

Duty on land and building packages

Revenue Ruling DA.016

Replaces SD.064

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

Preamble

The *Duties Act 2000* (the Act) imposes duty on the transfer or conveyance of dutiable property.

Where a person enters into a contract of sale for the purchase of a land and building package, and construction of the building has not commenced or is incomplete at the date of the contract of sale, uncertainty sometimes exists as to the value upon which the duty is calculated under the provisions of section 21(3) of the Act.

Section 21(3) provides duty relief by reference to the cost of construction after the date of the contract of sale being deducted from the consideration for the sale.

The purpose of this ruling is to clarify the circumstances where the concession provided by section 21(3) will apply and identify the methodology used to calculate the dutiable value.

Ruling

The value upon which duty is payable under section 21(3) of the Act is determined by deducting the cost of any construction on the land (inclusive of GST) occurring after the contract of sale from the contract price (inclusive of GST) of the land and building package.

The term 'construction' in section 21(3) includes any construction that takes place after the contract of sale was entered into. The concession applies to the construction cost which is the cost to the purchaser for the construction to occur after the date of the contract of

sale. The value of any improvements existing on the land at the contract date is included in the dutiable value.

The State Revenue Office (SRO) considers the phrase 'any amount paid or payable in respect of the construction of a building' in section 21(3) to have an extremely wide meaning. There are a number of costs, which are identifiable as being integral to the construction of the building and are deductible. There are also costs that, although associated with the building project, are clearly not incurred in the construction process and therefore are not deductible.

Deductible costs

The following, whilst not exhaustive, includes the main categories of costs or items that may be attributed to the construction of the building (occurring after the contract date) and are deductible:

- 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 material, labour and finance for constructing the building
- The profit accruing to the builder/developer (in relation to the building only)
- GST in respect of construction costs after the contract date

Non-deductible costs

Costs that are not regarded as being attributable to the construction and are not deductible include costs associated with the sale of the property such as:

- Legal or other business expenses
- Advertising or promotional expenses
- Commissions paid for selling the property
- Furniture packs
- GST on non-construction costs and construction that occurred prior to the contract date

Evidence of value of costs

Proof by statutory declaration, made by the transferor, stating the construction costs occurring after the contract date must be provided at stamping.

The SRO provides a pro forma statutory declaration, which includes explanatory notes and a checklist of documentation that must be provided at the time of stamping. It is important that the GST payable in relation to the taxable supply on the contract of sale be shown in the statutory declaration. If the pro forma statutory declaration is not used, the declaration produced by the transferor must address the matters stated in the pro forma statutory declaration.

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
February 2002

