of the transaction or at the 30 June closest to that date
- (2) evidence showing the methods and factors employed by the parties in arriving at the values of the assets

- (3) copies of any independent valuations that have been obtained in respect of any of the assets
- (4) completed duties valuation forms for all dutiable property that is land owned by the business. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (5) if the assets include a business licence under the *Liquor Licensing Act 1988* – detailed bar trading accounts for the three years ending at the date of the transaction or at 30 June closest to that date.

Related resources

Forms

- [FDA3 'Concessional Rate for Certain Residential or Business Property'](#)
- [Duties valuation forms](#)
- [FDA18 'Transfer Duty Statement'](#)

Publications

- [Revenue Ruling DA 14 'Aggregation of Dutiable Transactions'](#)
- [Commissioner's Practice DA 35 'Duties – Transfers of Western Australian Business Assets'](#)
- [Commissioner's Practice TAA 22 'Valuation of WA Business Assets for Duties Purposes'](#)
- [Commissioner's Practice TAA 28 'Valuation of Shares Issued as Consideration for a Dutiable Transaction'](#)
- [Duties Fact Sheet 'Business Acquisitions'](#)
- [Duties Fact Sheet 'Business Licences'](#)

1.2 Dutiable transaction involving a business (principal place of business *not* in WA)

For a dutiable transaction involving a business asset where neither the principal place of business nor the head office is in Western Australia, provide:

- (1) The transaction record (such as an agreement to transfer)
- (2) the total purchase consideration for the assets the subject of the transaction, including cash, assumption of liabilities, the allotment or issue of shares, or any other consideration in kind, including any consideration payable contingently
- (3) separate allocation of the total purchase consideration to the various assets in each state and overseas, i.e., goodwill, land, plant and equipment, intellectual property, business licences, stock -in-trade, etc.
- (4) the unencumbered market value (not book value) of the assets where this differs from the amounts shown at (3) above
- (5) the basis upon which goodwill was apportioned between each state and overseas
- (6) the locations of the principal place of business and the head office of the business
- (7) the gross amount (in Australian dollars) for all the commodities supplied and services provided by the business in the last three completed financial years preceding the transaction to customers:
 - (a) in Western Australia
 - (b) elsewhere in Australia
 - (c) overseas
- (8) if there is another transaction that together with this acquisition forms, evidences, gives effect to, or arises from, substantially one arrangement – the transaction record for the other transaction
- (9) if the transaction involves only plant and equipment situated in Western Australia without any other dutiable property – the information set out in [Information Requirement 1.4 'Chattels, plant, equipment'](#)
- (10) any other relevant information that may assist in the assessment of duty.

In addition, if the only dutiable property the subject of the transaction is intellectual property, such as patents, trademarks, copyright, etc., or if the parties to the transaction are:

- related by blood, marriage, co-ownership or prior business relationship
- related companies as defined in the *Corporations Act 2001*
- partners in a partnership
- participants in the same joint venture
- trustees of trusts which have common beneficiaries
- joint owners of property
- not at arms' length by any other circumstances

provide:

- (1) complete financial statements for the business for the three years ending at the date of the transaction or at the 30 June closest to that date

- (2) evidence showing the methods and factors employed by the parties in arriving at the values of the assets
- (3) copies of any independent valuations that have been obtained in respect of any of the assets
- (4) completed duties valuation form for all dutiable property that is land being transferred together with the business. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (5) if the assets include a business licence under the *Liquor Licensing Act 1988* – detailed bar trading accounts for the three years ending at the date of the transaction or at 30 June closest to that date.

Related resources

Forms

- [FDA3 'Concessional Rate for Certain Residential or Business Property'](#)
- [Duties valuation forms](#)
- [FDA18 'Transfer Duty Statement'](#)

Publications

- [Revenue Ruling DA 14 'Aggregation of Dutiable Transactions'](#)
- [Commissioner's Practice DA 35 'Duties – Transfers of Western Australian Business Assets'](#)
- [Commissioner's Practice TAA 22 'Valuation of WA Business Assets for Duties Purposes'](#)
- [Commissioner's Practice TAA 28 'Valuation of Shares Issued as Consideration for a Dutiable Transaction'](#)
- [Duties Fact Sheet 'Business Acquisitions'](#)
- [Duties Fact Sheet 'Business Licences'](#)

1.3 Business licences

For a dutiable transaction involving a business licence, provide:

- (1) the transaction record (such as an agreement to transfer) or transfer duty statement effecting or evidencing the transaction
- (2) the application to the relevant statutory authority relating to the transfer or issue of the business licence
- (3) where the transaction is pursuant to a lease or agreement to lease – a copy of that document
- (4) if the business licence is to be held for a limited period of time only – full details as to the circumstances
- (5) if the business licence is to be held for security purposes only – full details as to the circumstances
- (6) evidence showing the amount of any liabilities assumed under the transaction
- (7) evidence showing the amount of any debt released or extinguished under the transaction
- (8) where the business licence has been issued under a law of the Commonwealth – evidence showing the portion of the consideration for the transaction that relates to carrying out activities in Western Australia under the business licence
- (9) where the business licence is an authorisation or entitlement under the *Fish Resources Management Act 1994*, and it is contended that the transaction has not, and will not, result in the passing of a beneficial interest in the business licence –
 - (a) the agreement for the transfer of the units or a completed transfer duty statement under the *Fish Resources Management Act 1994*; and
 - (b) a completed Department of Fisheries T-1 or T-2 application form (whichever is applicable)
- (10) any other relevant information that may assist in the assessment of duty.

In addition, if the parties to the transaction are:

- related by blood, marriage, co-ownership or prior business relationship
- related corporations as defined in the *Corporations Act 2001*
- partners in a partnership
- participants in the same joint venture
- trustees of trusts which have common beneficiaries
- joint owners of property
- not at arms' length by any other circumstances

provide:

- (1) complete financial statements for the entity that owns the business licence for the three years prior to the date of the transaction, including bar trading accounts in the case of a licence under the *Liquor Licensing Act 1988*
- (2) evidence showing the considered value of the business licence and the method of valuation used (or, in the case of a business licence issued under a law of the Commonwealth, the value so far as it authorises the carrying out of an activity in Western Australia).

Related resources

Forms

- [FDA18 'Transfer Duty Statement'](#)
- [FDA17 'Transfer Duty Statement – Acquisition of an Authorisation or Entitlement under the *Fish Resources Management Act 1994*'](#)

Publications

- [Commissioner's Practice DA 11 'Duties – Dutiable Transactions Involving a Unit Entitlement under the *Fish Resources Management Act 1994* – Claim of No Passing of a Beneficial Interest'](#)
- [Commissioner's Practice DA 35 'Duties – Transfers of Western Australian Business Assets'](#)
- [Commissioner's Practice TAA 28 'Valuation of Shares Issued as Consideration for a Dutiable Transaction'](#)
- [Duties Fact Sheet 'Business Acquisitions'](#)
- [Duties Fact Sheet 'Business Licences'](#)

1.4 Chattels, plant and equipment

If the only dutiable property the subject of a transaction (including any aggregated transactions) is a chattel, provide:

- (1) the transaction record (such as an agreement to transfer)
- (2) a schedule containing a description of each chattel or category of chattel together with its value (if not listed in the instrument or transfer duty statement)
- (3) where any of the items claimed to be chattels are connected to the land or the premises in any manner – full details as to the degree of annexation
- (4) where any of the items claimed to be chattels rely on some means of power to function – full details as to how each item is powered and the method of connection to the power source (e.g., plug-in electricity, 3 phase wiring, gas piping, etc.)
- (5) where those items that are connected as described in points two or three above are still claimed to be chattels – full details regarding the intention with which the items were connected, and the estimated length of time the items have been on, and are expected to remain on, the premises
- (6) where the placement or removal of the items is governed by the terms of a lease – a copy of the lease
- (7) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

[FDA18 'Transfer Duty Statement'](#)

Publications

[Commissioner's Practice DA 6 'Duties - Determination of Fixtures and Chattels in Western Australia'](#)

2.1 Transfer of discretionary trust property to a beneficiary pursuant to a power of appointment

Where there is a transfer, or an agreement for the transfer, of dutiable property to a beneficiary of a discretionary trust in the exercise by the trustee of a power of appointment over the property, provide:

- (1) the transaction record (such as an agreement to transfer) or [transfer duty statement](#)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of the trust deed (or stamped copy if executed prior to 1 July 2008)
- (4) copies of any subsequent amendments to the trust deed (or stamped copy if executed prior to 1 July 2008)
- (5) a duty endorsed copy of the agreement for transfer for the acquisition of the property by the trust, e.g., contract for sale, offer and acceptance

If this cannot be provided and the transaction lodged relates to residential property transferred, or agreed to be transferred, to a foreign person, provide:

- the date of the original acquisition of the property
 - if the acquisition was after 1 January 2019, evidence whether foreign buyer duty was paid on the acquisition.
- (6) if the duty endorsed agreement for transfer is not available – conclusive documentary evidence in the form of declarations of trust, trustee’s minutes, financial statements, evidence of payment for the property by the trust, etc.
 - (7) complete financial statements of the trust as at the date immediately prior to transaction and as at the previous 30 June. If the former are unavailable advise of any significant variations between the two dates
 - (8) evidence of any liabilities assumed under the transaction
 - (9) evidence of any debts released or extinguished under the transaction
 - (10) confirmation of whether the beneficiary intends to hold the property as agent, trustee or otherwise on behalf of any other person
 - (11) advice regarding whether, at the time the trustee acquired the property, the beneficiary was a beneficiary or a member of a class of beneficiaries in favour of which the trustee was empowered in the trust deed to appoint the property. Where necessary, confirm how the beneficiary is entitled, e.g., family relationship, and advise the date that they became a potential beneficiary
 - (12) identification of the specific clause(s) of the trust deed giving the trustee a power of appointment over the property
 - (13) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

[Form FDA41 ‘Foreign Transfer Duty Declaration’](#)

Publications

[Duties Fact Sheet ‘Foreign Transfer Duty’](#)

2.2 Discretionary trust acquisitions and surrenders

Where there is an acquisition or a surrender of an interest in a discretionary trust by a beneficiary who is a taker in default (i.e., a person who has an interest in the trust in default of an appointment by the trustee of the trust), and the trust holds dutiable property either directly or indirectly, provide:

- (1) the transaction record (such as an agreement to transfer) or [transfer duty statement](#)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of the trust deed (or stamped copy if executed prior to 1 July 2008)
- (4) copies of any subsequent amendments to the trust deed (stamped copies if executed prior to 1 July 2008)
- (5) complete financial statements for the trust as at the date of acquisition or surrender or as at 30 June nearest that date
- (6) complete financial statements for the linked entity as at the date of acquisition or surrender or as at 30 June nearest that date if:
 - (a) the trust's assets include an interest in any one of the following linked entities:
 - (i) a listed corporation or a listed unit trust scheme in which the trustee has a 90% or greater interest
 - (ii) an unlisted corporation or an unlisted unit trust scheme in which the trustee has a 50% or greater interest
 - (iii) another discretionary trust of which the trustee is a potential beneficiary or
 - (iv) a partnership of which the trustee is a partner and has contributed, or is required to contribute, 50% or more of the capital of that partnership, or is required to bear 50% or more of the losses of that partnership
 - and
 - (b) the linked entity is entitled to dutiable property
- (7) in respect of the transaction, details of:
 - (a) the amount of any consideration being given
 - (b) the amount of any liabilities assumed
 - (c) the amount of any debt released or extinguished
- (8) details of the percentages of trust income and trust property that the taker in default would receive in default of an appointment by the trustee
- (9) a completed duties valuation form for all dutiable property that is land owned by the trust. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (10) any other relevant information that may assist in the assessment of duty.

Note: This information is not required where a discretionary trust acquisition or surrender by a person is solely a result of the birth or death of the person, the marriage or divorce of the person, or the beginning or ending of a de facto relationship of the person.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

[Duties Fact Sheet 'Foreign Transfer Duty'](#)

2.3 Vesting or termination of a discretionary trust

For a transfer or an agreement for the transfer of dutiable property to a taker in default on the vesting or termination of a discretionary trust, provide:

- (1) the transaction record (such as an agreement to transfer) or [transfer duty statement](#)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of the trust deed (or stamped copy if executed prior to 1 July 2008)
- (4) copies of any subsequent amendments to the trust deed (or stamped copy if executed prior to 1 July 2008)
- (5) a duty endorsed copy of the agreement for transfer for the acquisition of the property by the trust, e.g., contract for sale, offer and acceptance

If this cannot be provided and the transaction lodged relates to residential property transferred, or agreed to be transferred, to a foreign person, provide:

- the date of the original acquisition of the property
 - if the acquisition was after 1 January 2019, evidence whether foreign buyer duty was paid on the acquisition.
- (6) if the duty endorsed agreement for transfer is not available – conclusive documentary evidence in the form of declarations of trust, trustee’s minutes, financial statements, evidence of payment for the property by the trust, etc.
 - (7) complete financial statements of the trust as at the date immediately prior to transaction and as at the previous 30 June. If the former are unavailable advise of any significant variations between the two dates
 - (8) evidence of any liabilities assumed under the transaction
 - (9) evidence of any debts released or extinguished under the transaction
 - (10) confirmation of whether the beneficiary intends to hold the property as agent, trustee or otherwise on behalf of any other person
 - (11) details of the specific clause(s) of the trust deed relating to the distribution of the trust’s property upon a vesting or termination of the trust
 - (12) where necessary, confirmation of how the taker in default is entitled, e.g., family relationship
 - (13) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

[Form FDA41 ‘Foreign Transfer Duty Declaration’](#)

Publications

[Duties Fact Sheet ‘Foreign Transfer Duty’](#)

2.4 Dispositions of shares in corporate trustees

Where there is a disposition of a share in an unlisted corporation (other than one declared to be an authorised trustee corporation under the *Corporations Act 2001*) which is the trustee of a discretionary trust that directly or indirectly holds dutiable property under the trust, provide:

- (1) the transaction record (such as share disposition record)
- (2) the relevant [transfer duty statement](#)
- (3) a completed [Foreign Transfer Duty Declaration Form](#)
- (4) full details regarding the total issued shares in the corporate trustee, including details of the respective rights and obligations pertaining to the shares
- (5) complete financial statements for the trust as at the date of disposition or as at 30 June nearest that date
- (6) complete financial statements for the linked entity as at the date of disposition or as at 30 June nearest that date if:
 - (a) the trust's assets include an interest in any one of the following linked entities:
 - (i) a listed corporation or a listed unit trust scheme in which the trustee has a 90% or greater interest
 - (ii) an unlisted corporation or an unlisted unit trust scheme in which the trustee has a 50% or greater interest
 - (iii) another discretionary trust of which the trustee is a potential beneficiary
or
 - (iv) a partnership of which the trustee is a partner and has contributed, or is required to contribute, 50% or more of the capital of that partnership, or is required to bear 50% or more of the losses of that partnership
 - and
 - (b) the linked entity is entitled to dutiable property,
- (7) full details of the reasons why the share is being disposed of, including copies of all documents relating to the transaction in any manner whatsoever
- (8) any other relevant information that may assist in the assessment of duty.

Note: This information is not required where the disposition is to a beneficiary pursuant to the administration of the estate of a deceased person.

Related resources

Forms

[Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

[Duties Fact Sheet 'Foreign Transfer Duty'](#)

2.5 Declarations of trust by apparent purchaser

For a declaration of trust in which a person (the apparent purchaser) declares they hold identified dutiable property upon trust for another person (the real purchaser) and the trustee relationship is not disclosed on the agreement for transfer for the acquisition of that property, provide:

- (1) the transaction record (such as a declaration of trust)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of the duty endorsed transaction record (such as the transfer or agreement to transfer) when the property was acquired

If this cannot be provided and the transaction relates to a declaration of trust to hold the property for the real purchaser who is a foreign person, provide:

- evidence of the date of the original acquisition of the property; and
 - if the acquisition was after 1 January 2019, evidence that foreign buyer duty was paid on the acquisition.
- (4) where the property is already vested in the apparent purchaser – documentary evidence to support that the real purchaser provided the money to purchase the property, such as bank statements, receipts, etc.
 - (5) where the property is not yet vested in the apparent purchaser – documentary evidence to support that the real purchaser provided or was to provide the money to purchase the property when the transfer or agreement for the transfer of the property was entered into, such as bank statements, receipts, etc.
 - (6) where a person other than the real purchaser provided the money – documentary evidence is required to support that the money was provided as a loan that has been or will be repaid by the real purchaser, such as loan approval from a financial institution, bank statements, receipts, etc.
 - (7) any other evidence to support the intentions of the parties at the date of purchase of the property.

Related resources

Forms

[Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

[Duties Fact Sheet 'Foreign Transfer Duty'](#)

2.6 Change in trustee

Where there is a transfer or agreement for the transfer of dutiable property to a trustee as a consequence of the retirement of a trustee or appointment of a new trustee, provide:

- (1) the transaction record (such as a transfer or land) or transfer duty statement
- (2) a completed Foreign Transfer Duty Declaration Form
- (3) copies of the trust deed and any subsequent amendments to the trust deed
- (4) a copy of either:
 - (a) the duty endorsed agreement for transfer evidencing the original acquisition of the dutiable property by the trustee on behalf of the trust, e.g., contract for sale or offer and acceptance contract
or
 - (b) a duty endorsed declaration of trust made by the trustee declaring that it will hold the property as trustee for the trust
- (5) if the information listed in point 4 is not available, or the trustee relationship is not disclosed on the agreement for transfer – provide additional evidence to demonstrate that the trustee holds the dutiable property on behalf of the trust, including:
 - (a) documentary evidence that the trust provided the money to purchase the property, such as bank statements, deposit receipts, etc.
 - (b) where the trustee borrowed money to acquire the property – documentary evidence that the money was provided as a loan to, or will be repaid by, the trust, such as loan documents from a financial institution, bank statements, receipts, etc.
 - (c) complete financial statements of the trust for the three financial years prior to the date of transfer of the dutiable property as a result of the change in trustee
 - (d) any other evidence to support the intentions of the parties at the date of the original acquisition of the property.

Related resources

Forms

Form FDA41 'Foreign Transfer Duty Declaration'

Publications

Duties Fact Sheet 'Foreign Transfer Duty'

2.7 Special disability trusts

An exemption from duty may be granted for a transfer or agreement for the transfer of dutiable property to a special disability trust where there is no consideration for the transaction.

An application for exemption must be made in writing and be accompanied by:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of the *Confirmation of Beneficiary and Special Disability Trust Status* issued by the Department of Human Services (Centrelink) which confirms the eligibility status of the trust
or
- (4) if the eligibility of the trust is yet to be confirmed and approved by the Centrelink –
 - (a) a copy of the letter from Centrelink which indicates that the beneficiary of the trust meets the criteria for a Special Disability Trust under section 1209M of the *Social Security Act 1991*
 - (b) a statutory declaration made by a trustee declaring that the trustee/s meet the requirements specified under section 1209Q(1) of the *Social Security Act 1991*
 - (c) a copy of either:
 - (i) the trust deed (including relevant schedules) or
 - (ii) the willwhichever is applicable
- (5) any other relevant information that may assist in the assessment of duty.

3.1 Acquisition of an interest in a partnership

When a person acquires an interest in a partnership (either by formation of a partnership or by an increase in a person's interest in a partnership) and the partnership directly or indirectly holds land in Western Australia, provide:

- (1) the transaction record (such as an agreement to transfer) or transfer duty statement
- (2) a completed Foreign Transfer Duty Declaration Form
- (3) a copy of any partnership agreement (or stamped copy if executed prior to 1 July 2008)
- (4) complete financial statements for the partnership as at the date of the partnership acquisition or as at 30 June nearest that date
- (5) complete financial statements for the linked entity as at the date of disposition or as at 30 June nearest that date if the partnership's assets include an interest in any one of the following linked entities that is:
 - (a) a listed corporation or a listed unit trust scheme in which the partnership has a 90% or greater interest
 - (b) an unlisted corporation or an unlisted unit trust scheme in which the partnership has a 50% or greater interest
 - (c) a discretionary trust of which the partnership is a potential beneficiary
 - (d) another partnership of which the partnership is a partner and has contributed, or is required to contribute, 50% or more of the capital of that partnership, or is required to bear 50% or more of the losses of that partnershipand the linked entity is entitled to land in Western Australia
- (6) details of the percentage of the capital of the partnership that each partner has contributed, or is obliged to contribute, and the percentage of the losses of the partnership that each partner is required to bear
- (7) full details of how the consideration for the acquisition of the partnership interest was calculated
- (8) the amount of any liabilities assumed under the acquisition
- (9) the amount of any debt released or extinguished under the acquisition
- (10) where a partnership acquisition results from the formation of a partnership – details, including the considered market value, of any land and chattels in Western Australia that each partner contributed to the partnership on its formation
- (11) details, including the considered market value, of all chattels owned by the partnership or a linked entity
- (12) completed duties valuation forms for all dutiable property that is land owned by the partnership or a linked entity, or that has been contributed to the partnership. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in Information Requirement 5.4 'Valuation by a qualified valuer'
- (13) Where the partnership has a leasehold interest in land only, provide –
 - (a) a copy of the lease agreement
 - (b) advice whether a premium was paid for the grant or transfer of the lease (provide a copy of the endorsed lease agreement if yes)

- (c) confirmation whether the tenant has the right to remove any tenant's fixtures under the terms of the lease
- (d) advice whether the partnership holds any plant, equipment or other items affixed to the tenanted location
- (e) a depreciation schedule or fixed asset register showing depreciated book value of the plant, equipment or other items in the tenanted location at the date of the transaction or at 30 June nearest that date.

(14) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice DA 1 'Dutiable Value of a Partnership Acquisition'](#)
- [Revenue Ruling DA 20 'Partnership Acquisitions: When a Partnership Holds Land'](#)
- [Duties Fact Sheet 'Partnership Acquisitions'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

3.2 Dissolution of, or retirement of a partner from, a partnership

When a person ceases to be a partner in a partnership (either by retirement from the partnership or because the partnership is dissolved) and land in Western Australia or other dutiable property held by the partnership is transferred, or agreed to be transferred, to the person, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of any partnership agreement (or stamped copy if executed prior to 1 July 2008)
- (4) complete financial statements for the partnership as at the date of dissolution/retirement or 30 June nearest that date
- (5) details of the percentage of the capital of the partnership that each partner has contributed, or is obliged to contribute, and the percentage of the losses of the partnership that each partner is required to bear
- (6) details, including the considered market value, of any partnership chattels being transferred to the person
- (7) completed duties valuation forms for the partnership land being transferred to the partner. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (8) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice DA 1 'Dutiable Value of a Partnership Acquisition'](#)
- [Revenue Ruling DA 20 'Partnership Acquisitions: When a Partnership Holds Land'](#)
- [Duties Fact Sheet 'Partnership Acquisitions'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

4 Aggregation of dutiable transactions

Where two or more transactions are entered into by the same or related parties, it must be determined whether they form part of substantially one arrangement before an assessment of duty can be issued.

Transactions deemed to be substantially one arrangement will be treated as a single dutiable transaction. Their dutiable value will be aggregated into a single amount for the purposes of assessing the duty liability, which generally results in a greater amount of duty payable.

Revenue Ruling [DA 14 'Aggregation of Dutiable Transactions'](#) provides information about the factors that will be considered when determining whether two or more transactions should be aggregated.

Where there are two or more transactions entered into by the same or related parties, please provide:

- (1) the transaction records (such as the transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#) for each transaction
- (3) Advise in writing -
 - (a) you agree the transactions are substantially one arrangement and should be assessed at the aggregate dutiable value; OR
 - (b) you believe the transactions do not form substantially one arrangement and provide full details of the circumstances surrounding the transactions as responses to the following:
 - why were multiple items of dutiable property purchased?
 - why were separate instruments were prepared for each item of dutiable property?
 - to what extent are the transactions conditional upon each other?
 - describe the items of dutiable property, e.g. land or business assets
 - is there an inherent connection between the items of dutiable property, e.g., the acquisition of a business and the freehold land upon which the business is conducted?
 - where all of the items of dutiable property are land – are the land items are adjoining or in close proximity to each other?
 - if the purchaser(s) were not able to purchase one (or more) of the items of dutiable property, would they have proceeded to purchase the others?
 - if the vendor(s) were not able to sell one (or more) of the items of dutiable property, would they have proceeded to sell the others?
 - was the purchase of all the items of dutiable property negotiated for a single price that was apportioned between the instruments or were separate negotiations conducted for the sale of each of the items of dutiable property?
 - was a discount given for the purchase of multiple items of dutiable property?
 - is there any relationship between the purchaser(s) and vendor(s), e.g., by blood or marriage, business or legal (either currently or by prior arrangement), common directors or shareholders, etc.?

- at the date of execution of each agreement, how did the purchaser(s) intend to use each of the items of dutiable property?
- were the items of dutiable property advertised or offered for sale as a total package or as separate items?
- who negotiated the sale of the items of dutiable property on behalf of:
 - the vendor(s)?
 - the purchaser(s)?
- will the purchaser(s) finance the transactions by way of:
 - cash?
 - vendor finance?
 - a single loan from a financial institution which will cover all items of dutiable property? If so, why a single loan rather than individual loans?
 - individual loans from a financial institution for each of the items of dutiable property?
- documentary evidence showing how the items of dutiable property were marketed for sale, e.g., newspaper or internet advertisements, brochures, etc
- any other relevant information that may assist in the assessment of duty.

Related resources

Forms

[Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Revenue Ruling DA 14 'Aggregation of Dutiable Transactions'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

5.1 Transactions involving related parties

A dutiable transaction is made between related parties if the parties are:

- related by blood, marriage, co-ownership or prior business relationship
- related companies as defined in the *Corporations Act 2001*
- partners in a partnership
- participants in the same joint venture
- trustees of trusts which have common beneficiaries
- joint owners of property
- not at arms' length by any other circumstances.

Note: Refer to [Information Requirement 1.1](#) or [1.2 'Dutiable transactions involving a business'](#) for a dutiable transaction between related parties that relates to business assets, and [Information Requirement 7.1 'Mining tenements'](#) for a dutiable transaction between related parties that relates to mining tenements.

If the transaction is between related parties, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) completed duties valuation forms for all dutiable property that is land
Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (4) a copy of any valuation or appraisal conducted on the dutiable property within three months of the date of the transaction
- (5) the amount of any liabilities assumed under the transaction
- (6) the amount of any debt released or extinguished under the transaction
- (7) where a life or remainder interest in land is involved – the information set out in [Information Requirement 5.2 'Valuation of life and remainder interests'](#)
- (8) if the property is under crop – details of:
 - (a) the area under crop
 - (b) the crop sown
 - (c) the date of planting
 - (d) the cost of planting, including labour, seed, fertiliser, fuel etc.
- (9) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

5.2 Valuation of life and remainder interests

If a transaction involves life and remainder interests in dutiable property, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) the date of birth, general health, occupation and normal place of residence of the life tenant
- (4) details of income generated from the property, such as copies of leases or agreements affecting the income produced from the property
- (5) details of any expenses relating to the property for which the life tenant is responsible
- (6) completed duties valuation forms for any dutiable property that is land.

Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)

- (7) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)
- [Commissioner's Practice TAA 13 'Valuation of Life Interests and Remainder Interests for Duties and Stamp Duty Purposes'](#)

5.3 Reduction in consideration

Where the consideration is reduced after the agreement for transfer is executed but before the dutiable property is transferred, provide:

- (1) the transaction record (such as a transfer or agreement to transfer), or a duty endorsed copy of the transaction record if applying for a reassessment
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) details of the reasons for the reduction in consideration
- (4) completed duties valuation forms for all dutiable property that is land.

Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)

- (5) a copy of any valuation or appraisal conducted on the dutiable property within three months of the date of the reduction in consideration
- (6) where the consideration is reduced by more than \$5,000 because of damage or defects to the dutiable property – a copy of an independent report from a licensed building inspector outlining the details of the damage or defects.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice DA 28 'Duties – Reduction in Consideration'](#)
- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Commissioner's Practice TAA 22 'Valuation of WA Business Assets for Duties Purposes'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

5.4 Valuation by a qualified valuer

Duties valuation forms are not required for residential or commercial land if a valuation is obtained from a valuer licensed under the *Land Valuers Licensing Act 1978* and the total value of the land involved is not greater than \$2 million.

For information about when a valuation will be required and what the valuation should consist of, see [Commissioner's Practice TAA 23 'Circumstances when a Taxpayer will be Required to Provide a Written Valuation'](#).

6 Landholder duty

For a relevant acquisition of an interest in an entity that is a landholder, or an application for determination of whether a landholder duty liability has arisen, provide:

- (1) a completed landholder acquisition statement (The form may be signed by a representative of the acquirer or the lodging party, e.g., accountant, solicitor, etc.)
- (2) a copy of the agreement for transfer, transfer or other documentation pursuant to which the acquisition has occurred
- (3) complete financial statements for the corporation or unit trust scheme and any linked entities for the three financial years up to the date of the acquisition
- (4) a profile of the corporate structure of the corporation or unit trust scheme and any linked entities, including the percentage of ownership between each entity
- (5) completed duties valuation form for all land (including mining tenements) held by the corporation or unit trust scheme and any linked entities immediately before the acquisition. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (6) a copy of any internal or external valuation reports valuing the land (including mining tenements) and chattels in the three years prior to the date of the acquisition
- (7) a copy of any strategic business plans applicable to the corporation or unit trust scheme
- (8) if the corporation or unit trust scheme and any linked entities hold shares in listed corporations or trusts, attach a schedule showing the names of the listed entities, the number of shares or units held, and their value
- (9) a copy of the asset registers that detail the market value of assets held by the corporation or unit trust scheme and any linked entities at the date of the acquisition
- (10) a schedule of all chattels held by the corporation or unit trust scheme and any linked entities immediately before the acquisition, identifying their location and unencumbered value
- (11) if the corporation or unit trust scheme and any linked entities entered into any agreements to acquire or dispose of an interest in land that were uncompleted as at the date of the acquisition – copies of the agreements and advise whether they have since been completed
- (12) if the interest is being acquired in an entity that is a listed corporation or listed unit trust scheme – copies of:
 - (a) the bidder's statement
 - (b) the target's statement
 - (c) the scheme booklet (if any)
 - (d) the listed entity's annual report for the three financial years prior to the date of the acquisition
- (13) if the interest is being acquired in an entity that holds mining tenements, the following additional information is required. If the requested information is not available due to the state of development of the tenements please advise accordingly.
 - (a) relevant annual reports, resource reports or geological reports for the tenements
 - (b) tenement maps and location maps showing surrounding mines and prospects

- (c) copies of all reports, including Form 5 Exploration Expenditure Reports, lodged with the Department of Mines and Petroleum within the three years prior to the acquisition
- (d) expiry of the tenements and advice as to whether they are renewable
- (e) production details for the tenements for the three years prior to the acquisition, including a list of the mineral reserves and ore resources for each mining project and exploration project stating inferred, indicated and measured resources, and probable and proved reserves as measured by the Joint Ore Reserves Committee
- (f) copies of all relevant agreements relating to or affecting the tenements (e.g. joint venture agreements, royalty agreements or assignment and assumption agreements)
- (g) copies of life of mine plans including electronic financial models and full assumptions
- (h) copies of scoping, pre-feasibility or feasibility study reports
- (i) where the landholder is a listed corporation or member of a public group, copies of all statements to the ASX Group that contain details of mineralisation and exploration results

(14) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [FDA22 'Landholder Acquisition Statement or Determination of Liability'](#)
- [FDA20 'Landholder Acquisition Application to Lodge Periodical Statements'](#)
- [Duties valuation forms](#)
- [FDA21 'Exempt Family Farm Transaction - Landholder Duty'](#)
- [FDA18 'Transfer Duty Statement'](#)
- [FDA44 'Foreign Landholder Duty – Developer Exemptions'](#)

Publications

- [Commissioner's Practice DA 2 'Landholder Duty – Related Persons and Commissioner's Discretion'](#)
- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Duties Fact Sheet 'Landholder Duty'](#)
- [Duties Fact Sheet 'Exempt Family Farm Transactions – Landholder Duty'](#)
- [Duties Fact Sheet 'Foreign Landholder Duty'](#)
- [Revenue Ruling DA 9 'Landholder Duty – Meaning of Entitlement'](#)

7.1 Mining tenements

For a dutiable transaction involving a mining tenement in which:

- part of the purchase consideration is allocated to information
- part of the purchase consideration consists of a royalty or
- the transaction is between parties that are:
 - related by blood, marriage, co-ownership or prior business relationship
 - related companies as defined in the *Corporations Act 2001*
 - partners in a partnership
 - participants in the same joint venture
 - trustees of trusts that have common beneficiaries
 - joint owners of property or
 - not at arms' length by any other circumstances

provide:

- (1) completed duties valuation form for all mining tenements. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (2) full details as to the method of calculation of the consideration paid. If the consideration includes other property, provide full details of how the parties determined the consideration apportioned to each item
- (3) when the consideration includes vendor shares – the value attributed to those shares. If the corporation to which the shares relate is not on the official list of a prescribed financial market, supply complete financial statements of that corporation for the three financial years up to the date of allotment
- (4) when the consideration includes a royalty payment – the value attributed to that royalty and a copy of any royalty agreement
- (5) copies of all valuations conducted on tenements
- (6) relevant annual reports, resource reports or geological reports for the tenements
- (7) tenement maps and location maps showing surrounding mines and prospects
- (8) copies of all reports, including Form 5 Exploration Expenditure Reports, lodged with the Department of Mines and Petroleum within the three years prior to the transaction
- (9) where the vendor is a listed corporation or member of a public group – copies of all statements to the ASX Group that contain details of mineralisation and exploration results
- (10) expiry dates of the tenements and advice as to whether they are renewable
- (11) if the tenements have been included in a public float, or are about to be floated, or have been involved in a takeover – a copy of the relevant prospectus if the event took place within the last two years
- (12) if the tenements relate to a sale of an interest in a joint venture – a copy of the joint venture agreement and full details of the asking price communicated to other joint venturers under any pre-emptive clause

- (13) copies of all relevant agreements relating to or affecting the tenements (e.g., joint venture agreements, royalty agreements or assignment and assumption agreements)
- (14) current balance sheet of the owning entity
- (15) any other relevant information that may assist in the assessment of duty.

In addition, if the tenements are at a sufficient stage of development for the following information to be available, provide:

- (1) production details for the tenements for the three years prior to the transaction
- (2) current balance sheet of the owning entity
- (3) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [FDA32 'Duties Valuation - Mining Tenements'](#)

Publications

- [Commissioner's Practice TAA 28 'Valuation of Shares Issued as Consideration for a Dutiable Transaction'](#)
- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)

7.2 Distributions of deceased estate and family arrangements

If the transaction is a transfer of, agreement for the transfer of, or a declaration of trust over dutiable property in the estate of a deceased person, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) either:
 - (a) a copy of the grant of probate and will of the deceased person and any codicils thereto; or
 - (b) in the case of an intestacy, a copy of the letters of administration and a list of the persons entitled in distribution under the *Administration Act 1903*, their relationship to the deceased person and the share of the estate to which they are entitled
- (4) a copy of statements of assets liabilities of the estate
- (5) where the transaction results from an arrangement varying the distribution of the terms of the will of the deceased person or the provisions of the *Administration Act 1903* – statements of the assets and liabilities of the estate as at the date of the arrangement
- (6) the amount of any consideration being given under the transaction
- (7) the amount of any debt released or extinguished under the transaction
- (8) completed duties valuation forms for all land forming part of the estate. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (9) if the will or arrangement creates a life tenancy in any of the assets of the estate – the information set out in [Information Requirement 5.2 'Valuation of life and remainder interests'](#)
- (10) a copy of the certificate of title for any land being distributed as part of the estate
- (11) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice DA 29 'Duties – Nominal Duty for Certain Dutiable Transactions Relating to Deceased Estates'](#)
- [Commissioner's Practice TAA 13 'Valuation of Life Interests and Remainder Interests for Duties and Stamp Duty Purposes'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.3 Break-up of a marriage or de facto relationship

For a dutiable transaction that is effected by, or in accordance with, a matrimonial instrument or a de facto relationship instrument, provide:

- (1) the transaction record (such as a Family Court Order or transfer of land)
- (2) a completed Foreign Transfer Duty Declaration Form
- (3) a copy of the relevant matrimonial instrument, being:
 - (a) a maintenance agreement registered under section 86 of the *Family Law Act 1975* or approved under section 87 of that Act;
 - (b) a financial agreement made under sections 90B, 90C or 90D of the *Family Law Act 1975*;
 - (c) a splitting agreement; or
 - (d) an order of a court under the *Family Law Act 1975*or
- (4) a copy of the relevant de facto relationship instrument, being:
 - (a) a financial agreement or former financial agreement within the meaning of those terms in section 205T of the *Family Court Act 1997*; or
 - (b) an order of a court under:
 - (i) part 5A of the *Family Court Act 1997*; or
 - (ii) a law of the Commonwealth or another state or territory that substantially corresponds to the abovementioned Part
- (5) evidence of the break-up of the marriage or de facto relationship, being:
 - (a) a copy of the divorce certificate; or
 - (b) a declaration by a party to the marriage to the effect that (as applicable):
 - (i) the parties to the marriage are separated from each other and there is no reasonable likelihood of cohabitation being resumed;
 - (ii) the parties intend to apply for dissolution or annulment of the marriage; or
 - (iii) the marriage has irretrievably broken down; or
 - (c) a declaration by a party to the de facto relationship to the effect that the relationship has ended
- (6) where matrimonial or de facto relationship property is to be transferred to a child of either of the parties to the marriage or de facto relationship, provide an extract of the birth certificate of that child
- (7) where matrimonial or de facto relationship property is to be transferred to a trustee of a child referred to above, provide a copy of the document that evidences the trustee relationship
- (8) where matrimonial property is to be transferred to a trustee of a superannuation fund, provide a copy of the relevant trust deed
- (9) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

[Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Duties Fact Sheet 'Transactions Related to the Break -up of a Marriage or De Facto Relationship'](#)
- [Revenue Ruling DA 15 'Transfer of Matrimonial or De Facto Relationship Property Involving a Trust or Company'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.4 Winding up of a corporation

For a transfer or an agreement for the transfer of property (some or all of which is dutiable property) to the shareholders of a corporation as a consequence of its winding up, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed Foreign Transfer Duty Declaration Form
- (3) a statutory declaration by the liquidator of the corporation that includes:
 - (a) confirmation the corporation is being wound up and that he/she is the properly appointed liquidator
 - (b) confirmation the property is being transferred to the shareholders of the corporation in the course of the distribution of its assets as a consequence of its winding up
 - (c) complete financial statements of the corporation:
 - (i) as at the date of the winding up
 - (ii) immediately following the date of winding up
 - (iii) as at the previous 30 June
 - (d) details of the share capital of the corporation and a listing of the shareholders and their respective holdings as at the date of winding up
 - (e) details of the rights of each class of share
 - (f) details of any amounts owed to a shareholder that the shareholder has released the corporation from paying during the period beginning 12 months before the winding up commenced and ending when the property is transferred
 - (g) details of any liabilities that a shareholder has assumed or discharged on behalf of the corporation during the period beginning 12 months before the winding up commenced and ending when the property is transferred
 - (h) the date each shareholder acquired their individual shareholding
 - (i) confirmation that it is intended to distribute the assets of the corporation to the shareholders in accordance with their respective beneficial entitlements and details of how the distribution is to be made
 - (j) where the property was previously owned by a corporation related to the corporation being wound up, confirmation of whether or not any shareholder held shares in that related corporation
 - (k) dates of acquisition of the property by the corporation or a related corporation
 - (l) details of any dealings in shares of the corporation or a related corporation by a shareholder or a previous owner of the property
 - (m) reasons which demonstrate that any scheme or arrangement of transactions in relation to the winding up and involving any one or more of:
 - (i) the corporation
 - (ii) the shareholder
 - (iii) a related corporation of the corporation or
 - (iv) a person with a substantial holding (as defined in section 9 of the *Corporations Act 2001*) of a person referred to in (i), (ii) or (iii) above is for reasons of commercial efficacy and not for the purpose of reducing the duty otherwise payable on the transfer or agreement for transfer

- (n) whether the transfer or agreement for transfer is pursuant to a right attaching to any of the shares of the corporation to select or receive any particular property of the corporation
- (4) completed duties valuation forms for all dutiable property that is land that is being distributed. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (5) any other relevant information that may assist in the assessment of duty.

Where shares in a corporation or units in a unit trust scheme are transferred to shareholders and result in a relevant acquisition in a landholder, also provide the information set out in [Information Requirement 6 'Landholder duty'](#).

Related resources

Forms

- [FDA22 'Landholder Acquisition Statement or Determination of Liability'](#)
- [Duties valuation forms](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Duties Fact Sheet 'Landholder Duty'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.5 Winding up of a unit trust scheme

For a transfer or an agreement for the transfer of property (some or all of which is dutiable property) to the unit holders of a unit trust as a consequence of its winding up, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a statutory declaration by the trustee of the unit trust scheme including:
 - (a) confirmation that the unit trust scheme is being wound up
 - (b) confirmation that the property is being transferred to the unit holders of the unit trust scheme in the course of its winding up
 - (c) complete financial statements of the unit trust scheme
 - (i) as at the date of the winding up
 - (ii) immediately following the date of winding up
 - (iii) as at the previous 30 June
 - (d) details of the issued units of the unit trust scheme and a listing of the units held by each unit holder as at the date of winding up
 - (e) details of the rights of each class of unit
 - (f) details of any amounts owed to a unit holder that the unit holder has released the trustee of the unit trust scheme from paying during the period beginning 12 months before the winding up commenced and ending when the property is transferred
 - (g) details of any liabilities that a unit holder has assumed or discharged on behalf of the trustee of the unit trust scheme during the period beginning 12 months before the winding up commenced and ending when the property is transferred
 - (h) the date each unit holder acquired their individual units
 - (i) confirmation that it is intended to distribute the assets of the unit trust scheme to the unit holders in accordance with their respective beneficial entitlements and details of how the distribution is to be made
 - (j) where the property was previously owned by a unit trust scheme related to the unit trust scheme being wound up, confirmation of whether or not any unit holder held units in that related unit trust scheme
 - (k) dates of acquisition of the property by the trustee of the unit trust scheme or a related unit trust scheme
 - (l) details of any dealings in units of the unit trust scheme or a related unit trust scheme by a unit holder or previous owner of the property
 - (m) reasons which demonstrate that any scheme or arrangement of transactions in relation to the winding up and involving any one or more of:
 - (i) the trustee of the unit trust scheme
 - (ii) a unit holder or
 - (iii) a related unit trust scheme

is for reasons of commercial efficacy and not for the purpose of reducing the duty otherwise payable on the transfer or agreement for transfer

- (n) whether the transfer or agreement for transfer is pursuant to a right attaching to any of the units of the unit trust scheme to select or receive any particular property held by the trustee of the unit trust scheme as trustee of that trust
- (4) completed duties valuation forms for all dutiable property that is being distributed. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (5) any other relevant information that may assist in the assessment of duty.

Where shares in a corporation or units in a unit trust scheme are transferred to unit holders and result in a relevant acquisition in a landholder, also provide the information set out in [Information Requirement 6 'Landholder duty'](#).

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)
- [FDA22 'Landholder Acquisition Statement or Determination of Liability'](#)
- [Duties valuation forms](#)

Publications

- [Duties Fact Sheet 'Landholder Duty'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.6 Transfer of property to real purchaser

For a transfer of dutiable property from a trustee (the apparent purchaser) to the beneficiary for whom the property was acquired (the real purchaser) and there is not a duty endorsed declaration of trust evidencing the claimed trust relationship, provide:

- (1) the transaction record (such as a transfer or agreement to transfer) or a copy of the duty endorsed transaction record is applying for a reassessment
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a duty endorsed copy of the agreement for transfer for the acquisition of the property by the apparent purchaser, e.g., contract for sale, offer and acceptance

If this cannot be provided and the transaction lodged relates to residential property transferred, or agreed to be transferred, to a foreign person, provide:

- the date of the original acquisition of the property
 - if the acquisition was after 1 January 2019, evidence whether foreign buyer duty was paid on the acquisition.
- (4) advise the reasons why the apparent purchaser acquired the property, rather than the real purchaser
 - (5) documentary evidence to support that the real purchaser provided the money to acquire the property, e.g., bank statements, receipts, etc.
 - (6) if any improvements have been made to the property since the property was acquired in the name of the apparent purchaser – documentary evidence to support that the real purchaser provided the money for those improvements
 - (7) where a person other than the real purchaser provided the money – documentary evidence to support that the money was provided as a loan that has been or will be repaid by the real purchaser, e.g., loan approval from a financial institution, bank statements, receipts, etc.
 - (8) any other evidence to support the intentions of the parties at the date of acquisition of the property.

Related resources

Forms

[Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

[Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.7 Exchange of dutiable property

If a dutiable transaction effects an exchange of one or more items of dutiable property for any other dutiable property, provide:

- (1) the transaction records (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#) for each transaction
- (3) copies of any valuations or appraisals conducted on the items of dutiable property within three months of the date of the transactions
- (4) where the dutiable property is land –
 - (a) completed duties valuation forms for all land. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
 - (b) copies of the certificate/s of title and any plans or diagrams clearly identifying the land
- (5) where the dutiable property comprises a business asset – the latest complete financial statements for the entity that owns the asset
- (6) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)
- [Duties valuation forms](#)

Publications

- [Commissioner's Practice TAA 22 'Valuation of WA Business Assets Duties Purposes'](#)
- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.8 Partition of property

If property (some or all of which is dutiable property) that is held by persons jointly is transferred or agreed to be transferred to one or more of those persons, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) completed duties valuation forms for each item of dutiable property that is land. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (4) a copy of any valuation or appraisal conducted on the property within three months of the date of the transaction
- (5) where the property comprises a business asset – the latest complete financial statements for the entity that owns the asset
- (6) the amount of any consideration paid by any of the parties
- (7) the amount of any liabilities assumed under the transaction
- (8) the amount of any debt released or extinguished under the transaction
- (9) where the transactions relate to the subdivision of land –
 - (a) a diagram of the subdivision, showing measurements and improvements to the land before and after subdivision
 - (b) the proportionate entitlement of each registered proprietor of the land
 - (c) copies of the current certificates of title for the land
- (10) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)
- [Duties valuation forms](#)

Publications

- [Commissioner's Practice TAA 22 'Valuation of WA Business Assets Duties Purposes'](#)
- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.9 Transfer under agency relationship

Duty is not chargeable on a transfer of dutiable property under an agreement for transfer where the person named as the purchaser in the agreement was acting as the agent for the subsequent transferee of the property (i.e., the principal) when the agreement was made.

Where the agency relationship is not disclosed on the agreement, or the agency relationship is disclosed but the transferee is not identified, provide:

- (1) the agreement to transfer (e.g. contract for sale) or a duty endorsed copy of the agreement to transfer if applying for a reassessment, and the transfer of land
- (2) two completed [Foreign Transfer Duty Declaration Forms](#) – one for the agreement to transfer and one for the transfer
- (3) where the agency relationship is not disclosed on the agreement – a detailed explanation regarding why the agency relationship was not disclosed
- (4) where the identity of the transferee is not shown on the agreement – a detailed explanation regarding why the transferee’s identity was not disclosed
- (5) express written authority, correspondence or documentation made by the agent and/or transferee prior to the date of the agreement that confirms the appointment of the named purchaser as agent to purchase the property for the transferee
- (6) evidence showing that the transferee has provided, or will provide, the purchase monies, including any deposit, e.g., loan documents, bank statements, etc.
- (7) any other evidence relevant to the nature of the relationship and the arrangements that existed between the named purchaser and the transferee at the time the agreement was entered into
- (8) where a nominee clause has been used in the agreement – reasons as to why the agreement was drafted in terms that entitled the person who entered into the agreement as purchaser to make a nomination, rather than in terms that reflected an agency relationship between that person and the person claimed to be their principal
- (9) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Form FDA41 ‘Foreign Transfer Duty Declaration’](#)

Publications

- [Revenue Ruling DA 7 ‘Transfer Under Agency Relationship Where the Transferee on the Transfer Differs From the Purchaser Named in the Agreement to Transfer’](#)
- [Duties Fact Sheet ‘Foreign Transfer Duty’](#)

7.10 Charitable purposes exemption

An exemption from duty may apply if a dutiable transaction has been entered into or has occurred for charitable or similar public purposes.

An application for exemption must be made in writing in accordance with Form FDA2 'Charitable Exemption - Transfer Duty' and Revenue Ruling DA/PT/LT 18 'Charitable Exemptions', and must be accompanied by a completed Foreign Transfer Duty Declaration Form.

7.11 Transfer from superannuation fund to member

For a transfer or an agreement for the transfer of dutiable property from a superannuation fund to a member, dependent or legal personal representative, provide:

- (1) the transaction record (such as a transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) a copy of the superannuation fund deed (stamped if executed prior to 1 July 2008)
- (4) copies of any subsequent amendments to the deed (stamped if executed prior to 1 July 2008)
- (5) complete, detailed, financial accounts of the superannuation fund as at the date immediately prior to the transaction and as at the previous 30 June to show the value of the member's entitlement/interest in the superannuation fund
- (6) confirmation of how the member is entitled to the dutiable property under the deed and the date that the person became a member
- (7) completed duties valuation forms for all dutiable property being distributed that is land. Duties valuation forms are not required if a valuation is obtained from a qualified valuer which meets the criteria specified in [Information Requirement 5.4 'Valuation by a qualified valuer'](#)
- (8) any other relevant information that may assist in the assessment of duty.

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)
- [Duties valuation forms](#)

Publications

- [Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes'](#)
- [Duties Fact Sheet 'Superannuation Transactions'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.12 Correction of clerical errors

For a dutiable transaction that is claimed to correct a clerical error in a previous dutiable transaction relating to the same dutiable property, provide:

- (1) The transaction records to correct the error (such as the transfer or agreement to transfer)
- (2) a copy of the duty endorsed transaction record(s) for the original transaction(s)
- (3) a completed [Foreign Transfer Duty Declaration Form](#) for each transaction
- (4) details of the full facts and circumstances leading to the clerical error or omission that requires correction
- (5) statements from independent third parties, such as a real estate agent, concerning the clerical error
- (6) documentary evidence relating to the clerical error, such as strata plans
- (7) any other relevant information that may assist in the assessment of duty.

Note: A 'clerical error' does not include rectifying an error to achieve a particular intended legal result.

Related resources

Forms

[Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

[Duties Fact Sheet 'Foreign Transfer Duty'](#)

7.13 Transfers of dutiable property to a newly formed corporation not named in the preceding agreement for transfer

If the person named in an agreement for the transfer of dutiable property as the purchaser entered into the agreement with the intention that the property would be transferred to a corporation to be incorporated, provide:

- (1) the agreement to transfer (e.g. contract for sale) or a duly endorsed copy of the agreement to transfer if applying for a reassessment, and the transfer of land
- (2) two completed [Foreign Transfer Duty Declaration Forms](#) – one for the agreement to transfer and one for the transfer
- (3) confirmation of whether or not the corporation is acting as trustee of a trust
- (4) a dated copy of written instructions provided by the purchaser to commence actions to incorporate the corporation. This may include instructions given by the purchaser to an Australian company registration service provider, accountant, lawyer or similar agent requesting that they arrange registration of the corporation on their behalf
- (5) any other evidence supporting the purchaser's intentions at the time of entering into the agreement
- (6) where no written instructions were provided by the purchaser named in the agreement for transfer –
 - (a) confirmation of whether or not the corporation is acting as trustee of a trust
 - (b) a written statement from the Australian company registration service provider, accountant, lawyer or agent confirming the date the purchaser instructed them to commence actions to incorporate the company
 - (c) any other evidence supporting the purchaser's intentions at the time of entering into the agreement. This may include extracts from Australian Securities and Investments Commission ('ASIC') records showing the Application for Reservation of a Name (form 410) (if applicable) and the Application for Registration as an Australian Company (form 201)

Where a transfer of a Western Australian business asset is not prescribed as an excluded transaction for the purposes of section 11(2) of the *Duties Act 2008*, the person liable to pay tax must, within two months of the date that the liability to duty arose, lodge a completed transfer duty statement with the Commissioner.

Related resources

Forms

- [FDA18 'Transfer Duty Statement'](#)
- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Commissioner's Practice DA35 'Transfers of Western Australian Business Assets'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)
- [Commissioner's Practice DA44 'Residential Property and Foreign Persons for the Purposes of Foreign Transfer Duty'](#)

7.14 Transfers of dutiable property to a dormant corporation not named in the preceding agreement for transfer

If the person named in an agreement for the transfer of dutiable property as the purchaser entered into the agreement with the intention that the property would be transferred to a dormant corporation in which the shares were to be acquired, provide:

- (1) the agreement to transfer (e.g. contract for sale) or a duly endorsed copy of the agreement to transfer if applying for a reassessment, and the transfer of land
- (2) two completed Foreign Transfer Duty Declaration Forms – one for the agreement to transfer and one for the transfer
- (3) confirmation of whether or not the corporation is acting as trustee of a trust
- (4) a dated copy of the request made by the purchaser to their agent or a shelf company service provider in relation to the acquisition of a dormant corporation
- (5) a statement confirming the dormant corporation:
 - (a) has not had any assets or liabilities other than share capital for subscriber shares or shares issued to replace subscriber shares of the same value on their redemption
 - (b) has not been party to an agreement or a beneficiary or trustee of a trust
 - (c) has not issued or sold any shares or rights relating to shares other than subscriber shares, rights relating to subscriber shares or shares issued to replace subscriber shares of the same value on their redemption
- (6) where no written instructions were provided by the purchaser named in the agreement for transfer –
 - (a) a written statement from the Australian company registration service provider, accountant, lawyer or other agent confirming the date the purchaser instructed them to commence actions to acquire a dormant corporation
 - (b) extracts from ASIC records showing the Application for Registration as an Australian Company (form 201) and the Change to Company Details (form 484) confirming acquisition of the shares in the corporation by the purchaser
 - (c) any other evidence supporting the purchaser's intentions at the time of entering into the agreement.

Where a transfer of a Western Australian business asset is not prescribed as an excluded transaction for the purposes of section 11(2) of the *Duties Act 2008*, the person liable to pay tax must, within two months of the date that the liability to duty arose, lodge a completed transfer duty statement with the Commissioner.

Related resources

Forms

- FDA18 'Transfer Duty Statement'
- Form FDA41 'Foreign Transfer Duty Declaration'

Publications

- Commissioner's Practice DA35 'Transfers of Western Australian Business Assets'
- Duties Fact Sheet 'Foreign Transfer Duty'

7.15 Grant or surrender of a profit a prendre

If an acquisition of new dutiable property, on its creation, grant or issue, relates to an interest in land through a grant of a profit a prendre, provide:

- (1) the duty endorsed transaction record (such as the transfer or agreement to transfer)
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) the amount of any consideration being given under the transaction
- (4) any other information relevant to the transaction.

For a transaction in which special dutiable property is surrendered through a surrender of a profit a prendre, provide:

- (1) a copy of the endorsed grant of a profit a prendre
- (2) a completed [Foreign Transfer Duty Declaration Form](#)
- (3) details of the full facts and circumstances leading to the surrender
- (4) the amount of any consideration being given under the transaction
- (5) advice on whether a new profit a prendre has been or will be granted to replace the profit a prendre being surrendered. If so, provide:
 - (a) details of, or the document which evidences, the grant of the replacement profit a prendre
 - (b) the amount of consideration being given for the grant of the new profit a prendre
- (6) any other information relevant to the transaction.

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)

Publications

- [Duties Fact Sheet 'Transfer Duty Overview'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)

8.1 Foreign transfer duty declaration form

All transactions involving land, such as agreements to transfer, transfers and options to acquire land entered into from 1 January 2019 require a foreign transfer duty declaration to be completed. Each person liable to pay duty on the transaction must complete a separate declaration.

The completed declaration form must be lodged together with the transaction record (such as an agreement to transfer land) or retained by the lodging party if the transaction is eligible for self-assessment.

Where there are multiple transaction records to complete a transaction (such as contract for sale followed by the transfer of land), a completed declaration is only required for the first transaction record if 'no double duty' applies to the second transaction record. For example, where land is transferred to the purchasers named in an agreement.

The below table lists exceptions where a completed foreign transfer duty declaration (or relevant application) must be lodged for each transaction record to complete the transaction, as the liability to foreign transfer duty may have changed.

Section of Duties Act	Description	Additional Foreign transfer duty declaration or application
Section 205Z(2)	Where a person is foreign at the date of the agreement but is not foreign at the date the property is transferred	Form FDA42 'Foreign Transfer Duty – Change in Foreign Status' to be lodged with the transfer of land
205M	Where a person is not foreign at the date of the agreement but is foreign at the date the property is transferred	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land
Section 42(2)	Where a purchaser on an agreement substitutes their interest in the property to an eligible related transferee	Form FDA14 'Substituted Transferees' to be lodged with the transfer of land; and Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land
42(3)	Where there is a difference in the parties liable to duty or the division of property between the agreement and transfer	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land
42(4B)	Where the purchaser on an agreement is an individual and the property is transferred to that person as trustee of an eligible bare or unit trust	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land
42(4)	Where the purchaser on an agreement is acting as agent for an undisclosed transferee	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land <i>Also see DIR 7.9</i>
42(5)(b)(i)	Where the purchaser on an agreement transfers the property to a newly formed corporation	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land <i>Also see DIR 7.13</i>
42(5)(b)(ii)	Where the purchaser on an agreement transfers the property to a dormant corporation in which they intend to acquire the shares	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land <i>Also see DIR 7.14</i>

42(7)	Where the purchaser on an agreement intended for the property to be transferred to a manage investment scheme	Form FDA41 'Foreign Transfer Duty Declaration' to be lodged with the transfer of land
42(8)	Where there is an intervening transaction between the agreement to transfer and the transfer	Form FDA41 'Foreign Transfer Duty Declaration' required for the agreement to transfer and intervening transaction

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)
- [Form FDA 42 'Foreign Transfer Duty – Change in Foreign Status'](#)
- [Form FDA14 'Substituted Transferees'](#)

Publications

- [Duties Fact Sheet 'No Double Duty'](#)
- [Duties Fact Sheet 'Foreign Transfer Duty'](#)
- [Commissioner's Practice DA44 'Residential Property and Foreign Persons for the Purposes of Foreign Transfer Duty'](#)

8.2 Foreign transfer duty exemption – foreign to non-foreign

Certain agreements to transfer residential property liable to foreign transfer duty may be reassessed exempt if the person liable on the agreement was a foreign person and the person:

- (1) was no longer foreign when the property was transferred to them
- (2) entered into the agreement as agent for a principal, and the property was transferred to the principal who is not foreign
- (3) substituted their interest in the property to a related transferee who is not foreign
- (4) entered into the agreement in their individual capacity, and the property is transferred to themselves as the trustee of a unit trust or bare trust if the trust is not foreign
- (5) entered into the agreement with the intention the property would be transferred to a:
 - a corporation which is not foreign that the person intended to incorporate; or
 - a dormant corporation which is not foreign in which the person intended to acquire shares.

An application for reassessment must be made within five years from the date of the original assessment and include:

- (6) the agreement to transfer (e.g. contract for sale) or a duty endorsed copy of the agreement to transfer if duty has already been paid.
- (7) a completed [foreign transfer duty declaration form](#) for the agreement, if not previously provided
- (8) the transfer of land, or copy of the transfer of land if already registered at Landgate
- (9) Where the exemption is because:
 - (a) the person was no longer foreign when the property was transferred to them – completed Form [FDA 42 'Foreign Transfer Duty – Change in Foreign Status'](#)
 - (b) the property was transferred to a related transferee who is not foreign – completed Form [FDA14 'Substituted Transferees'](#).
 - (c) for any of the other exemption reasons above – completed Form [FDA41 'Foreign Transfer Duty Declaration'](#) for the transfer of land, and any relevant duties information requirements

Related resources

Forms

- [Form FDA41 'Foreign Transfer Duty Declaration'](#)
- [Form FDA 42 'Foreign Transfer Duty – Change in Foreign Status'](#)
- [Form FDA14 'Substituted Transferees'](#)

Publications

- [Duties Fact Sheet 'Foreign Transfer Duty'](#)
- [Commissioner's Practice DA44 'Residential Property and Foreign Persons for the Purposes of Foreign Transfer Duty'](#)

DIRs

- [DIR 7.9 'Transfer under agency relationship'](#)
- [DIR 7.13 'Transfers of dutiable property to a newly formed corporation not named in the preceding agreement for transfer'](#)
- [DIR 7.14 'Transfers of dutiable property to a dormant corporation not named in the preceding agreement for transfer'](#)

8.3 Foreign transfer duty – developer exemptions

Land acquired for residential developments by foreign persons will be exempt from foreign transfer duty if the foreign person or their associate develop the lot to produce 10 or more dwellings, or lots on which 10 or more dwellings can be constructed.

The foreign person or their associate must commence or complete the construction, refurbishment or subdivision of the land within five years of the completion date of the transaction or acquisition to qualify for an exemption, as described in the table below:

Nature of property at date of acquisition	Construction, refurbishment or subdivision	Commencement or completion is:
Land which is vacant or has no building capable of being used as a place of residence	Commence construction of 10 or more dwellings	when foundations for the first dwelling are laid
Land where the building is not capable of being used as a place of residence	Commence refurbishment of 10 or more dwellings	when all licences, approvals, registrations, exemptions or authorisations necessary to refurbish the first dwelling are granted, issued or obtained
Land where construction or refurbishment of 10 or more dwellings has commenced	Complete construction or refurbishment of 10 or more dwellings	when the first dwelling is ready to be used as a place of residence
Vacant or substantially vacant	Commence subdivision of land into 10 or more lots capable of being a dwelling	when the first lot capable of constructing a dwelling is subdivided under the <i>Land Tax Assessment Act 2002</i>
Vacant or substantially vacant and subdivision has commenced	Complete subdivision of land into 10 or more lots capable of being a dwelling	when the certificate of title is issued for the first lot that is capable of having a dwelling constructed

An application for an exemption must be in the approved form [FDA43 'Foreign Transfer Duty – Developer Exemptions'](#) and made within the later of:

- five years of the completion date of the transaction; or
- 12 months from the date the foreign person or their associate commences or completes (as relevant) the construction, refurbishment or subdivision of the land.

Related resources

Forms

[Form FDA43 'Foreign Transfer Duty – Developer Exemptions'](#)

Publications

- [Duties Fact Sheet 'Foreign Transfer Duty'](#)
- [Commissioner's Practice DA44 'Residential Property and Foreign Persons for the Purposes of Foreign Transfer Duty'](#)

9.1 Request for an urgent assessment

A written submission must be addressed to the Principal Revenue Officer, Duties, using the [Make an Enquiry](#) web facility available on the Department of Finance website at www.finance.wa.gov.au

A submission for an urgent assessment or decision must include:

- (1) detailed reason(s) for urgency
- (2) for new or previously incomplete lodgments – all information required under the relevant Duties Information Requirement and/or specified in the relevant application form, acquisition statement or transfer duty statement
- (3) the date by which the assessment or decision is required
- (4) where applicable, an undertaking that the duty will be paid immediately on the issue of an assessment notice.

If the submission relates to a non-routine transaction, for example a pre-transaction decision request or an application for exemption under Chapter 6 of the *Duties Act 2008*, the submission must include details of the adverse commercial, financial or other detrimental consequences that will follow if the matter is not treated with priority, together with relevant documentation or other supporting evidence.

When an urgent request is accepted, the matter will be given priority according to its grounds of urgency. Lodging an urgent request does not guarantee a notice or decision will issue in the requested timeframe, although all endeavours will be made to do so where practicable.

Note - routine agreements to transfer dutiable property, e.g. offer and acceptance contracts, excluding approved transactions for self-assessment, are given priority and are assessed as soon as possible after lodgment. It is not necessary to request an urgent assessment for this type of dutiable transaction.

Related resources

Publications

[Revenue Ruling DA 1 'Assessment Services and Procedures'](#)

9.2 Caveats

If you are requesting that the Commissioner provide evidence that a transaction record has been lodged for assessment of duty for the purpose of registering a caveat pursuant to the *Mining Act 1978*, provide:

- (1) a copy of the transaction record
- (2) a written request marked to the attention of the Principal Revenue Officer, Duties, requesting that a copy of the transaction record be endorsed to certify that the original has been lodged for the assessment of duty.

9.3 Missing or destroyed duty endorsed transaction records

Where the original duty endorsed transaction record is missing or destroyed, and the transaction is in relation to:

- a request for cancellation of duty under section 107 of the *Duties Act 2008* or section 20 of the *Stamp Act 1921* on a registrable instrument (e.g. transfer of land endorsed with duty)
- any request for endorsement of a replacement instrument
- the duty endorsement of a transfer of dutiable property:
 - pursuant to an agreement for the transfer of that property
 - under a declaration of trust over the property
 - resulting from the vesting of the property either by statute or an order of a court
 - in accordance with a foreclosure order or
 - in accordance with a partnership acquisition

provide:

- (1) a written request by the parties liable to pay the duty (the taxpayers) containing (as applicable):
 - (a) the full facts and circumstances surrounding the loss or destruction of the record
 - (b) a statement that the taxpayers have made a thorough search, including enquiries at relevant post offices, for the missing record but have been unable to locate it
 - (c) in the case of a request for a refund – a statement that the taxpayers have not made a previous application to the Commissioner of State Revenue for a refund of the duty paid by them and that no refund has been received by the taxpayers in respect of the missing or destroyed record
 - (d) a declaration that the missing record will be produced to the Office of State Revenue if it is subsequently located with reference to the taxpayers' application for refund or endorsement to enable the located duty endorsed record to be appropriately endorsed
- (2) documentary evidence, such as a duties receipt, Clerk of Courts receipt or a receipted Duties Assessment Notice, that clearly discloses the amount of duty paid and the date of payment in relation to the missing transaction record. The evidence should not be circumstantial and must clearly show that it specifically relates to the lost, misplaced or destroyed record
- (3) the Office of State Revenue Bundle ID at the time the dutiable transaction was assessed (if known)
- (4) the name of the lodging party who originally lodged the transaction record for duty endorsement
- (5) any other relevant information or evidence which may assist in determining that duty was paid on the dutiable transaction and endorsed on the transaction record.

9.4 Undated instruments

If undated instruments are lodged for duty assessment, the Commissioner will require evidence of the date of execution in order to correctly assess the duty liability. The information evidencing the execution date includes:

- (1) a signed, dated letter from the person who prepared the instrument, or another person having the conduct of the matter to which the instrument relates, when the instrument was forwarded to a party for signing
- (2) a copy of an appointment diary for the abovementioned person clearly showing the date of a meeting at which the instrument was executed
- (3) a copy of a detailed fee statement issued for the preparation of the instrument and/or the conduct of the matter to which the instrument relates, e.g., from a solicitor
- (4) copies of other correspondence evidencing the existence of the instrument at any point in time, e.g., a signed, dated letter from a party to the instrument or their solicitor or agent acknowledging receipt of the instrument
- (5) announcements to the ASX Group providing the date of the transaction the subject of the instrument
- (6) any other relevant information that may assist in the assessment of duty.

Note: Each application will be considered on its merits, and the Commissioner will not necessarily accept one or more of the items of information as being conclusive evidence.