

REVENUE RULING NO. SD 209

ASSESSMENT OF UNEXECUTED DOCUMENTS

PREAMBLE

- From time to time the Office of State Revenue receives requests from practitioners to review draft documents. Frequently advice is requested as to the amount of duty that would be payable if the draft document was executed.
- The purpose of this ruling is to clarify the Chief Commissioner's attitude in regard to assessing the potential stamp duty payable in these circumstances.
- Section 38(1) of the Stamp Duties Act provides for liability to pay stamp duty immediately upon first execution of the document.
- It has been a long standing policy that an assessment of duty will not be made, as a general rule, on draft documents or on unexecuted documents.

RULING

- There are two exceptions to the above policy:
 - (i) an opinion as to the duty payable on a draft document will be given in circumstances where it is clear that the document, if executed, might be subject to an assessment of substantial duty **and** if there is room for doubt as to the correct method by which the assessment should be determined.

The practitioner or taxpayer would be expected to explain the basis on which it is perceived the duty on the document should be calculated.

- (ii) a new form of document that is of an ongoing nature (such as, for example, a draft lease for a Retirement Village which is intended for use by a class of prospective taxpayers or a draft franchise agreement intended for use by a large number of prospective franchisees,) would be considered by the Chief Commissioner in draft form.

Applicants will again be expected to outline the basis on which the duty should be calculated.

- An application to depart from the policy expressed in paragraph 4 should be addressed in writing to the Deputy Director Operations, PO Box 5215, Parramatta 2124.

B. Buchanan,
for Chief Commissioner of Stamp Duties
24 March 1992

Last Updated: 17-Jan-2001