Stamp Duty is traditionally imposed on various types of documents (‘instruments’) such as:

- transfers of property including land and marketable securities (shares)*;
- cheques**;
- policies of insurance***;
- mortgages and other instruments of securities;
- lease, grants and transfers of motor vehicle licences; and
- hire of goods (rental duty).

The imposition of stamp duty is controlled by state legislature. The comments below relate to where the dutiable nexus is located in Western Australia. Duty is imposed in Western Australia under the Stamp Act 1921 (WA) (“the Act”).

* unlisted companies (until 1 January 2004) except unlisted land-holding companies; listed companies (until 30 June 2001)
** until 1 January 2004
*** Life insurance policies (until to 1 July 2004); workers compensation policies (until to 30 June 2004); reinsurance policies; policies in respect of goods transported; marine hull policies; policies affected by an exempt body on or after 30 January 1989

Exemptions

Conveyance of Property

Section 75AA of the Act provides for an exemption of duty on the gift of property to a University or where the University purchases property for its own purposes.

The term “property” is not defined in the Act however case law has confirmed that it has an expansive meaning and includes things such as real and personal property, any debt, marketable securities and choses in action (contractual rights).

This exemption is document specific and each conveyance of property must be submitted to the State Revenue Department (“the Department”) together with a written request to exempt the instrument pursuant to section 75AA of the Act.

Where stamp duty has been paid on a document that falls within this exception, a refund may be available.
Transfer of Listed Marketable Securities

Stamp duty was previously charged on a transfer of marketable securities at a rate of 0.3% for listed marketable securities and 0.6% for unlisted marketable securities. However, from 1 July 2001, a transfer of listed marketable securities will not be charged with stamp duty. As of 1 January 2004, stamp duty is also not payable on the transfer of shares in unlisted companies. An unlisted company is a company in which its shares are not quoted on a stock exchange.

The exemption available in section 75AA of the Act may be granted for a gift of marketable securities or a purchase of marketable securities by the University providing that the gift or purchase has been made for the purpose of the University.
Leases

Stamp duty on the rental component (the amount payable for the use of the leased property at periodic intervals) of leases was abolished on leases executed on or after 1 January 2004.

An exemption now applies for any lease or agreement to lease, executed as a deed on after 1 July 2004, that was previously assessable under the head deed of duty.

Lodgement is not required unless the document falls within the following categories;
• A lease or agreement for a lease of lands in consideration of a premium, fine or the like;
• An assignment of a lease; and
• A surrender of a lease.

Instruments of Security

An application may be made, under section 90A of the Act, for a stamp duty exemption for any mortgage, bond, debenture, covenant, bill of sale, guarantee, lien or other instrument of security where the instrument of security is made for the purpose of securing the payment or repayment of money by the University. An exemption is only available for an instrument of security where the University is the mortgagor or obligor.

This exemption is document specific and each instrument of security must be submitted to the Office together with a written request to exempt the instrument pursuant to section 90A of the Act.

Where stamp duty has been paid on a document that falls within this exemption, a refund may be available.

Cheques

Stamp duty on cheques was abolished on 1 January 2004.
Stamp Duty Rates - WA

With effect from 1 June 2004, rates applicable to some instruments are:

Conveyance Rates

<table>
<thead>
<tr>
<th>Value Range</th>
<th>Base Duty Payable</th>
<th>Incremental Duty Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $80,000</td>
<td>Nil</td>
<td>$2.00 for each $100 or part thereof</td>
</tr>
<tr>
<td>$80,001 to $100,000</td>
<td>$1,600</td>
<td>Plus $3.00 for each $100 or part thereof in excess of $80,000</td>
</tr>
<tr>
<td>$100,001 to $250,000</td>
<td>$2,200</td>
<td>Plus $4.00 for each $100 or part thereof in excess of $100,000</td>
</tr>
<tr>
<td>$250,001 to $500,000</td>
<td>$8,200</td>
<td>Plus $5.00 for each $100 or part thereof in excess of $250,000</td>
</tr>
<tr>
<td>$500,001 and over</td>
<td>$20,700</td>
<td>Plus $5.40 for each $100 or part thereof in excess of $500,000</td>
</tr>
</tbody>
</table>

Mortgages

Mortgage duty is imposed as follows:

<table>
<thead>
<tr>
<th>Condition</th>
<th>Duty Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>If no advance has been made under the mortgage when it is</td>
<td>$20.00</td>
</tr>
<tr>
<td>first executed.</td>
<td></td>
</tr>
<tr>
<td>If an advance, or further advance is made, then on the</td>
<td>$20.00 for any amount up to and</td>
</tr>
<tr>
<td>amount secured.</td>
<td>including $5,000, plus $0.40 per</td>
</tr>
<tr>
<td></td>
<td>$100.00 and part thereof.</td>
</tr>
</tbody>
</table>

Rental Duty

- Duty on hire of goods (other than books) at the rate of 1.5% (previously 1.8%) on the rental amount paid. A duty rate of 0.75% will apply to equipment financing arrangements and other hires that have a term greater than 9 months.
Applying for an Exemption

An application for an exemption must be made in writing to the Commissioner of State Revenue. The original documents must be attached to the application. The applicant must clearly set out the section under which the university is applying for an exemption.

The application should be addressed to –

Commissioner of State Revenue
Office of State Revenue
GPO Box T1600
Perth WA 6845

Applying for a Refund

A refund may be granted for stamp duty paid on a document which falls under section 75AA, 80A, or 90A. An application for a refund of the stamp duty paid is done in the same manner as an application for an exemption. The application for a refund must be made in writing to the Commissioner of State Revenue, the original documents must be attached to the application and the application must clearly set out the section under which the university is apply for an exemption.

Stamp Duty and GST

Stamp duty is payable on the GST inclusive value of the transaction.