

Update: 21 July 2014 Business stamp duty abolition ... again



Fleming Muntz
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Summary

The abolition of NSW stamp duty for business and share sales has been announced and deferred regularly since 1999. Is this elusive promise finally going to be made good?

What's changed?

One announcement in the 2014-15 NSW Budget, was that stamp duty would be abolished from 1 July 2016 for transfers of:

- Business assets other than land
- Unlisted shares or units
- Statutory licences and gaming machine entitlements.

A short history

The abolition of NSW business stamp duties was first promised as part of the GST package in 1999, but cancelled as a trade-off for making food GST-free.

Abolition for share and unit sales was then promised for 1 January 2009, with duty on business assets to go on 1 July 2012.

Remarkably, the business assets deadline was actually brought forward to 2011, before the November 2008 Mini-Budget pushed both of these dates back to 1 July 2012. This was subsequently postponed to 2013, before being deferred indefinitely.

What are the benefits?

The reduction in transaction costs is obvious and significant. For a \$5M business, the purchaser saves \$260K buying assets or \$50K for shares.

What are the problems?

In the past we have seen arrangements intended to hand over the benefit of a business while delaying actual transfer until it is stamp duty free.

History shows clearly that these planned abolitions cannot be relied upon until they happen.

Anti-avoidance provisions also impose duty on a transaction if it is the result of an option or other arrangement made before the abolition.

How can Fleming Muntz help?

Our specialist business lawyers have seen a lot of stamp duty history and can advise clients on rational ways to structure transactions for the best overall commercial outcome.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

Like you, we prefer to avoid unwanted emails. If you would rather not receive any further updates, please telephone us on (02) 6021 2222 or email to enquiries@flemingmuntz.com.au.

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