

WHAT IS “DUTIABLE PROPERTY”?

Under section 11 of the Duties Act 1997 (NSW), dutiable property is any of the following:

1. land (real estate) in New South Wales;
2. *transferable floor space* (also known as heritage floor space), being floor space area that:
 - (a) is recorded on a register kept by a local government council in New South Wales, and
 - (b) derives from the unutilised development potential of land in New South Wales that contains improvements of heritage value, and
 - (c) may, subject to obtaining all necessary consents and approvals, be utilised in the development of other land in New South Wales;
3. a land use entitlement (which is an entitlement to occupy land within NSW conferred through a transfer or issue of shares in a company or units in a trust scheme, or a combination of a shareholding or ownership of units together with a lease or licence);
4. shares –
 - (a) in a NSW company, or
 - (b) in a corporation incorporated outside Australia that are kept on the Australian register kept in New South Wales;
5. a statutory licence or permission under a New South Wales law, however, S36 abolished duty from 1 July 2016 on these;
6. a gaming machine entitlement within the meaning of the Gaming Machines Act 2001;
7. a partnership interest, being an interest in a partnership that has partnership property that is dutiable property elsewhere referred to in this section;
8. goods in New South Wales, if the subject of an arrangement that includes a dutiable transaction over any dutiable property (other than intellectual property) elsewhere referred to in this section, not including the following:
 - (a) goods that are stock-in-trade,
 - (b) materials held for use in manufacture,
 - (c) goods under manufacture,
 - (d) goods held or used in connection with land used for primary production,
 - (e) livestock,
 - (f) a registered motor vehicle,
 - (g) a ship or vessel;
9. an option to purchase land in New South Wales;
10. an interest in any dutiable property referred to in the preceding paragraphs of this section, except to the extent that:
 - (a) it arises as a consequence of the ownership of a unit in a unit trust scheme and is not a land use entitlement, or
 - (b) it is, or is attributable to, an option over dutiable property, or
 - (c) it is an interest in a marketable security, being an interest that is traded on the Sydney Futures Exchange.

See Section 11 of the Duties Act 1997 (NSW) for further details. (8/4/2022)