



Hire of Goods

Abolition of hire of goods duty

The duty on a hire of goods was abolished on 1 July 2007.

Hiring charges received by a commercial hire business after 1 July 2007 for arrangements entered into before 1 July 2007 are not subject to duty.

No further returns are required for hiring charges received by a commercial hire business from 1 July 2007.

For a hire of goods not effected by a commercial hire business:

- where the total amount of hiring charges paid or payable is not less than, \$1000 and
- the first (or only) payment of hiring charges is paid, or becomes payable before 1 July 2007.

the person hiring the goods must:

- make out a statement (see details page 3) and
- pay duty on the total hire to the Chief Commissioner within three months of the date of the statement.

For audit purposes, *Section 53 Taxation Administration Act* requires all relevant records to be kept for a period of five years.

Hire of goods

A hire of goods is an arrangement under which goods are, or may be, used any time by a person other than the person hiring out the goods. It can take any form and does not need to be in writing.

Different arrangements apply to the imposition and payment of duty according to whether the hiring is done by a person who is in the business of hiring out goods or by another person.

'Goods' includes all chattels personal and fixtures severable from the realty, but does not include money, livestock or things in action.

There are two kinds of hire of goods:

- an equipment financing arrangement, and
- an ordinary hire of goods.

An equipment financing arrangement is either:

- a 'hire purchase agreement', or
- some other agreement for a term of nine months or more where the final payment is payable not earlier than eight months after the arrangement is entered into.



Commercial hire business

A person who hires out goods as a business is called a commercial hire business.

A commercial hire business may be carried out by a sole trader, a partnership, a company or a trading trust. It is immaterial whether or not the hiring out of goods is the principal business, or is ancillary to some other form of business.

Some common examples of commercial hire businesses include:

- video hire
- vehicle leasing
- industrial plant and equipment hire
- office equipment hire.

When is a hire of goods liable to duty in NSW?

A hire of goods is liable to duty in NSW when the goods are used solely or predominantly in NSW during any period for which a liability to duty is required to be determined. For example, businesses that pay the duty on a monthly basis will need to determine where the goods are used each month. To do this, they may rely on a statement of the hirer as to where the goods will be solely or predominantly used.

Goods are considered to be used predominantly in NSW if they are used more in NSW than in any other Australian jurisdiction.

If there is no place of predominant use, the goods are considered to be predominantly used in NSW if, under the hire of goods, they were initially delivered in NSW.

What are hiring charges?

Hiring charges are payments made to the person who hires the goods by or on behalf of the hirer, for (or that arise as an incident of) the hire of goods.

This includes payments for damage waiver or damage excess and late return fees.

It also includes any residual payment payable by the hirer in circumstances where the goods are hired other than from a commercial hire business.

Charges not included as hiring charges include:

- payments for the delivery, repositioning, erection, installation, maintenance or cleaning of goods
- any GST payable on supply to which the hire of goods relates
- insurance premiums paid by the hirer
- refundable cash deposits or bond (unless appropriated as hiring charges).

Duty is not chargeable on payments made which result in the title to the goods passing to the hirer.

Exclusions from the definition of a hire of goods

A hire of goods does not include any of the following:

- a) a hire of goods in conjunction with a lease of real property where there is no apportionment of consideration between the hire of goods and the cost of the lease
- b) a franchise arrangement

- c) an arrangement for the hire of an aircraft, ship or vessel or the hire of an engine or other component part of an aircraft, ship or vessel
- d) an arrangement with a trader for displaying or demonstrating goods pending their sale or hire to a third party
- e) an arrangement comprising a 'wet hire'. That is, an arrangement where an operator is provided by, or at the direction of, the person hiring out the goods for the hirer
- f) an arrangement for the use of goods, the provision of which is incidental and ancillary to the provision of a service
- g) an arrangement between related bodies corporate
- h) an arrangement by an employee to sublease a motor vehicle to an employer in connection with the employee's remuneration or other employment benefits
- i) an arrangement for the use of an invalid aid or prosthetic device by a person who is partially or totally incapacitated
- j) an arrangement for the use of goods by a public hospital
- k) a credit contract within the meaning of the Consumer Credit (NSW) Code
- l) an arrangement relating to the use of:
 - i) a book, or
 - ii) an electricity, gas or water meter, or
 - iii) a caravan that is to remain on site.

Rates of duty

Equipment financing arrangements

0.75 per cent of the total amount of hiring charges.

Ordinary hire of goods

1.5 per cent of the total amount of hiring charges.

A duty free threshold of \$14 000 per month applies to hire charges received from ordinary hires.

Special hiring arrangements

A special hiring arrangement is a written agreement that describes the goods in such a way (for example by reference to make and model of each item) as to enable the nature or character of the goods to be clearly and readily identified, including the number of items.

The maximum amount of duty payable on a special hiring arrangement is \$10 000.

The \$10 000 maximum does not apply to an agreement under which:

- other goods may be additionally provided, or
- the goods may, at any time, be replaced in whole or part by other goods except to the extent that the agreement allows replacement if the goods:
 - ▶ are lost, destroyed or stolen, or
 - ▶ fail or malfunction in the normal course of operation and use, or
 - ▶ are temporarily replaced during the servicing, maintenance or repair of the goods.

Who should be registered?

A commercial hire business must register if, in any month, the total amount of hire charges received exceeds \$14 000. Download our registration forms at www.osr.nsw.gov.au or by contacting OSR directly during business hours.

MORE INFORMATION



www.osr.nsw.gov.au

Duties returns and gaming

(Hire of goods, parking space levy, insurance protection tax, gaming and racing)



1300 139 817*



(02) 9689 8200



returns@osr.nsw.gov.au



GPO Box 4042
Sydney NSW 2001

DX 456 Sydney



Payments by post:

GPO Box 530
Sydney NSW 1159



OSR offices:

Parramatta (Head Office)
Cnr Hunter and Marsden Street,
Parramatta

Sydney

Level 3, 55 Hunter Street
(counter services only)

Newcastle

Level 2, 97 Scott Street
(counter services only)

Wollongong

Level 6, 90 Crown Street
(counter services only)



Phone enquiries
8.30 am – 5.00 pm, Mon. to Fri.

Counter services
8.30 am – 4.30 pm, Mon. to Fri.

*Interstate clients please call (02) 9689 6200.
Help in community languages is available.

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Returns

A commercial hire business must lodge a return by the 21st day of the month and pay the appropriate duty, calculated on the hire charges received during the preceding month.

The duty free threshold of \$14 000 applies to hire charges received from ordinary hires only. Once registered, any amounts received from equipment financing arrangements and special hiring arrangements are liable from the first dollar.

Returns of related bodies corporate

A single return may be lodged on behalf of two or more commercial hire businesses that are related bodies corporate within the meaning of the *Commonwealth Corporations Act 2001*.

The duty free threshold applies to the aggregated hiring charges required to be included in such a single return. It does not apply individually to the hiring charges of each commercial hire business included in the return.

If two or more related bodies corporate lodge individual returns for the same month, the commercial hire businesses must nominate the one to which the threshold will apply.

Other hires

Where goods are not hired from a commercial hire business, and the total hire charges are \$1000 or more, the person hiring out the goods must make a written statement and include the following details:

- the name and address of each party
- a description of the goods
- the commencement date and term of the hire
- the total hiring charges, including residual payments
- the intervals at which the hiring charges are paid or payable.

The statement is to be made out at the time the hire charges become payable or at the time the first or only payment is received. You can download statement forms at www.osr.nsw.gov.au or by contacting OSR directly.

A statement does not need to be made out if the hire is already evidenced in a document that otherwise complies with the above requirements.

The statement, or document must be lodged and duty paid within three months of the first payment of hiring charges being received or becoming payable.

This does not apply to hires entered into on or after 1 July 2007.

Penalties

Failure to lodge payments on time will result in the imposition of interest and, in some cases, a further penalty. Interest and penalty tax is charged in accordance with the Taxation Administration Act 1996. OSR conducts random checks to ensure compliance.