

AGREEMENTS FOR SALE

As part of the 2009-10 Budget, agreements for sale are to be removed from the list of dutiable transactions in section 6(1)(b) of the *Duties Act 2001*, with effect from 1 July 2009.

As a result of this decision:

- Where a transaction involves both an agreement for sale and a transfer, duty will be payable only on the transfer;
- Where a property is purchased off the plan, duty will not be payable until the transfer is executed; and
- Duty will be payable within 3 months of the transfer, or other dutiable transaction, occurring.

Practitioners will still be required to lodge agreements for sale, where they exist, with a transfer with the SRO, but only the transfer will be dutiable. This will allow the SRO to identify where transfers of dutiable property other than land, for example, plant and equipment, have occurred.

For practitioners that assess using TRO, they will be required to keep a copy of the agreement for sale for evidence purposes and to note on the agreement the amount, and date of payment, of the duty.

In order to protect the revenue base from potential avoidance, new sub sale provisions will be included, based on those which apply in Victoria. Also, another new provision will be included that enables duty to be captured on transactions, other than transfers, which involve a change in the beneficial ownership of dutiable properties. This provides for the capture of duty liabilities created by transfers of plant and equipment or transfers of partnership interests in land.

Legislation will be introduced into the Budget Session of Parliament to give effect to this decision. Following the passage of the legislation the SRO will deliver a public education program outlining these, and other relevant changes announced in the 2009-2010 budget.

WK Sawford
Commissioner of State Revenue