

LEGAL MATTERS

Cassab & Associates Solicitors E-Newsletter

Issue #6 - June '16



Abolition of NSW Duties

The NSW Government has announced plans that it will abolish certain duties in NSW as of **1 July 2016**, including:

- Mortgage Duty
- Business Assets Duty and
- Marketable Securities Duty

It is however cautioned that these proposed changes have been scheduled on previous occasions but were postponed each time. If the NSW Government follows through in July 2016, there are likely to be additional stamp duty savings for purchasers of business, certain marketable securities investors and borrowers.



Mortgage Duty

- Any mortgage executed on or after 1 July 2016 will be exempt from paying stamp duty.
- No duty is payable on caveats protecting interests under an unregistered mortgage.
- For mortgages executed prior to 1 July 2016 but of which the initial advance is made after this date only \$5 duty is payable.
- the proposed changes would benefit those looking to borrow to purchase commercial or retail premises. These commercial loans may qualify for the stamp duty exemptions under the proposed changes.

Business Assets Duty

- Purchasers of business assets will not be liable to pay stamp duty from 1 July 2016
- Business assets that are exempt from duty include goodwill, intellectual property, statutory licence or gaming machine entitlements.
- Business assets which are NOT exempt from duty are land, and interest in land, and goods, subject to exclusions.
- The proposed changes would benefit those looking to purchase a business in NSW by reducing their purchase costs by eliminating stamp duty on the purchase of a business.

Marketable Securities

- No duty will be payable from 1 July 2016 on some property including shares in a NSW company and units in a unit trust scheme registered in NSW.
- A NSW company means a company or other body corporate that is incorporated under the Corporations Act 2001 or other Act of NSW.
- The proposed changes would benefit those looking to buy shares or units in a company or unit trust, but be mindful that the proposed changes do not eliminate stamp duty in transactions involving landholder companies.

But wait...

There are some circumstances in which these new laws will NOT abolish liability for duty:

- ⇒ **Replicas**—if a replica of a mortgage is executed on or after 1 July 2016 to replace an identical mortgage document which was executed prior to this date, duty is payable under section 272 of the Duties Act 1997 (NSW).
- ⇒ **Replaced or delayed transfer or transaction**—exemption from duty will not apply to transfers or transactions on or after 1 July 2016 if they replace a document or entitlement that occurred before that date, or if they are entered into pursuant to arrangements granted before that date, or that were entered into before that date and were delayed until after that date for the purpose of avoiding duty liability.
- ⇒ **Landholder duty** is still applicable. A landholder is a unit trust, a private company or a listed company that has land holdings in NSW with a threshold value of \$2,000,000+. Duty is still payable on the transfer of shares or units in a landholder.

More information on the duties set to be abolished as of **1 July 2016** can be found [here](#). As we get closer to this date, we will keep you updated as to any changes to the proposed amendments.

- ⇒ E: info@cassablegal.com.au
- ⇒ **Subscribe | Unsubscribe**
- ⇒ Visit our [Website](#)
- ⇒ Catch up on [previous](#) issues!
- ⇒ Find us on social media!



Our door is always open to talk about these issues!

Come and visit, give us a call or send us an email!

We love hearing from you!

**Suite 302/398 Chapel Road,
Bankstown, NSW 2200**

Phone: 9793 2700

Fax: 9793 2900