



OFFICE OF STATE REVENUE

DEPARTMENT OF TREASURY AND FINANCE

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REVENUE RULING

SD29

DECEMBER 2000

STAMP DUTY INSTRUMENTS CONTAINING A SPECIAL CONDITION RELATING TO GOODS AND SERVICES TAX (GST)

INTRODUCTION

1. Since the introduction of the GST, for the purposes of an assessment of duty it has been the practice of the Commissioner to include as part of the consideration for the property an amount for GST where the instrument contains a clause (commonly referred to as a "GST gross up clause") providing for the purchaser, in addition to the consideration payable, to pay any amount in relation to the GST liability that may be incurred by the vendor in respect of a transaction.
2. In calculating the stamp duty payable on an instrument, any amount payable by a purchaser in respect of a GST liability incurred by a vendor forms part of the amount or value of the consideration upon which the duty is assessed (Refer section 4A of Stamp Act 1921).
3. The purpose of this ruling is to advise of a change in the Commissioner's practice regarding the assessment of duty on instruments that include a GST gross up clause where no GST is payable on the transaction.

RULING

4. Where the Commissioner is satisfied that GST is not payable in respect of a supply that is the subject of an instrument, duty will be assessed on the consideration or value of the property without the addition of an amount of GST, notwithstanding that the instrument contains a GST gross up clause.
5. Guidelines as to the standard of information and evidence to assist in satisfying the Commissioner that no GST is payable on a transaction are contained in **Stamp Duty Circular No 65** issued simultaneously with this ruling.