

Revenue Rulings

Duty concession for refurbished lots

Revenue Ruling DA.011

Replaces SD.069

Ceased 30 September 2008 - Replaced by [DA-048](#) - Please refer to our [website](#) for details.

Preamble

The *Duties Act 2000* (the Duties Act) imposes stamp duty on a transfer of land. Section 21(4) of the Duties Act exempts the actual cost of future or continued refurbishment of an existing building in instances when the consideration in the contract of sale includes an amount in respect of that refurbishment.

Section 21(4) of the Duties Act provides that the transferor must have been the first registered proprietor of the lot on the relevant plan of subdivision and the transfer must be the first transfer of the lot after the registration of the plan.

The purpose of this ruling is to clarify the circumstances under which the concession is applicable.

Ruling

Application

The amount applicable to the refurbishment concession which is able to be deducted from the contract price, will be the amount which is attributable to the work to be finalised.

The concession can only apply prospectively and, therefore, only costs incurred after the date of sale (contract date) are able to be deducted for the purposes of calculating duty. (These costs may be attributed to individual lots on the basis of 'Unit Entitlement')

Refurbishment costs

The term 'building work' in section 21(5) of the Duties Act receives an extremely wide definition. There are a number of costs which are identifiable as being integral to the refurbishment of a building. There are also costs which are clearly not integral to the refurbishment process but are collateral to the building project. The list below, while not exhaustive, includes the main categories of costs/items.

Costs which may be attributed to the refurbishment include:

- Legal costs associated with the permit or bringing the building to completion.

- Surveyors' and consultants' fees.
- Building permit and other like fees.
- Cost of demolition and removal work.
- Cost of materials, labour and finance for refurbishing the building.
- The profit accruing to the builder/developer.

Costs which are not regarded as being attributable to the refurbishment include costs associated with the sale of the property such as:

- Legal or other business expenses.
- Advertising or promotional expenses.

Evidentiary Requirements

Certain documents must accompany the transfer of land when presented to or lodged with the Commissioner for stamping. These are:

1. A copy of the relevant contract of sale and, if separate, a copy of the contract with the transferee for the refurbishment.
2. A copy of the building permit, or building approval or permit relating to the refurbishment;
3. A statutory declaration by the transferor as to the matters prescribed by the Commissioner. This is a requirement under section 21(4)(d)(iii) of the Duties Act. The declaration must state:
 - (a) The date of commencement, or proposed date of commencement, of the refurbishment.
 - (b) The estimated cost of the refurbishment and, if the works had already commenced at the date of the contract of sale, the value of the work completed as at that date.
 - (c) That the transferor is the first registered proprietor within the meaning of the *Transfer of Land Act 1958* of the subject lot.
 - (d) That the transferor has not previously been the registered proprietor of the subject lot, and that the transfer of the subject lot to the transferee is the first transfer of the lot after registration of the plan of subdivision.

(e) That, to the knowledge of the transferor, the transferee has not entered into a contract for refurbishment of the lot, other than in respect of the refurbishment referred to in the contract of sale.

4. If building work has been completed at the date the transfer is stamped, then evidence of the actual cost of the refurbishment is required as this is the figure on which the benefit is based. Where the stated actual building works cost differs substantially from the estimated cost the Commissioner may require additional evidence as to the costs incurred in the refurbishment.

Please note that Rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of the individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

**Commissioner of State Revenue
October 2001**



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