

ADVISOR DAY 2020

TRANSACTIONAL BASICS

| A REFRESHER ON TRANSFER DUTY, GST
AND LAND TAX

Presented by

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TOPICS

- A. TRANSFER DUTY – AGGREGATION, EXEMPTIONS, CONCESSIONS
- B. GST – GOING CONCERN
- C. LAND TAX
- D. LANDHOLDER DUTY

Transfer duty

- What is a 'dutiabale transaction'?

Transfer duty

- How much duty is payable?

Dutiable value	Duty rate
Not more than \$5,000	Nil
More than \$5,000 up to \$75,000	\$1.50 for each \$100, or part of \$100, over \$5,000
\$75,000 to \$540,000	\$1,050 plus \$3.50 for each \$100, or part of \$100, over \$75,000
\$540,000 to \$1,000,000	\$17,325 plus \$4.50 for each \$100, or part of \$100, over \$540,000
More than \$1,000,000	\$38,025 plus \$5.75 for each \$100, or part of \$100, over \$1,000,000

Transfer duty

EXAMPLE

You sign an agreement to buy a house with a dutiable value of \$365,400. The house will be an investment property, so you don't qualify for a home concession.

As the value is within the \$75,000 to \$540,000 range, duty is assessed at \$1,050 plus \$3.50 for each \$100, or part of \$100, over \$75,000.

This is how the duty is calculated:

\$1,050 (for the first \$75,000)

+ \$10,164 (\$3.50 for every \$100 in \$290,400, the balance above \$75,000)

= \$11,214 (the transfer duty payable)

Transfer duty

Transfer Duty Calculator

Clear Report Calculate Help

Enter the details and click 'Calculate'.

Document details

File reference (optional):

Document date:

Unconditional date (if applicable):

Is this a relevant transfer agreement (s.155D)? Yes No

Date that document is due to be lodged at OSR:

Date document will be lodged and paid at OSR:

Assessment type?: Commissioner Assessment Self Assessment

Next >

Nature of interest

< Previous [Show nature of interest as a fraction, eg. 1/2, 1/3, 1/4](#)

First home vacant land concession calculation?: Yes No

First home vacant land:

First home:

Home:

No concession claimed:

Property

Unencumbered value of entire property:

Value of any non-residential property:

Is the acquisition wholly or partly by way of gift? Yes No

Additional Foreign Acquirer Duty (AFAD)

Is there one or more foreign persons?: Yes No

Assessment details

Assessment due date:

Transfer Duty payable (in \$):

Additional Foreign Acquirer Duty payable (in \$):

Unpaid Tax Interest (UTI) details

Non-compliance period (in days):

UTI start date:

Number of days UTI accrued (in days):

UTI rate (% p.a.):

Daily UTI amount (in \$):

UTI to be paid with lodgement (in \$):

Total liability (in \$):

Clear Report Calculate Help

Saturday, 29 August 2020 13:22:33
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Transfer duty

Dutiable vale	Duty payable
\$10,000	\$75
\$100,000	\$1,925
\$500,000	\$15,925
\$800,000	\$29,025
\$1,000,000	\$38,025
\$2,000,000	\$95,252
\$3,000,000	\$153,025

Transfer duty

- Timing – WHEN is it payable?
- Example:
 - Sale of land
 - Price: \$2,000,000
 - Condition: Buyer has 18 months to obtain a DA on terms they're happy with
 - Duty of \$95,525 is payable within 30 days of the agreement being signed.
 - If the duty isn't paid for 18 months - \$95,535 is payable along with \$10,654 in interest (UTI)

Transfer duty

- Who pays duty – contractual vs legislative positions



Transfer duty

Example:

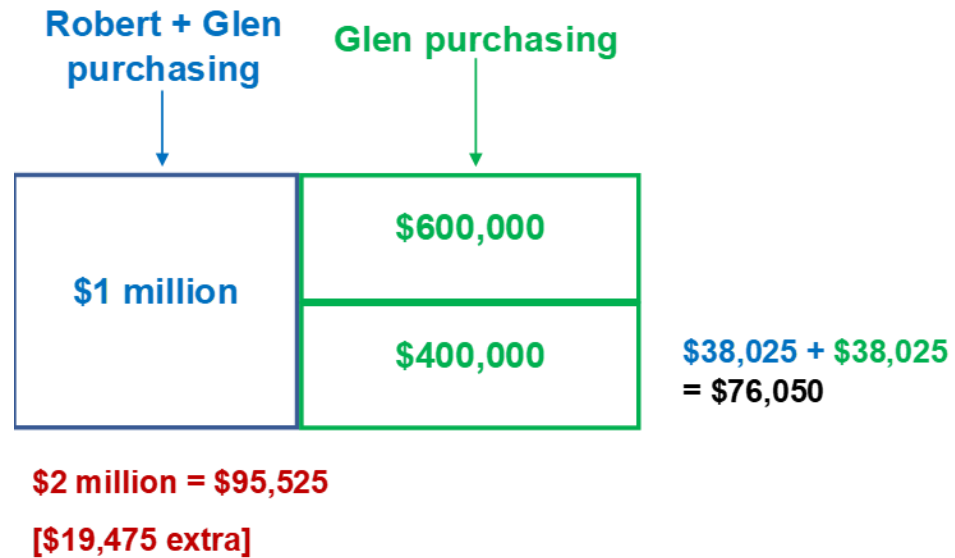
- No written contract or agreement.
- OSR can pursue the buyer or seller.
- Seller presumes the buyer will pay (standard commercial position).
- Buyer doesn't do it.
- OSR pursues the Seller – can the Seller sue the Buyer?

Transfer duty

- Related parties

Transfer duty

- Aggregation



Transfer duty

- UTI – unpaid tax interest
- Current rate – 8.10%
- What happens if stamp duty is not paid?

Transfer duty

- Exemptions and concessions

GST – going concern

- Why is the exemption important, if you can just claim the GST back anyway?
- Example:
 - Duty on \$1,100,000 - \$43,775
 - Duty on \$1,000,000 - \$38,025
 - *SAVING OF \$5750*

GST – going concern

- Basic requirements of the exemption:
 - ✓ Enterprise
 - ✓ Carried on until settlement
 - ✓ Consideration
 - ✓ Registration
 - ✓ Agreed in writing

GST – going concern

- Sale of a business



Closing the business



Taking key equipment

GST – going concern

- Sale of land – creating a going concern by putting in place a lease which will continue after settlement

GST – going concern

- Sale of land and business from a single seller

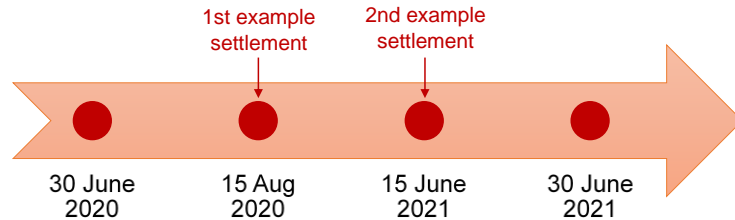
Land tax

- Thresholds

ENTITY	TAXABLE VALUE AS AT 30 JUNE 2020
INDIVIDUALS	\$600,000
COMPANIES	\$350,000
TRUSTEES OF TRUSTS AND SUPERANNUATION FUNDS	\$350,000
FOREIGN COMPANIES	\$350,000
TRUSTEES OF FOREIGN TRUSTS	\$350,000

Land tax

Sale/purchase of land – adjustments



Unimproved value = \$500,000

Land tax = \$4000

- 15 August 2020
 - Without special condition: seller gets \$0
 - With special condition: seller gets \$3495.89 from buyer
- 15 June 2021
 - Without special condition: seller gets \$0
 - With special condition: seller gets \$164.38 from buyer

Landholder duty

- If an entity owns land worth more than \$2 million (including improvements) – duty is payable on an acquisition in that landholder (i.e. a share purchase).

Summary

What we covered today:

- Transfer duty
- GST – going concern
- Land tax
- Landholder duty

Summary

- **One takeaway** – planning/structuring a deal is like income tax planning – let's call it GST or transfer duty planning.
- Questions?

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