

# REVENUE CIRCULAR

## RC-GEN-006:

### NEW STAMP DUTY ACT FROM 1 JANUARY 2008

#### Purpose

This Circular provides information on the *Revenue Law Reform (Stamp Duty) Act 2007* ("Reform Act"), which implements legislative amendments to the stamp duty legislation to give effect to the introduction of the new *Taxation Administration Act* ("new TAA"). For further information on the new TAA, please refer to Revenue Circular RC-GEN-005: *New Taxation Administration Act*.

#### Summary of amendments

With the introduction of the new TAA, it is necessary to consolidate the stamp duty taxing provisions that are currently contained in the *Taxation (Administration) Act* ("current TAA") and *Stamp Duty Act* ("current SDA") into a single Act. Recognising that the current TAA contains the majority of the stamp duty taxing provisions, the Reform Act makes the following amendments to the stamp duty legislation which will take effect from 1 January 2008:

- The current TAA will be converted into a new *Stamp Duty Act*.
- The current SDA will be repealed.

#### Conversion of current TAA into new *Stamp Duty Act*

The conversion of the current TAA into a new *Stamp Duty Act* ("new SDA") by the Reform Act is a process whereby:

- The current TAA is renamed as the "*Stamp Duty Act*".
- The taxing provisions from the current SDA are inserted into this new SDA.
- The administration provisions are removed from the new SDA (the new TAA now contains all general administrative provisions).
- The new SDA is updated to align with the new TAA by inserting new definitions, updating terminology and improving the interpretation of some provisions by redrafting with contemporary legislative drafting styles.

These amendments do not impose stamp duty on instruments and transactions that were not taxable before the amendments commenced. Even though the amendments will result in some stamp duty provisions appearing different in form to the current provisions, the application of those provisions will remain the same.

Because the new SDA is converted from the current TAA, most of the taxing provisions remain in the same location. The following information provides a guide to the location in the new SDA of the relevant provisions from the current SDA.

## Preliminary Matters

Section 5(3) of the new TAA provides that the new SDA must be read as one Act with the new TAA, replicating the effect of section 3 of the current TAA.

## Stamp Duty Provisions

As set out in Table 1 below, sections 4 to 8A of the old SDA which provide for the imposition and rate of duty, exemptions and specific taxing and valuation rules, are generally re-enacted in Parts 1 and 2 of the new SDA. The exceptions to this are sections 7 and 8, which are general administrative rules. Reference should be had to sections 27 and 73 of the new TAA for the provisions for rounding and the waiver of tax.

**Table 1: Taxing provisions**

Current SDA	New SDA
s. 4 – Imposition of Duty	s. 5 – Imposition of Duty
s. 5 – Rate of duty	s. 6 – Rate of duty
s. 6 – Exemptions	s. 5(2) – Stamping of counterparts or copies and s. 17
s. 6A – Stamp duty on statutory corporations s. 6B – Stamp duty on Government Business Divisions	s. 10 – Duty on statutory corporations and Government Business Divisions
s. 8A – Assessing duty in certain circumstances	s. 4AC(2) – Valuing certain interests in property s. 4A(5) – Unencumbered value

Sections 8B to 8H of the current SDA set out several specific stamp duty concessions and exemptions such as the first home owner concession. These provisions have been re-enacted in Part 5 of the new SDA. Table 2 below sets out the new section numbers of these provisions.

**Table 2: Concessions and Exemptions**

Current SDA	New SDA
s. 8B – Concession for first home owners	ss. 88, 89 – First home owner concession
s. 8C – Rebate for principal place of residence	ss. 88, 90 – Principal place of residence rebate
s. 8E – Exemption from duty on conveyance of family farming property to family members, family companies or family trusts s. 8F – Application for exemption allowed under section 8E	s. 87 – Exemption from duty on conveyance of family farming property to family members, family companies or family trusts
s. 8G – Refund of duty paid on certain matrimonial property settlements	s. 91 – Conveyances of matrimonial properties
s. 8H – Meaning of “managed investment scheme conveyance”	s. 92 – Managed investment scheme conveyance

## Miscellaneous Matters and Transitional Provisions

The transitional provisions are repealed, but section 97 of the new SDA provides that the effect of the provisions is preserved as far as they have continuing relevance.

## The Schedules

The Schedules to the new SDA will perform the same function as they do in the current TAA:

- Schedule 1 contains the same classes of dutiable instruments and rates of duty as in the current SDA.

However, the item numbers in this Schedule have been renumbered (see Table 3 below) and the provisions have been updated to use contemporary legislative drafting styles.

**Table 3: Schedule 1**

<b>Current SDA Schedule 1</b>	<b>New SDA Schedule 1</b>
Item 5 – Conveyance of Dutiable Property	Item 1 – Conveyances
Item 6 – Deeds	Item 2 – Deeds not otherwise charged
Item 7 – Foreclosure Order	Item 1(10)
Item 11 – Instrument of Appointment Any Trustee	Item 3 – Instrument for the appointment of trustee
Item 12 – Lease	Item 4 – Lease of land in the Territory
Item 16 – Motor Vehicle Certificate of Registration	Item 5 – Motor vehicle certificate of registration
Item 17 – Policies of Insurance	Item 6 – Policy of insurance
Item 18 – Policies of Life Insurance	Item 6 – Policy of insurance
Item 22 – Counterparts or Copies	Item 8 – Counterpart or copy of duly stamped instrument
Item 23 – Instrument to Correct Error	Item 7 – Instrument to correct error
Item 24 – Instruments Relating to Managed Investment Schemes	Item 1(8)

- Schedule 2 contains the same exemptions as Schedule 2 of the current SDA.

However, the items have been grouped under the headings “Conveyances”, “Leases”, “Insurance”, “Motor Vehicle Certificates of Registration” and “Miscellaneous Instruments” in order to make the Schedule easier to use (see Table 4 below). The item numbers in this Schedule have also been renumbered and the provisions have been updated to use contemporary drafting styles.

**Table 4: Schedule 2**

<b>Current SDA Schedule 2</b>	<b>New SDA Schedule 2</b>
Item 5	Item 15
Item 6A	Item 1
Item 6B	Item 16
Item 7	Items 2 and 17
Item 8	Item 3
Item 8A	Item 4
Item 9	Item 5
Item 9A	Item 6
Item 9B	Item 7
Item 23	Item 8
Item 26	Item 24
Item 30	Item 19
Item 31	Item 20
Item 32	Item 21
Item 32A	Item 22
Item 33	Item 9
Item 33A	Item 10
Item 33AA	Item 11
Item 33B	Item 12
Item 33C	Item 13
Item 34	Item 25
Item 35	Item 26
Item 36	Item 14
Item 37	Item 23
Item 38	Item 27
Item 39	Item 28

**Commissioner’s Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Circular. All Circulars and Guidelines are available from TRO’s website.**

Refer to the *Revenue Law Reform (Stamp Duty) Act 2007* (and explanatory statement) for precise details of the amendments.



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**COMMISSIONER OF TAXES**

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