

The Newsletter of the Queensland Office of State Revenue

Volume 13
June 2002

FROM THE EXECUTIVE DIRECTOR

The introduction of the Duties and Taxation Administration Acts (TAA) has been successfully accomplished. Thanks to the OSR staff for the huge effort which they put in and to our clients for the enthusiasm with which you tackled the new legislation.

OSR undertook significant preparatory work for the commencement of the new legislation. Comprehensive client education and staff training programs ensured the transition was as smooth as possible. Participants at public information seminars and practical workshops commented favourably on the program and some even went so far as to say that, in their experience, it was the best roll out of new legislation.

The Office took this opportunity to introduce a new way of communicating and doing business with clients. Staff are committed to providing user-friendly, proactive information services to assist clients in meeting their obligations. The Office's publications were revised and Information Sheets, Frequently Asked Questions, Revenue Rulings and Practice Directions rewritten in plain English with minimum "legalese".

Our revised website is now a 'virtual customer service officer', providing answers to many client queries. The increase in use of our website has been exponential. In the whole of 2000-01 there were just under 3 million hits. So far in this financial year, there have been nearly 6 million hits. The use of our new calculators, accessed through the website, has also increased in leaps and bounds (see article inside).

The hard work invested in the rewrite of the Stamp Act was recognised by Queensland Treasury with the Duties Act and TAA legislation development teams, led by Elizabeth Goli and Melissa Daly, receiving an Australia Day Award. Individual awards went to Melinda Watson for her work on the Duties Act and Greg Ferguson for his work on the implementation strategy.

The provisions of the TAA will be progressively applied to pay-roll tax and land tax legislation to improve the consistency and operation of administrative arrangements.

OSR is now working hard to adjust its operating approach to take account of the new legislation. We are working on a Client Relationship Management Strategy and client consultation is scheduled to start in the next month or so. We will be selecting a cross-section of our clients for this purpose and seek your co-operation if selected (if you would like to be included, please let me know).

Regards
James Green

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... A BIT OF TRIVIA ...

1939

ERNEST ORLANDO LAWRENCE RECEIVED A NOBEL PRIZE FOR THE INVENTION OF THE FIRST CYCLOTRON (A TYPE OF PARTICLE ACCELERATOR)

1959

HAWAII BECAME THE 50TH STATE OF THE UNITED STATES OF AMERICA. IT WAS FIRST DISCOVERED IN 1778 BY CAPTAIN COOK.

1982

QUEEN ELIZABETH II STADIUM (ANZ STADIUM) IN BRISBANE WAS BUILT FOR THE 1982 COMMONWEALTH GAMES

THE NEW OSR CALCULATORS

The new OSR calculator package has been designed to simplify and expedite duty calculations. When designing the package, suggestions from internal and external users were taken on board and the end result is one package which:

- performs all types of duty calculations including unpaid tax interest;
- is logical and intuitive to use; and
- provides a detailed report for each calculation.

As we go to print, **2025** clients have downloaded the new calculator package from the OSR web site since February. The Client Contact Centre has taken approximately 185 calls on the new package. Many of these calls have been to check client's internal systems against the package's system requirements. As the calculator package has been designed for the average user, some clients have had to update their systems with readily available freeware.

Once installed, the calculator package runs from a desktop icon. The package consists of calculators for:

- Transfer Duty
- Lease Duty (including coverage of rent variations)
- Mortgage Duty including Home Mortgage, Home Mortgage Further Advances, Home Refinance, Composite Claims and a Ready Reckoner
- Unpaid Tax Interest (UTI)

All the calculators sit in one window or screen on your computer and when the package has been opened, all the calculators are available.

Each calculation now provides a written report which may be printed. In response to client suggestions, the report includes the equation and the sections of the Duties Act and Taxation Administration Act that relates to the calculation. Other features include developing the transfer duty calculator to calculate fractional interests with less data input.

OSR provides an email subscription service to clients who have downloaded the calculator package. This service informs clients of any updates to the package and when needed, changes to the interest rate for UTI calculations. Over 1000 clients already subscribe to this free service.

To download the calculators, simply access the OSR web site at www.osr.qld.gov.au and select "Services" from the top blue menu bar, and then choose "Downloadable Calculators". Once you are at the Downloadable Calculators page, please read the information and instructions. ***Please check carefully that you have the system requirements*** to run the package as they are vital to the package installing and operating correctly. We have found that some clients have got into difficulties because they did not apply the necessary updates to their system before installing the calculators. If you require any further information or assistance, please phone the staff at the **Client Contact Centre** on **1300 300 734**.

REVENUE AND OTHER LEGISLATION AMENDMENT ACT 2002

The *Revenue and Other Legislation Amendment Act 2002* received Royal Assent on 17 May 2002. This Act makes a range of amendments to legislation administered by the Office of State Revenue.

A copy of the Bill and Explanatory Notes is available from the Office of Parliamentary Counsel website at www.legislation.qld.gov.au. Here's a brief summary of the main revenue amendments.

Debits Tax

An existing anti avoidance provision in the Act ensures that a resident is liable for debits tax if they operate an account in another jurisdiction in which debits tax is not imposed so as to avoid the tax in Queensland. The amendment extends liability in these cases also to the financial institution with which the account is kept. However, the financial institution's liability will only arise if the institution promoted the establishing and keeping of the account outside Queensland for the sole or dominant purpose of avoiding the tax. The amendment follows the abolition of debits tax in New South Wales from 1 January 2002.

Duties

Exemptions for de facto couples

The amendment extends the existing transfer duty exemption for de facto relationship instruments relating to breakdown of the relationship to recognised cohabitation agreements and recognised separation agreements and instruments under these agreements. This follows the extension by the Commonwealth of similar relief to married couples.

The definition of "de facto relationship property" has been amended to cover all property of the de facto relationship, and the definition of "de facto relationship instrument" is no longer limited to transfers of assets under the de facto relationship instrument between the parties to the relationship.

Mortgages

To remove doubt, the amendment confirms the current operation of the provisions of the *Duties Act 2001*, published in Practice Direction 26.1, that the Act applies to mortgages executed prior to 1 March 2002, where there is a dutiable further advance after 1 March 2002. The amendment applies from 1 March 2002.

First Home Owner Grant

An applicant permanently separated from their de facto spouse will now be treated in the same manner as a married applicant who has permanently separated from their spouse. This means that the application will be determined without regard to the former de facto spouse's ownership or occupation of residential property.

Also, the amendment gives effect to the changes to the additional grant scheme for new homes, announced by the Commonwealth on 9 October 2001 and administered by the Office since that date under administrative arrangements.

REVENUE AND OTHER LEGISLATION AMENDMENT ACT 2002 (CONT'D)

Fuel Subsidy

As fuel subsidy recipients would be aware through our Website and Information Bulletins, a number of administrative arrangements to reduce red tape and administration costs associated with the scheme were introduced in 2001. These have now been incorporated in the legislation.

- Waiver of the requirement for licensed BEUs to lodge an annual return if they have not claimed any subsidy during the financial year to which the return relates.
- Payment of an annual provisional subsidy of up to \$1,000 in advance to licensed BEUs on certain conditions.
- Extension of the entitlement to the BEU subsidy to cover incidental use of diesel in diesel engine road vehicles, such as to power truck refrigeration equipment.
- Relaxation of the conditions for a licensed BEU to claim a subsidy more frequently than every three months.

Other amendments are as follows:

- A licensed BEU must now notify the Commissioner if they cease operation of a storage site, or cease operation as a BEU, part-way through a financial year. The Commissioner may request the early lodgement of an annual return where a person ceases operation as a BEU part-way through the year.
- The Commissioner and a subsidy recipient may enter into a written agreement as to an estimated amount required to be repaid. In those circumstances, the recipient's entitlement to a review of the Commissioner's decision to request repayment of the amount is removed, given the agreement.
- The operation of provisions which enable the Commissioner to defer payment of provisional subsidies to, and subsidy claims by, retailers in limited cases has been clarified.
- The Act has now been clarified so that more than one adjustment may be made to a retailer's anticipated annual subsidy during a financial year.

Pay-roll Tax

The following revenue measures announced in the 2001-02 State Budget have been enacted with effect from 1 July 2002.

- Inclusion of certain eligible termination payments within the definition of "wages".
- Reduction of the rate of pay-roll tax from 4.8% to 4.75%.
- Valuation of wages that are fringe benefits as the fringe benefits taxable amount, rather than the fringe benefits taxable value. That is, the grossed-up value of the benefits will now be taken into account as wages.

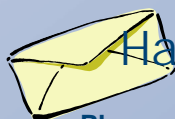
Many of the beneficial changes commenced retrospectively.

GRANTS & SUBSIDIES FACTS, FIGURES AND INFORMATION NOW AVAILABLE IN NEWSLETTERS & ON WEBSITE

The Grants and Subsidies Division of the Office of State Revenue recently launched a new initiative to publish on our website statistical information on the First Home Owner Grant. You will now be able to see how many grants have been paid in each quarter since the scheme started, and what percentages of grants are paid in different regions throughout Queensland. The figures will be updated quarterly, and are expected to be of interest to economic agencies as well as the general public.

The Grants and Subsidies Division has a continuing program to improve the quality and accessibility of information available to grant and subsidy scheme participants. One of the initiatives currently underway is the development and distribution of newsletters for retailers and bulk end users under the fuel subsidy scheme, and for financial institutions in relation to the First Home Owner Grant. The newsletters provide information on key administrative and technical issues and a ready reference list to other scheme publications, such as information bulletins and practice directions. The newsletters will be published periodically.

Anyone interested in receiving newsletters or other Grants and Subsidies Division publications by email, can register with the Office by emailing to qldfhogsupport@osr.treasury.qld.gov.au for the First Home Owner Grant or to fuelsubsidy@osr.treasury.qld.gov.au for the Fuel Subsidy Scheme.



Have you Changed your Address?

**Please contact the Office if your details need updating
email - communication@osr.treasury.qld.gov.au
or fax - (07) 3836 0442**

Please quote the reference number on the envelope.

DUTIES ACT FREQUENTLY ASKED QUESTIONS

Question 1

If a purchaser acquires several properties by executing separate contracts for each property, will the values be aggregated for assessment purposes?

Answer

See section 30 of the *Duties Act 2001*. If the transactions together form, or arise from what is, substantially one arrangement, they will be aggregated and treated as a single dutiable transaction.

Question 2

Is a contract to build treated as an agreement for the sale of chattels (as materials are supplied under it), so that it can be aggregated with a transfer of the land on which the building is to be built?

Answer

No. Building contracts are not considered to be agreements for the sale of chattels. They are an entire agreement for the provision of services, and therefore are not a dutiable transaction.

Question 3

How is nexus determined in relation to the transfer of a debt secured by dutiable property?

Answer

The dutiable transaction is the transfer of an existing right. Section 28 provides for an apportionment of particular dutiable transactions relating to existing and new rights. If the debt is secured on property in and outside Queensland an apportionment is made. The situs of the debt is not relevant.

Question 4

Are transfers of Life Insurance Policies dutiable transactions under the *Duties Act 2001*?

Answer

No. See sections 9 and 10. Life insurance policies are not dutiable property and transfers of life insurance policies are not dutiable transactions. Available Information: Information Sheet Dutiable Transactions.

Question 5

Does transfer duty apply to a share cancellation which is not a share buy back as defined under the Corporations Law?

Answer

No. See section 9(1)(d) and the Dictionary definition of share buy back. If the cancellation is not under a share buy back it will not be dutiable.

These and other frequently asked questions can be found on the OSR website at

RECENTLY RELEASED PRACTICE DIRECTIONS

Practice Directions (*Duties*):



- DA 1.1 01/03/2002 Adjudication fees
- DA 2.1 01/03/2002 Treatment of barter or trade dollars
- DA 3.1 01/03/2002 Variations to agreements for the transfer of land by deed or by exchange of solicitors' letters or other correspondence
- DA 4.1 01/03/2002 Land rich duty - Commissioner's satisfaction in relation to related person's interest being used and acquired independently
- DA 5.1 01/03/2002 Marine liability insurance and hull insurance
- DA 6.1 01/03/2002 Sale of retirement village businesses inclusion of contingent liabilities to determine value of consideration paid
- DA 7.1 01/03/2002 Liability for transfer duty in relation to a transfer of dutiable property
- DA 8.1 01/03/2002 Lease or agreement to lease of a dwelling house - Section 244 of the *Duties Act 2001*
- DA 9.1 01/03/2002 Land rich provisions - issue of shares in a public float - related persons
- DA 10.1 01/03/2002 Car parking licences - liability to lease duty
- DA 11.1 01/03/2002 Lease duty - storage agreements
- DA 12.1 01/03/2002 Form 1 transfer signed under a Power of Attorney
- DA 13.1 01/03/2002 Treatment of transfers and agreements for transfer of land which are not registered
- DA 14.1 01/03/2002 Guidelines for administering section 148(1)(c) of the *Duties Act 2001*
- DA 15.1 01/03/2002 Concession for dutiable transactions for particular family businesses - descendent who is a minor
- DA 16.1 01/03/2002 Guidelines for determining the existence of a business - family businesses
- DA 17.1 01/03/2002 Amalgamation of trade unions transfer duty on transfer of property
- DA 18.1 01/03/2002 Application of land rich provisions to company title units
- DA 19.1 01/03/2002 Amounts payable by a purchaser under a special condition of an agreement which are in addition to the purchase price
- DA 20.1 01/03/2002 Distribution in the estate of deceased person - power to appropriate
- DA 21.1 01/03/2002 Mortgage duty concessions - costs associated with establishing a mortgage
- DA 22.1 01/03/2002 Insurance duty on stand alone trauma and disability insurance
- DA 23.1 01/03/2002 Vehicle registration transfers between family members (including de facto relationships)
- DA 24.1 01/03/2002 Concession for homes - signing of an approved form by a person other than the applicant
- DA 25.1 01/03/2002 Assessment of transfer duty on transfers of crown leases that can be converted to freehold title
- DA 26.1 01/03/2002 Upstamping of mortgages - transitional arrangements
- DA 27.1 01/03/2002 Transfer duty on transfers of land to local governments
- DA 28.1 01/03/2002 Upstamping of instruments securing foreign currency advances
- DA 29.1 01/03/2002 Transfers held in escrow and the exemptions relating to the *Family Law Act 1975* (Commonwealth) and the *Property Law Act 1974*
- DA 30.1 01/03/2002 Insurance duty - travel insurance outbound from Australia
- DA 31.1 01/03/2002 Transfer duty relief on acquisition of rural properties for farm rationalisation purposes
- DA 32.1 01/03/2002 Mergers, acquisitions and transfers of engagements of financial institutions
- DA 33.1 01/03/2002 Lease duty - distinguishing between rent and premium
- DA 34.1 01/03/2002 Occupancy right - when lease duty will not apply
- DA 35.1 01/03/2002 Self assessment - endorsement of an instrument prior to payment of duty
- DA 36.1 01/03/2002 Transfer of an interest in residential land to a spouse or de facto spouse - reassessment of the transfer duty and mortgage duty home and first home concessions
- DA 37.1 01/03/2002 Mortgage duty - nexus for insurance premium funding arrangements
- DA 38.1 01/03/2002 Securitisation transactions
- DA 39.1 01/03/2002 Concessional (\$5) duty on a transfer of mortgage
- DA 40.1 01/03/2002 Right to income from dutiable property
- DA 41.1 01/03/2002 Transfers of secured and unsecured debts
- DA 42.2 01/03/2002 Security trusts
- DA 43.1 01/03/2002 Queensland business assets - supply of land, money, credit or goods
- DA 44.1 01/03/2002 De facto relationship instruments and de facto relationship property
- DA 45.1 01/03/2002 Application of Section 90(1)(a) of the *Family Law Act 1975* (Commonwealth) to instruments executed in accordance with consent orders

RECENTLY RELEASED REVENUE RULINGS

Revenue Rulings (*Duties*):

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- DA 1.1 01/03/2002 Concession for homes - residential purposes
 - DA 2.1 01/03/2002 Concession for homes - occupancy requirements
 - DA 3.1 01/03/2002 Inclusion of chattels in the acquisition of a home or first home
 - DA 4.1 01/03/2002 Reassessment of vehicle registration duty - non-complying use by primary producer
 - DA 5.1 01/03/2002 Lodgement of alternative documents for reassessment purposes where the original instrument is not available
 - DA 6.1 01/03/2002 Insurance duty on contracts of general insurance subject to GST
 - DA 7.1 01/03/2002 Insurance duty on policies of accident insurance under the *Workcover Queensland Act 1996* subject to GST
 - DA 8.1 01/03/2002 Vehicle registration duty on the registration or transfer of vehicles subject to GST
 - DA 9.1 14/03/2002 Extension of concessions for securitisation
 - DA 10.1 01/03/2002 Nominee Agreements - Under an agency relationship
 - DA 12.1 01/03/2002 Extension of time to lodge an agreement transferring dutiable property
 - DA 13.1 01/03/2002 Hire duty on the hire of goods subject to GST
 - DA 14.1 01/03/2002 Transfer duty - cancelled agreements
 - DA 15.1 01/03/2002 Concessions for particular investment schemes
 - DA 16.1 01/03/2002 Private rulings on unexecuted instruments or proposed transactions
 - DA 17.1 01/03/2002 Reassessment of duty in particular circumstances under section 499 of the *Duties Act 2001*
 - DA 18.1 01/03/2002 Objections and appeals against assessments of duty
 - DA 21.1 01/03/2002 Concessions for mortgage duty on home mortgages
 - DA 22.1 01/03/2002 Concession for mortgage duty in relation to home refinance mortgages
 - DA 23.1 01/03/2002 Reassessment of transfer duty due to a withdrawal of a home concession
 - DA 24.1 01/03/2002 Transfer duty on dutiable transactions subject to GST
 - DA 25.1 01/03/2002 Lease duty on leases & occupancy rights subject to GST
 - DA 25.2 14/03/2002 Lease duty on leases and occupancy rights subject to GST
 - DA 26.1 01/03/2002 Transfer duty on dutiable transactions in accordance with sections 36 & 39A-39D of the *Succession Act 1981*
 - DA 27.1 01/03/2002 Liability to duty of certain transactions entered into under the *Sugar Industry Act 1999*
 - DA 28.1 01/03/2002 Residential property transactions - when are valuations required, when are valuation costs to be passed on
 - DA 29.1 01/03/2002 Exemptions under *Family Law Act 1975* (Commonwealth) and the application of chapter 10 part 3 of the *Duties Act 2001*
 - DA 30.1 14/03/2002 Exemption from duty on de facto relationship instruments under the *Property Law Act 1974*
 - DA 31.1 01/03/2002 Administrative arrangement - relief from mortgage duty on certain loans and advances relating to Dairy Structural Adjustment Program

Revenue Rulings (*General*):

- GEN 1.3 01/03/2002 Revenue ruling system - Explanation and status
- GEN 2.2 01/03/2002 Exempt institutions and exempt charitable institutions
- GEN 3.2 01/03/2002 Relief of poverty
- GEN 4.2 01/03/2002 Public benevolent institutions
- GEN 5.2 01/03/2002 Guidelines as to charitable object or an object promoting the public good
- GEN 7.3 19/03/2002 Application of GST to certain taxes, fees and charges

Draft Revenue Rulings (*Duties*):

- DA 20.1D 15/02/2002 Self assessors, the *Duties Act 2001* and the *Taxation Administration Act 2001*

Draft Revenue Rulings (*Taxation Administration Act*):

- TA 1.1D 15/02/2002 Remission of unpaid tax interest
- TA 2.1D 12/03/2002 Penalty tax
- TA 3.1D 02/04/2002 Circumstances where an extension of date for complying with information or lodgement requirements
- TA 4.1D 12/03/2002 Penalty tax - home concessions

RECENTLY RELEASED PRACTICE DIRECTIONS (CONT'D)

Practice Directions (*General*):

- GEN 1.4** 01/03/2002 Practice direction system - explanation and status
- GEN 2.3** 01/03/2002 Legal professional privilege - references to legal advice
- GEN 4.2** 01/03/2002 Management of file records
- GEN 5.2** 01/03/2002 Service of documents in legal proceedings on the Commissioner
- GEN 6.2** 01/03/2002 Subpoenas and warrants directed to the Commissioner



Practice Directions (*Land Tax*):

- LT10.1** 08/03/2002 Contracts for the sale and purchase of land - who is the owner pursuant to section 3B

INTERNET SUBSCRIPTION SERVICE

OSR offers, free of charge, a subscription service that automatically notifies subscribers of newly issued rulings, practice directions and other publications on our website.

If you wish to register to receive automatic notification of changes to OSR's Website via Email, send a blank email message (subject and body not required) to:

whatsnew-subscribe@osr.qld.gov.au



You will be sent a confirmation message which you must reply to so that the subscription service can confirm that you want to join the list. Once confirmed, you will receive a welcome message.

Contact Directory

OFFICE HOURS

8.00 am - 5.00 pm Client Contact Centre
8.00 am - 5.00 pm Counter Services
8.30 pm - 4.30 pm Cashiers

REGIONAL OFFICES

Rockhampton

General Address: Level 3,
State Government Building
209 Bolsover Street,
Rockhampton
Postal Address: PO Box 1276,
Rockhampton Qld 4700
Telephone: 1300 301 571 (within Qld)
(07) 4938 4776
Facsimile: (07) 4938 4912

Townsville

General Address: Level 1,
State Government Building
187-209 Stanley Street,
Townsville
Postal Address: PO Box 988,
Townsville Qld 4810
Telephone: 1300 301 573 (within Qld)
(07) 4760 7630
Facsimile: (07) 4721 1976

Cairns

General Address: Level 9, Cairns Corporate Tower
15 Lake Street, Cairns
Postal Address: PO Box 2378, Cairns Qld 4870
Telephone: 1300 301 572 (within Qld)
(07) 4048 1177
Facsimile: (07) 4031 2170

BRISBANE OFFICE

Address: Level G2
200 Mary Street, Brisbane
General Postal Address: GPO Box 2593
Brisbane Qld 4001
Email: enquiries@osr.treasury.qld.gov.au

DUTIES

Client Contact Centre

Address: GPO Box 2593
Brisbane Qld 4001
Telephone: 1300 300 734
Facsimile: (07) 3836 0903
Email: ClientContactCentre@osr.treasury.qld.gov.au
duties@osr.treasury.qld.gov.au

Duty Returns (Brisbane Registrations)

Address: GPO Box 2475
Brisbane Qld 4001
Telephone: 1300 300 734
Facsimile: (07) 3227 7871
Email: returns@osr.treasury.qld.gov.au

LAND TAX

General Land Tax

Address: GPO Box 2476
Brisbane Qld 4001
Telephone: 1300 301 547
(07) 3227 6044
Facsimile: (07) 3227 7577
Email: landtax@osr.treasury.qld.gov.au

Land Tax Clearances

Telephone: 1300 301 548
(07) 3227 6039
Facsimile: (07) 3227 6783

PAY-ROLL TAX

Address: GPO Box 2248
Brisbane Qld 4001
Telephone: 1300 301 546
(07) 3227 8903
Facsimile: (07) 3227 6822
Email: payrolltax@osr.treasury.qld.gov.au

FIRST HOME OWNER GRANT

Address: GPO BOX 2593
Brisbane Qld 4001
Telephone: 1300 300 118
(07) 3404 3956
Facsimile: (07) 3227 8292
Email: firsthomeownergrant@osr.treasury.qld.gov.au

DEBITS TAX

Address: GPO Box 2475
Brisbane Qld 4001
Telephone: 1300 300 734
Facsimile: (07) 3227 7871
Email: debitstax@osr.treasury.qld.gov.au

FUEL SUBSIDY

Address: GPO Box 953
Brisbane Qld 4001
Telephone: 1800 814 657
Facsimile: (07) 3227 8769
Email: fuelsubsidy@osr.treasury.qld.gov.au

INVESTIGATIONS

Address: GPO Box 955
Brisbane Qld 4001
General Enquiries: 3227 6177
Informant Line: 3227 8704
Facsimile: (07) 3227 7706

Website: www.osr.qld.gov.au
Client Contact Centre: 1300 300 734
Rev-Q-Fax: 1300 300 089
Client Complaints: 1800 500 263