

Taxation Administration (Amounts Payable—Duty) Determination 2018 (No 1)

Disallowable instrument DI2018–116

made under the

Taxation Administration Act 1999, s 139 (Determination of amounts payable under tax laws)

Part 1 Preliminary

1 Name of instrument

This instrument is the *Taxation Administration (Amounts Payable—Duty) Determination 2018 (No 1)*.

2 Commencement

This instrument commences on 6 June 2018.

3 Definitions

In this instrument:

chapter 3 transaction—see the Duties Act, section 76.

commercial purpose means a purpose other than a residential purpose, a primary production purpose or a home business—see the Duties Act, section 6 and, in relation to a home business, see the *Planning and Development Act 2007*, section 247 (3).

Examples—commercial purpose

- industrial use – warehouses, factories
- business use – offices, restaurants, cafes, hotels or commercially run accommodation such as student accommodation, retirement villages, caravan parks
- retail use – shops, shopping centres, retail outlets

Note An example is part of the instrument, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

dutiable amount means—

- (a) for a dutiable transaction—the dutiable value of the dutiable property subject to the transaction; and

- (b) for a chapter 3 transaction—the amount on which duty is payable under the Duties Act, section 90.

dutiable property—see the Duties Act, section 10.

dutiable transaction—see the Duties Act, section 7 (2).

dutiable value—see the Duties Act, section 20.

Duties Act means the *Duties Act 1999*.

Part 2 Determination of amounts payable (Transfer rate)—Duties Act, s 31

4 Application of pt 2

This part applies to a dutiable transaction of dutiable property used, or that will be used, wholly for purposes other than a commercial purpose.

Examples—dutiable property used, or that will be used, wholly for purposes other than a commercial purpose

- Ms Winter buys a house to reside in
- Mr Zhang buys farm land and intends to use part of it for cultivation of crops and the rest for grazing (primary production purposes)
- Ms Spring buys a home and will use part of the house to run her bookkeeping business

Note An example is part of the instrument, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

5 Amounts payable (Transfer rate)

For the purposes of section 31 of the Duties Act, the duty payable on a dutiable transaction to which this part applies is the rate of duty listed in column 2 of table 1 opposite the dutiable amount listed in column 1.

Table 1 Amounts payable (Transfer rate)—Duties Act, s 31

column 1 dutiable amount	column 2 rate of duty
less than or equal to \$200 000	\$1.30 for every \$100, or part of \$100, of the dutiable amount
more than \$200 000 but not more than \$300 000	\$2 600 plus \$2.30 for every \$100, or part of \$100, of the dutiable amount that is more than \$200 000
more than \$300 000 but not more than \$500 000	\$4 900 plus \$3.60 for every \$100, or part of \$100, of the dutiable amount that is more than \$300 000
more than \$500 000 but not more than \$750 000	\$12 100 plus \$4.56 for every \$100, or part of \$100, of the dutiable amount that is more than \$500 000
more than \$750 000 but not more than \$1 000 000	\$23 500 plus \$6.10 for every \$100, or part of \$100, of the dutiable amount that is more than \$750 000

column 1 dutiable amount	column 2 rate of duty
more than \$1 000 000 but not more than \$1 455 000	\$38 750 plus \$6.60 for every \$100, or part of \$100, of the dutiable amount that is more than \$1 000 000
more than \$1 455 000	a flat rate of \$4.73 per \$100 applied to the total dutiable amount

Part 3 Determination of amounts payable (Commercial transfer rate)—Duties Act, ss 31 and 90

6 Application of pt 3

This part applies to—

- (a) a dutiable transaction of dutiable property used, or that will be used, partly or wholly for a commercial purpose; and
- (b) a chapter 3 transaction for which duty is payable at the determined rate under the Duties Act, section 90.

Examples—dutiable property used, or that will be used, partly or wholly for a commercial purpose

- Mr Smith buys land on which there is an existing office building
- Mr Jones buys land on which there is an existing building comprised of a suite of offices on the ground floor, and three levels of apartments on levels one, two and three
- Ms Chen buys land on which there is an existing farm. She plans to build chalets on part of the land from which to run her bed and breakfast business, while retaining the remainder of the land as a farm
- Baker Pty Ltd buys an old warehouse with the intention of converting it into an apartment tower and shopping complex

Note An example is part of the instrument, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

7 Amounts payable (Commercial transfer rate)

For the purposes of sections 31 and 90 of the Duties Act, the duty payable on a transaction to which this part applies is the rate of duty listed in column 2 of table 1 opposite the dutiable amount listed in column 1.

Table 2 Amounts payable (Commercial transfer rate)—Duties Act, ss 31 and 90

column 1 dutiable amount	column 2 rate of duty
less than or equal to \$1 500 000	nil
more than \$1 500 000	a flat rate of \$5.00 per \$100 applied to the total dutiable amount

Part 4 Determination of amounts payable (Certain business assets)—Duties Act, s 33

8 Application of pt 4

In this part:

relevant amount means, for property to which the Duties Act, section 33 (1) (a) or (b) (Certain business assets) applies that is the subject of a dutiable transaction, the dutiable value of the property.

9 Amounts payable (Certain business assets)

For the purposes of section 30 of the Duties Act, the rate of duty payable is 60 cents for every \$100, or part of \$100, of the relevant amount.

Part 5 Miscellaneous

10 Revocation

This instrument revokes *Taxation Administration (Amounts Payable—Duty) Determination 2017 (No 1)* DI2017-79.

11 Transitional provision

DI2017-79 continues to apply for the period 7 June 2017 to 5 June 2018, inclusive.

Andrew Barr MLA
Treasurer
31 May 2018