

At what point of my NSW property transaction will stamp duty be payable?

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Stamp duty (now called transfer duty in NSW) is a tax imposed by the NSW Government upon the transfer of the title to the property from a Vendor to a Purchaser. Revenue NSW governs stamp duty obligations in NSW. Stamp duty is only paid by the Purchaser. In this blog, we look at when NSW stamp duty is payable on property transactions for both commercial and residential properties.

At what point is the stamp duty payable?

Generally, stamp duty must be paid on the earlier of the following:

1. Completion of the Contract (also called settlement); or
2. Three (3) months from the date of exchange of Contract.

Therefore, if you purchase a property and the settlement period is longer than 3 months from the date of exchange, then you will be required to pay stamp duty prior to settlement of your purchase.

If stamp duty is not paid on time, then interest is applied to the unpaid duty.

Off-the-plan purchases

If you purchase a residential property off-the-plan, then you may have more time to pay stamp duty. An off-the-plan purchase means the house or unit is still being constructed and the deposited plan or strata plan needs to be registered.

If you purchase a residential property off-the-plan and occupy the property for 6 months continuously, starting within 12 months from becoming the owner of the property, then you have 15 months to pay stamp duty. That is, you receive the initial 3 months to pay stamp duty and then an extra 12 months. You will be required to prove to Revenue NSW that you lived in the property for a continuous period of 6 months within the first 12 months of owning the property.

If you purchase an off-the-plan residential property and assign your interest as purchaser to someone else, then your liability for stamp duty arises at the time of assignment.

If you purchase an off-the-plan residential property that will be an investment (and you have no intention of residing in it), an off-the-plan commercial property or off-the-plan vacant land property, then you do not receive the extra 12 months to pay stamp duty.

What if I am a foreign person?

A buyer will generally be considered a foreign person unless:

1. the buyer is an Australian citizen; or
2. has lived in Australia for more than 200 days in the 12 months before the purchase date, and is either:
   - a permanent resident of Australia; or
   - a New Zealand citizen, who holds a subclass 444 visa.

No matter what type of property is bought, even if it is an off-the-plan purchase of a residential property which you intend to live in for 6 months within the first 12 months of ownership, if you are a foreign person, stamp duty is due on the earlier of the following:

1. Completion of the Contract (also called settlement); or
2. Three (3) months from the date of exchange of Contract.

If you are a foreign person and you purchase residential land, then surcharge purchaser duty will also apply and need to be paid. You will need to pay an eight per cent surcharge on the value of any residential land you buy.

What if I am a first home buyer?

If you are a first home buyer, then you may be able to take advantage of the First Home Buyers Assistance Scheme. You can check your eligibility to participate in the scheme with Revenue NSW here.

The scheme ends on 31 July 2021 so Contracts for the purchase would need to be exchanged prior to 31 July 2021. This scheme may be extended.

There are certain stamp duty exemptions and concessions available to first home buyers for new homes, existing homes and vacant land. The relevant stamp duty exemptions and concessions can be viewed with Revenue NSW here.

The same timeframes noted above are applicable in terms of when stamp duty is payable.

Premium duty payable on property purchases in NSW

If you purchase a residential property and the purchase price exceeds $3,101,000.00, then you will be liable for premium duty. The current premium duty rate (as at July 2021) is $155,560.00 plus $7.00 for every $100.00 over $3,101,000.00. This is paid on top of the standard transfer duty amount.

The same timeframes noted above are applicable in terms of when stamp duty is payable.

NSW stamp duty calculator

Revenue NSW provides a number of online calculators so you can determine stamp duty payable on your property transaction.

You can view the various calculators available here.

Get help from a property lawyer

Our property and conveyancing team can assist you with all aspects of your property purchase or sale; whether it be residential, commercial or vacant land. We are members of PEXA (Property Exchange Australia), the online property lodgement and settlement platform which provides secure and fast property transaction solutions.

For more information to arrange a consultation with a lawyer, you can call or email us.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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