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**Public Ruling**  
**Duties Act:**

**LIABILITY FOR TRANSFER DUTY IN  
RELATION TO A TRANSFER OF DUTIABLE  
PROPERTY**

*A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.*

## What this Ruling is about

1. The purpose of this Public Ruling is to clarify:
  - (a) when the liability for transfer duty arises in relation to a transfer of dutiable property only executed by the transferor and
  - (b) the circumstances in which a transfer will not be stamped.

## Ruling and explanation

2. Liability for transfer duty arises in relation to a transfer of dutiable property at the earlier of the following:
  - (a) when the property is transferred
  - (b) if an instrument effects, or when recorded in a register will effect, the transfer – when the instrument is signed by the parties to the transaction.<sup>1</sup>
3. In relation to a transfer of real property, the transferee does not usually sign the Form 1 Transfer until settlement.
4. However, due to commercial conveyancing practices the Form 1 Transfer is usually required to be stamped prior to settlement.

<sup>1</sup> Section 16 and Schedule 2 of the *Duties Act 2001*

5. In the case where the transfer is submitted for stamping prior to the transferee signing the transfer form, the liability for transfer duty will be taken to arise at the date that the transferor signed the transfer form.
6. To remove doubt, assessors should not, as a general rule, stamp Form 1 Transfers of real property that are not signed by the transferor. It is permissible to stamp transfer forms that are signed by the transferor where the transferee's name is inserted but the transferee has not signed the form. Assessors must not stamp transfer forms that are signed by the transferor but which do not specify the transferee's name.

## **Date of effect**

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7. This Public Ruling takes effect from the date of issue.

David Smith  
 Commissioner of State Revenue  
 Date of Issue 24 February 2009

## **References**

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<b>Public Ruling</b>	<b>Issued</b>	<b>Dates of effect</b>	
		<b>From</b>	<b>To</b>
DA016.1.1	24 February 2009	24 February 2009	Current
Supersedes Practice Direction DA 7.1	1 March 2002	1 March 2002	23 February 2009