

STATE TAXES – AUSTRALIA

# Stamp duty and land tax – Rates and thresholds

1 December 2020



**Table 1: Transfer duty rates**

State	Dutiable property <sup>1</sup>	Threshold	Rate of duty <sup>2</sup>
ACT	Interests in land and goods (commercial real estate transactions) <sup>3</sup>	\$0 – \$1,500,000	Nil <sup>5</sup>
		More than \$1,500,000	5% flat <sup>5</sup>
	Interests in non-commercial land <sup>4</sup>	More than \$1,455,000	4.54% flat
NSW <sup>6</sup>	Interests in land and goods <sup>3</sup>	More than \$1,033,000	\$41,820 plus 5.5% on amounts over \$1,033,000 <sup>7</sup>
NT	Interests in land, chattels and business assets (other than trading stock and trade debts)	\$3,000,000 – \$ 4,999,999	5.75% flat
		\$5,000,000 or more	5.95% flat
QLD	Interests in land, chattels and business assets (including trading stock and trade debts)	\$540,000 - \$1,000,000	\$17,325 plus 4.5% on amounts over \$540,000
		More than \$1,000,000	\$38,025 plus 5.75% on amounts over \$1,000,000
SA	Interests in land (residential and primary production land)	More than \$500,000	\$21,330 plus 5.5% on amounts over \$500,000
		N/A	Nil
TAS	Interests in land and goods <sup>3</sup>	More than \$725,000	\$27,810 plus 4.5% on amounts over \$725,000
VIC <sup>8, 9</sup>	Freehold interests in land, certain leasehold interests and goods <sup>3</sup>	More than \$960,000	5.5% flat
WA	Interests in land, chattels and business assets (other than trading stock and trade debts)	More than \$500,000	\$19,665 plus 5.15% on amounts over \$500,000

- The categories of dutiable property differ among the States but typically include certain estates and interests in land; goods and chattels transferred with land; and, in QLD, WA and NT, includes intellectual property, goodwill and certain other business assets.
- Rates shown are generally the highest marginal rates which apply (unless indicated otherwise). Surcharges on top of the general rate may apply to the purchase of residential land by foreign purchasers in some States (see table 5).
- Dutiable property includes goods (other than trading stock) if transferred with land.
- Non-commercial transfer duty applies to property which is used for residential or rural purposes.
- Commercial transfer duty on property which is used, wholly or partly, for commercial purposes, eg industrial, business or retail.
- As part of the NSW State Budget 2020-2021, the NSW Treasurer announced the Government is embarking on a public consultation process in relation to the reform of property taxes in NSW – specifically, replacing stamp duty and land tax with an annual property tax on an opt in basis. At the moment, this is a policy proposal only – there is no legislation available or confirmed commencement date. Public consultation will run to

- 15 March 2021 and information published by NSW Treasury indicates that following the consultation period, the policy will be developed in further detail and updates provided in the first half of 2021.
- This rate applies for the portion of the dutiable value over \$1,033,000. A premium rate of 7% applies to transfers of residential land with a dutiable value exceeding \$3,101,000. It is intended that these thresholds be adjusted in line with increases in the Consumer Price Index, with the first adjustment having occurred from 1 July 2020.
- A 10% duty reduction applies to certain transfers of commercial and industrial land in regional Victoria, with the reduction increasing incrementally to 50% by 1 July 2023.
- In the Victorian State Budget 2020-21, it was announced that a duty waiver of up to 50% on purchases of residential property in Victoria with a dutiable value of up to \$1m is intended to be introduced which applies to contracts entered into on or after 25 November 2020 and before 1 July 2021. It was also announced that it is intended that the 50% land transfer duty concession on the purchase of commercial and industrial properties anywhere in regional Victoria will be brought forward so that it applies to contracts entered into from 1 January 2021 (rather than 1 July 2023).

**Table 2: Corporate reconstruction relief**

State	Pre-association period <sup>1</sup>	Pre-association exception for New Co	Post-association period <sup>2</sup>
ACT	12 months	Yes <sup>3</sup>	12 months
NSW	None	N/A	None
NT	3 years	Limited <sup>4</sup>	3 years
QLD	3 years	Limited <sup>5</sup>	3 years
SA	None	N/A	None <sup>6</sup>
TAS <sup>7</sup>	12 months	Yes <sup>3</sup>	12 months
VIC <sup>8</sup>	None	N/A	None
WA	None	N/A	3 years

- This is the period prior to the dutiable transaction that the transferor and transferee must have been members of the same corporate group (subject to certain exceptions for newly incorporated companies and acquisitions of shelf companies). See column 2.
- This is the period after the dutiable transaction that the transferor and transferee must remain members of the same corporate group in order to avoid an effective clawback of relief including, potentially, interest and penalties. There are limited exceptions to the post-association requirement in all jurisdictions, eg liquidation, public float.
- The entities must have been members of the same corporate group since incorporation, unless New Co was acquired as a shelf company.

- This is only if New Co is a subsidiary or parent corporation which was newly interposed.
- This is only if New Co is the immediate subsidiary of the transferor.
- There is a notification requirement if the parties cease to be associated with the parent company within 2 months of the dutiable transaction.
- Unlike other jurisdictions, an application for exemption cannot be made prior to the transaction occurring. Although it may be possible to apply for a ruling where the availability of relief is uncertain.
- The relief provides for a 90% concession of the duty otherwise payable. In the other jurisdictions relief is for 100% of the duty otherwise payable.

**Table 3: Time limits for stamping / payment<sup>1</sup>**

State	Period for Transfer Duty <sup>2</sup>	Period for Landholder Duty
<b>ACT</b>	Lodgement and payment 90 days after liability for duty arises (eg first execution of agreement) or, if the instrument is to be registered with the registrar-general, payment is to be made within 14 days of registration.	Lodgement and payment 90 days after the day the relevant acquisition is made <sup>3</sup> , or if the acquisition arises from an agreement to purchase units/shares in a landholding entity, when the agreement is completed.
<b>NSW</b>	Lodgement and payment 3 months after liability for duty arises eg first execution of agreement.	Lodgement and payment 3 months after the relevant acquisition is made. <sup>3</sup>
<b>NT</b>	Lodgement and payment 60 days after liability for duty arises eg first execution of agreement.	Lodgement and payment within 60 days after the occurrence of the relevant acquisition. <sup>3</sup>
<b>QLD</b>	Lodgement within 30 days after liability for duty arises eg execution of agreement, and payment usually within 30 days of issue of notice of assessment. <sup>4</sup>	Lodgement within 30 days after the making of an agreement (whether conditional or not) for the relevant acquisition or if there is no agreement, within 30 days after the making of the relevant acquisition <sup>3</sup> . Payment is usually required within 30 days of the issue of an assessment notice but can be shorter if a lodgement extension is obtained.
<b>SA</b>	If instrument executed in SA, within 2 months of execution; or if instrument executed outside SA, lodgement and payment within 2 months after its receipt in SA or within 6 months after its execution, whichever period first expires.	Lodgement and payment within 2 months after the date of the relevant acquisition. <sup>3</sup>
<b>TAS</b>	Lodgement and payment 3 months after liability for duty arises eg completion of agreement.	Lodgement and payment within 3 months after the relevant acquisition is made. <sup>3</sup>
<b>VIC</b>	Lodgement and payment 30 days after liability for duty arises eg completion of agreement.	Lodgement and payment within 30 days after the date the relevant acquisition is made. <sup>3</sup>
<b>WA</b>	Lodgement within 2 months after liability for duty arises eg execution of agreement <sup>6</sup> , and payment generally within 1 month of issue of notice of assessment. <sup>5</sup>	Lodgement within 2 months after the making of an agreement (whether conditional or not) <sup>6</sup> for the relevant acquisition or if there is no agreement, within 2 months after the making of the relevant acquisition. <sup>6</sup> Payment is required within one month after the issue date of an assessment notice.

<sup>1</sup> As a practical matter, it may be necessary to lodge and pay duty earlier in order to register a transaction, including through PEXA.

<sup>2</sup> In jurisdictions other than TAS and VIC the liability for duty arises on execution of agreements, not completion/settlement of agreements, regardless of conditions precedent or delay in completion/settlement.

<sup>3</sup> A relevant acquisition can be made in a variety of ways, for example the issue, transfer, cancellation or redemption of securities or varying rights. Typically the date of the relevant acquisition is the date of the completion of the transaction (for example when unit transfer forms are executed or the consideration is paid). New South Wales also has special deeming provisions that can deem a relevant acquisition to occur earlier than completion (for example, on the first anniversary of the execution of an agreement for the relevant acquisition).

<sup>4</sup> This period may be extended for certain conditional agreements (refer to Public Ruling DA019.1.5). If the transaction is subject to self-assessment, payment must be made at the same time as lodgement.

<sup>5</sup> Special rules may apply to the timing of the payment of duty in relation to certain conditional agreements.

<sup>6</sup> In WA an agreement is deemed to include a simultaneous put and call option agreement.

**Table 4: Landholder duty**

State	Local land holdings value test <sup>1</sup>	Acquisition threshold						Duty base	
		Companies		Trusts				Land and Fixtures <sup>4</sup>	Goods
		Listed	Private	Listed	Unlisted Widely Held <sup>2</sup>	Wholesale Unit <sup>3</sup>	Private Unit		
ACT	Nil	N/A	50%	N/A	N/A	50%		✓	x
NSW	\$2,000,000 <sup>5</sup>	90% <sup>6</sup>	50%	90% <sup>6</sup>	90% <sup>6</sup>	50%		✓	✓
NT	\$500,000	90% <sup>7</sup>	50%	90% <sup>7</sup>	50%			✓	x
QLD	\$2,000,000	90% <sup>6</sup>	50%	90% <sup>6</sup>	Trust acquisition duty applies <sup>8</sup>			✓	x
SA <sup>9</sup>	Nil	90% <sup>6</sup>	50%	90% <sup>6</sup>	90% <sup>6</sup>	50% <sup>10</sup>		✓	x
TAS	\$500,000	90% <sup>6</sup>	50%	90% <sup>6</sup>	90% <sup>6</sup>	50%		✓	✓
VIC	\$1,000,000	90% <sup>6</sup>	50%	90% <sup>6</sup>	90% <sup>6</sup>	50%	20%	✓	x
WA	\$2,000,000	90%	50%	90%	50%			✓	✓

1 Foreign purchaser residential land stamp duty surcharges apply to relevant acquisitions by foreign persons in all jurisdictions (see table 5 below).

2 There are differing stamp duty specific requirements that must be satisfied in order to qualify as a “widely held” trust.

3 There are differing stamp duty specific requirements that must be satisfied in order to qualify as a “wholesale” trust.

4 “Land” is defined and varies between jurisdictions. Duty extends to items which are not “fixtures” at law in some jurisdictions.

5 No threshold applies where the land is “residential land” and the acquirer is “foreign” (see table 5 below).

6 Duty applies at a concessional rate of 10% of the ordinary transfer duty otherwise payable. However, duty will apply at the general rate in VIC if the entity has been listed for less than 12 months or, in the case of a widely held trust, it has satisfied the definition of that term for less than 12 months at the date of the relevant acquisition.

This concessional rate does not apply to foreign purchaser residential land stamp duty surcharge in all jurisdictions. Further, in Victoria the listing of a company or trust or becoming a widely held trust attracts duty at the concessional rate of duty.

7 The threshold may be 50% for a “merger vesting” of shares or units.

8 Duty is imposed independently of the landholder duty regime on trust creations, acquisitions and surrenders where the trust directly or indirectly holds any dutiable property. No value threshold applies and no acquisition threshold applies to changes in interests in certain “private” unit trusts.

9 “Landholdings” are limited to residential land and primary production land.

10 A separate regime (with no land value or acquisition threshold) applies to certain trusts in South Australia, which are not registered managed investment schemes.

**Table 5: Transfer duty – foreign purchaser residential land stamp duty surcharges<sup>1</sup>**

State	Surcharge rate
NSW	8%
QLD	7%
SA	7%
TAS	Residential: 8% Primary production: 1.5%
VIC	8%
WA	7%

1 The surcharge applies to any dutiable transaction where a foreign purchaser acquires “residential” land (which is broadly defined) and is in addition to the normal transfer duty rate. The surcharge also applies for relevant acquisitions by foreigners in landholders for landholder duty purposes. Please see “State Foreign Surcharges – Australia: Rates and Thresholds” for further information.

**Table 6: Lease premium duty<sup>1</sup>**

State	Application
<b>ACT</b>	Duty applies to the grant or transfer of a “commercial lease” where a premium is paid that exceeds the determined threshold of 25% above market rent over the term of the lease (see revenue circular DAA015.1).
<b>NSW</b>	Duty applies to a lease of land in NSW or an agreement for a lease of land in NSW in respect of which a premium is paid or agreed to be paid. A premium in respect of a lease entered into pursuant to an option, includes an amount paid or payable for the grant of the option.
<b>NT</b>	Duty is payable on the grant of a lease if a premium is paid in addition to or instead of rent. Duty is calculated on the amount or value of the premium.
<b>QLD</b>	Duty applies to the grant of a lease if a premium, fine or other consideration (including non-monetary consideration) is paid on the lease. The dutiable value of a lease includes the consideration or value of any movable chattels taken over by the lessee.
<b>SA</b>	Duty applies to consideration paid or agreed to be paid, other than rent reserved, on a lease.
<b>TAS</b>	Duty applies to the grant, transfer or surrender of a lease where premiums of more than \$3,000 are paid for or in connection with the lease.
<b>VIC</b>	<p>Duty applies on the grant or a transfer/assignment of a lease for which any consideration (other than rent reserved) is paid or agreed to be paid either in respect of the grant or the transfer/assignment of the lease or in respect of:</p> <ul style="list-style-type: none"> <li>• a right to purchase the land or a right to a transfer of the land;</li> <li>• an option to purchase the land or an option for the transfer of the land;</li> <li>• a right of first refusal in respect of the sale or transfer of the land; or</li> <li>• any other lease, licence, contract, scheme or arrangement by which the lessee or transferee obtains any right or interest in the land the subject of the lease, other than the leasehold estate.</li> </ul> <p>The amount of duty payable is set by reference to the greater of the consideration and the unencumbered value of the land.</p>
<b>WA</b>	Duty applies to a lease if consideration is paid, or agreed to be paid by the lessor for the grant or surrender of the lease.

<sup>1</sup> Duty is imposed on premiums for leases at transfer / conveyance rates (see Table 1). Lease duty on rents (not being premiums) has been abolished in all States and Territories. Foreign surcharges may also apply to premiums on leases of residential land (see Table 5).

**Table 7: General insurance duty<sup>1</sup>**

State	Rate on all premiums	Type
ACT <sup>2</sup>	N/A	N/A
NSW <sup>3</sup>	9%	Type A (other than Type B & C) <sup>4</sup>
	5%	Type B (disability income, motor vehicle and other)
	2.5%	Type C (crop and livestock) before 1 January 2018 <sup>5</sup>
QLD <sup>6</sup>	9%	Class 1 (all other than class 2 or CTP insurance) Class 2 (includes riders) <sup>7</sup>
SA	11%	All general insurance
VIC, WA, TAS and NT	10%	All general insurance

- 1 General insurance can include life riders to general insurance policies in some jurisdictions, depending on the nature of the life rider.
- 2 Insurance duty has been abolished in the ACT for policies entered into on or after 1 July 2016.
- 3 Certain small businesses are exempt from some insurance duties from 1 January 2018 (eg, commercial vehicle insurance, commercial aviation insurance, occupational indemnity insurance, product and public liability insurance).
- 4 Lenders mortgage insurance duty is abolished for premiums in relation to insurance paid on or after 1 July 2017.

- 5 Crop and livestock insurance duty is exempt from duty and are not types of general insurance, if effected or renewed on or after 1 January 2018.
- 6 For accident insurance, duty of 5% of the net premium applies, and for CTP insurance a flat rate of \$0.10 applies per policy.
- 7 Class 2 general insurance refers to general insurance for, or relating to, professional indemnity, personal injury to a person relating to the person's travel on an aircraft, a motor vehicle (other than CTP insurance), a home mortgage that is a first mortgage, or a life insurance rider.

**Table 8: Life insurance duty**

State	Temporary / term	Trauma / disability income	Group	Other
NSW	5% of first year's premium	5% of all premiums	5% of first year's premiums (and for succeeding years for additional lives)	Approx. 0.1% of sum insured
QLD and TAS	5% of first year's premium	Other, approx., at highest rates on sum insured: – QLD 0.1% – TAS 0.1%		
SA	1.5% of all premiums			
ACT, NT, Vic, and WA	N/A			

**Table 9: Land tax and surcharge land tax rates<sup>1</sup>**

State	General land tax rate <sup>2</sup>	Surcharge land tax rate	Liability date
<b>ACT</b>	Fixed charge of \$1,326 plus valuation charge up to 1.12% on 3 year average unimproved value of the residential land	0.75% on the average unimproved value of all residential land owned by foreign persons	Midnight on 1 July, 1 Oct, 1 Jan and 1 April in each year
<b>NSW<sup>3</sup></b>	Land value of \$4,488,000 or more: 2%	2% on all residential land owned by foreign persons	Midnight on 31 December each year
<b>NT<sup>4</sup></b>	N/A	N/A	N/A
<b>QLD</b>	For companies, trustees or absentees, freehold land of \$10m or more: \$187,500 plus 2.75%	2% on all freehold land \$350,000 or more owned by foreign persons	Midnight 30 June each year
<b>SA</b>	Land value over \$1,350,000: \$11,437.50 plus 2.4% <sup>5</sup>	N/A	Midnight 30 June each year
<b>TAS</b>	Land (not principal residence or primary production land) value of \$350,000 or more: \$1,837 plus 1.5%	N/A <sup>6</sup>	Midnight on 1 July each year
<b>VIC<sup>7</sup></b>	Land value of \$3m and over: \$24,975 plus 2.25%	2% on all land owned by absentee owners  1% on all residential land in Melbourne's middle and inner suburbs left vacant for 6 months or more <sup>8</sup>	Midnight on 31 December each year
<b>WA</b>	Land value over \$11m: \$186,550 plus 2.67%	N/A <sup>9</sup>	N/A

<sup>1</sup> Tailored relief measures have been announced by a number of Australian States and the Australian Capital Territory, as part of the various State and Territory responses to the impact of COVID-19.

<sup>2</sup> Rates shown are generally the highest marginal rates which apply.

<sup>3</sup> As part of the NSW State Budget 2020-2021, the NSW Treasurer announced the Government is embarking on a public consultation process in relation to the reform of property taxes in NSW – specifically, replacing stamp duty and land tax with an annual property tax on an opt in basis. At the moment, this is a policy proposal only – there is no legislation available or confirmed commencement date. Public consultation will run to 15 March 2021 and information published by NSW Treasury indicates that following the consultation period, the policy will be developed in further detail and updates provided in the first half of 2021. The NSW Government also announced in July 2020, that it is intended that a land tax discount (equivalent to at least a 50% reduction in land tax, depending on the unimproved land value) will apply in respect of eligible new build-to-rent housing projects until 2040. It was also announced that an exemption from foreign investor surcharges will also be provided until 2040 for build-to-rent developers.

<sup>4</sup> While the Northern Territory does not currently impose a land tax, from 1 July 2019, the Northern Territory introduced a property activation levy on vacant and unoccupied properties in the Darwin CBD. Payment of this levy is first required in 2020-21 and is estimated to raise up to \$2m per annum.

<sup>5</sup> If the land is owned by a trust, land tax charged for the 2020-21 year is \$17,889.50 plus 2.4% on the taxable value of the land which exceeds \$1,350,000.

<sup>6</sup> In the Tasmania State Budget 2019-20, it was announced that a land tax surcharge apply to foreign ownership of residential and primary production land with effect from 1 July 2020. On 30 October 2020, the Tasmanian State Revenue Office released several guidelines related to land tax under the *Land Tax Act 2000* (Tas).

<sup>7</sup> In the Victorian State Budget 2020-21 it was announced that a 50% land tax discount is intended to be introduced during the 2022 land tax year for eligible build-to-rent developments, including an exemption from the absentee owner surcharge, until 1 January 2040. Additionally, during the 2021 land tax year, a land tax exemption is intended to be introduced for land owned and occupied by not-for-profit clubs that provide for the social, cultural, recreational, literary or educational interests of their members.

<sup>8</sup> Land that was exempt from land tax but ceases to be exempt is subject to a one-off special land tax charge, charged at a rate of 5% of the taxable value of the land and is imposed on the date the land ceases to be exempt. For absentee owners, if the land ceases to be exempt from 1 January 2020 the one-off special land tax charge is charged at a rate of 7%.

<sup>9</sup> A metropolitan region improvement tax rate of 0.14% applies to property located in the metropolitan area.



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