

## 76ATH. Statement chargeable with duty

- (1) A section 76ATG statement is chargeable, in accordance with section 76ATL, with duty at the rate provided for in item 4(1) of the Second Schedule calculated as follows —
  - (a) where the section 76ATG statement relates to a relevant acquisition within section 76ATJ(1)(a)(i), the duty shall be calculated on the dutiable value determined under section 76ATL(3);
  - (b) where the section 76ATG statement relates to a relevant acquisition within section 76ATJ(1)(a)(ii), the duty —
    - (i) shall be calculated on the dutiable value determined under section 76ATL(4)(a); but
    - (ii) shall be reduced by the amount of duty determined on the dutiable value calculated under section 76ATL(4)(b);
  - (c) unless paragraph (d) applies, where the section 76ATG statement relates to a relevant acquisition within section 76ATJ(1)(b), the duty —
    - (i) shall be calculated on the dutiable value determined under section 76ATL(5)(a); but
    - (ii) shall be reduced by the amount of duty determined on the dutiable value calculated under section 76ATL(5)(b);
  - (d) where approval has been granted under section 76ATG(4) the duty —
    - (i) shall be calculated on the dutiable value determined under section 76ATL(6)(a); but
    - (ii) shall be reduced by the amount of duty determined on the dutiable value calculated under section 76ATL(6)(b).
- (2) Notwithstanding item 4(1) of the Second Schedule, where the value of the land and chattels under section 76ATL(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 corporation is entitled as provided in section 76ATL(7); and
  - B is the duty calculated under item 4(1) of the Second Schedule on the dutiable value determined under section 76ATL.
- (3) Subject to subsection (4), if a section 76ATG statement contains particulars of any chattels as required by section 76ATG(7)(e), then, in addition to the duty chargeable under subsection (1), the section 76ATG 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 76ATG 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 76ATG 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 corporation 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 76ATG statement relates to a relevant acquisition within section 76ATJ(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 corporation that is taken into consideration under section 76ATJ(1)(a)(ii),

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

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