

## 76ATA. Statement chargeable with duty

- (1) A section 76AT statement is chargeable, in accordance with section 76ATE, with duty at the rate provided for in item 4(1) of the Second Schedule calculated as follows —
- (a) where the section 76AT statement relates to a relevant acquisition within section 76ATC(1)(a)(i), the duty shall be calculated on the dutiable value determined under section 76ATE(3);
  - (b) where the section 76AT statement relates to a relevant acquisition within section 76ATC(1)(a)(ii), the duty —
    - (i) shall be calculated on the dutiable value determined under section 76ATE(4)(a); but
    - (ii) shall be reduced by the amount of duty determined on the dutiable value calculated under section 76ATE(4)(b);
  - (c) unless paragraph (d) applies, where the section 76AT statement relates to a relevant acquisition within section 76ATC(1)(b), the duty —
    - (i) shall be calculated on the dutiable value determined under section 76ATE(5)(a); but
    - (ii) shall be reduced by the amount of duty determined on the dutiable value calculated under section 76ATE(5)(b);
  - (d) where approval has been granted under section 76AT(4), the duty —
    - (i) shall be calculated on the dutiable value determined under section 76ATE(6)(a); but
    - (ii) shall be reduced by the amount of duty determined on the dutiable value calculated under section 76ATE(6)(b).
- (2) Notwithstanding item 4(1) of the Second Schedule, where the value of the land and chattels under section 76ATE(7) does not exceed \$1 500 000 the duty chargeable under this section shall be calculated as follows, and where paragraph (b), (c) or (d) of subsection (1) applies shall be so calculated in terms of subparagraphs (i) and (ii) of that paragraph —
- $$\frac{A - \$1\,000\,000}{\$500\,000} \times B$$
- where —
- A is the value of the land and chattels situated in Western Australia to which the WA company is entitled as provided in section 76ATE(7); and
  - B is the duty calculated under item 4(1) of the Second Schedule on the dutiable value determined under section 76ATE.
- (3) Subject to subsection (4), if a section 76AT statement contains particulars of any chattels as required by section 76AT(8)(e), then, in addition to the duty chargeable under subsection (1), the section 76AT statement is chargeable with duty at the rate provided for in item 4(1) of the Second Schedule calculated on the unencumbered value of the chattels, but duty shall not be charged in respect of —
- (a) any of the chattels in respect of which duty has been paid under section 31B, 31C or 70 by the person who made the relevant

acquisition to which the section 76AT statement relates or by a related person;

- (b) any of the chattels in respect of which *ad valorem* duty has been paid by that person, or a related person, in another jurisdiction; or
  - (c) any of the chattels that, in the opinion of the Commissioner, are usually not situated in Western Australia.
- (4) The section 76AT statement is not chargeable with duty under subsection (3) if the Commissioner is satisfied that no transaction by means of which the chattels were transferred from the WA company to the person who made the relevant acquisition, or a related person, was effected for the collateral purpose of reducing the duty that otherwise would be chargeable in respect of the relevant acquisition.
- (5) If —
- (a) a section 76AT statement relates to a relevant acquisition within section 76ATC(1)(a)(ii); and
  - (b) duty charged under Division 2 or 3 (the “**previous duty**”) has been paid in respect of a previous acquisition of an interest in the WA company that is taken into consideration under section 76ATC(1)(a)(ii),

there shall be deducted from the duty payable on the section 76AT statement the amount that the previous duty would have been if the previous acquisition had occurred immediately before the relevant acquisition occurred.

*[Section 76ATA inserted by No. 11 of 2004 s. 29.]*