

NSW STAMP DUTY CHANGES – LEASES AND MORTGAGES

Leases

The Duties Amendment (abolition of State taxes) Act 2006 abolishes duty on leases on and from 1 January 2008.

Some points to note include:

- Lease duty will continue to be payable on leases (or agreements for lease) entered into before 1 January 2008 and lease duty will be payable for the rent over the term of the lease (including the period post abolition).
- Stamp Duty on leases is at the rate of \$35 per \$10,000 rent and outgoings.
- Lease duty will be abolished on and from 1 January 2008.
- Any lease first executed after 1 January 2008 will not be liable to lease duty.
- Any lease executed before 1 January 2008 will continue to be liable to lease duty for the entire term.
- Options for leases commencing on or after 1 January 2008 will not be dutiable.
- Currently, if a lease is terminated early, application may be made for the refund of duty to that part of the lease which has been terminated. As an anti-avoidance measure, no refunds will now be granted unless the Chief Commissioner is satisfied that neither the lessee nor any associated person has continued to occupy or proposes to resume occupation of the premises after the termination of the lease.
- Where a lease executed before 1 January 2008 has an unascertainable cost component, the Chief Commissioner must make a final estimate of the cost of the lease and duty will be payable on that amount.

Mortgages

- The 2007 Budget announced changes in relation to mortgages. After 1 September 2007 duty will not be charged on advances made in relation to owner occupied housing.
- After 1 July 2008 no duty will apply on advances made for investment housing if the borrower is a natural person.
- After 1 July 2009 duty is abolished on mortgages.

JOHN FITZPATRICK

26/10/07