



**CIRCULAR 5     DUTIES ACT 2008**  
**DUTIES LEGISLATION AMENDMENT ACT 2008**  
**DUTIES AMENDMENT REGULATIONS 2010**  
**REVENUE LAWS AMENDMENT ACT 2010**

The *Duties Act 2008* (“Duties Act”) and the *Duties Legislation Amendment Act 2008* have been amended by the *Revenue Laws Amendment Act 2010* to:

- make a minor change to the superannuation provisions;
- close a potential loophole in the entity restructuring provisions; and
- delay the abolition of transfer duty on non-real business assets until 1 July 2013.

The information provided in this circular is not an exhaustive explanation of the amendments. Reference should also be made to the amending Act and the Explanatory Memorandum.

A general summary of the amendments follows.

**SUPERANNUATION AMENDMENTS**

The amendment to the superannuation provisions of the Duties Act corrects an oversight that previously allowed a sale of property from the trustee of a superannuation fund to a member of that fund to be assessed for nominal duty. The amendment takes effect from 10 June 2010, being the date of Royal Assent, and provides that a nominal assessment will only apply where no consideration is paid.

**ENTITY RESTRUCTURING AMENDMENTS**

The connected entity exemption applies to certain transactions between members of a “family”. A family consists of entities that are related as parent entity and subsidiary, or those with securities stapled together. A parent entity is one that holds at least 90% of the shares or units in another entity and controls at least 90% of the votes that may be cast at a general meeting of that other entity.

Section 260(1)(c) of the Duties Act has been repealed effective from 10 March 2010. This section had provided that a transaction was a “relevant reconstruction transaction” (and therefore exempt from duty) if the transaction was an acquisition by one member of a family of an interest in another member of the family, if the acquisition was subject to landholder duty. This amendment takes effect from 10 March 2010.

## **DEFERRAL OF ABOLITION OF DUTY ON NON-REAL BUSINESS ASSETS**

It was previously intended that duty on non-real business assets, such as goodwill and intellectual property, would be abolished from 1 July 2010 and provisions to effect the abolition from that date were included in the Duties Act and the *Duties Legislation Amendment Act 2008*.

However, during the 2009-10 Budget review, the Government announced that the abolition of transfer duty on non-real business assets would be deferred until 1 July 2013.

## **DUTIES AMENDMENT REGULATIONS 2010**

The *Duties Amendment Regulations 2010* were gazetted on 1 April 2010 and allow the dutiable value of new vehicles that were damaged in the storm of 22 March 2010 to be determined by reference to the market value of the vehicle, rather than the higher retail selling price that is unlikely to be realised at the time the damaged vehicle is sold. For more details please refer to [Duties Circular VLD 8](#).

For the latest tax information and links to legislation, please visit the website at [www.finance.wa.gov.au](http://www.finance.wa.gov.au)

June 2010