

REVENUE RULING NO. SD 007

CONVEYANCE OF PROPERTY FIXED DUTY - TRANSFER FROM APPARENT PURCHASER TO REAL PURCHASER

RULING

Supporting statutory declarations are often of too general a nature in cases where the fixed duty for a transfer from an apparent purchaser to a real purchaser has been considered by the taxpayer to apply.

It is necessary that all relevant facts are declared (sec. 19 and 20 - Stamp Duties Act 1920 (N.S.W.)), bearing in mind that the onus is on the taxpayer to establish the resulting trust.

An important fact omitted from some declarations is a statement by the

declarant as to whether or not the property was held upon trust for the person who was the "real purchaser" and who has actually paid the purchase money therefor. Preferably, an explanation outlining details of the circumstances in support of the claim should be included.

Second Schedule "Conveyance" para. (4)(e) and sec. 73(1)(e) of the Stamp Duties Act 1920 (N.S.W.) refer to a "conveyance to the real purchaser who actually paid the purchase money". The expression

usually used by assessors is a "conveyance/transfer to the actual owner". This latter expression includes many cases not included in the former and is not of itself conclusive. The declarant must state all the facts and desirably the declaration should be made by a person who is or could be expected to be aware of the facts in some detail.

A broad outline of the nature of the information usually required is given in the comments within item 12 of SD 2 ("Lodgement information and general requirements in stamp duty matters").

(Departmental reference: T.I. 2)

A. D. CLYNE,
Chief Commissioner of Stamp Duties.
1 December, 1985