

## Stamp Duty on Leases

The Leasing Working Party believes as a matter of principle that stamp duty on leases should be abolished. However, in the absence of such a move, the following is considered to be the best approach:

Issue	Preferred	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Definition of lease	None expressed	S.133 - lease, AFL, licence franchise	S.164A - lease, agreement to lease, licence, franchise agreement	S.4 Tax Admin Act - lease, AFL, franchise					
How is duty charged?	Should only be charged on the base rent on a GST-exclusive basis	S.135/136 - cost or value of lease - rent, outgoings, premiums, rates	S.165 - cost of the lease: rent, rates and taxes, improvements made by tenant, royalties	Sch 1 Item 12 -rent					
Rate of duty	None expressed	Determination 2003 No.1 Disallowable Instrument No. 170 - 50c per \$100 or \$20 whichever is greater	S170 - 35 cents per \$100 (or remaining part of \$100) of the total cost of the lease  To be abolished 1.01.08	Sch 1 Item 12 - 50c/\$100	Abolished 01.01.06	No duty after 01.07.04	Abolished 1.07.02	Abolished 1.07.02	Abolished from 1.07.04 unless a premium then conveyancing rates

Exemption	No duty if annual cost less than \$20,000.00	S.150 - no duty if annual cost less than \$10,000.00	S.179 - no duty if annual cost less than \$20,000.00	Sch 1 Item 12 - no duty if annual cost less than \$30,000.00					
Who is liable to pay the duty?	Lessee	S.138 - Lessor	S.168 - lessee	S.50 TAA - lessee					
Time for payment of duty	Within 90 days of full execution	S.139 - 90 days after first execution	S.169 - within 3 months of first execution	S.9 TAA - within 60 days					
Unascertainable lease costs	Should not be included in stamp duty calculations	S.145 - interest and CPI Turnover rent/interim stamping	S.172 - interim stamping. CPI	S.55 TAA					