

# COMMISSIONER'S GUIDELINE

## CG-SD-006:

### Stamp duty on general insurance – apportionment of premiums

#### Guideline History

Version	Issued	Dates of effect	
1	11 May 2005	11 May 2005	31 December 2007
2	2 January 2008	1 January 2008	30 June 2008
3	25 August 2008	1 July 2008	Current

#### Purpose

This Guideline details the Schedule of Apportionment under section 49B of the *Stamp Duty Act* (SDA) for the purpose of apportioning premiums for insurance, premiums paid for specific classes of insurance and other amounts in relation to insurance in accordance with Part 3, Division 7A of the SDA.

#### Stamp duty on insurance

Stamp duty is charged on the amount of the premium paid in relation to a policy of general insurance (insurance other than life insurance), where the insurance is in respect of:

- 1) property in the Northern Territory; or
- 2) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within or partly within the Territory.<sup>1</sup>

The SDA provides that the Commissioner of Territory Revenue may adopt a Schedule of Apportionment for the purpose of apportioning premiums for insurance, or premiums paid for specific classes of and other amounts in relation to insurance in respect of:

- 1) property in the Territory and in another place; and
- 2) a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur in the Territory and another place.<sup>2</sup>

#### Basis of Apportionment

An insurer must apportion all premiums paid in relation to a policy of insurance that effects general insurance in accordance with the attached Schedule of Apportionment.<sup>3</sup> However, an insurer may apply in writing to the Commissioner to

<sup>1</sup> Section 38 the SDA and item 6 of Schedule 1 to the SDA.

<sup>2</sup> Sections 49A and 49B of the SDA.

<sup>3</sup> Section 49C(1) of the SDA.

apportion a premium or an amount on a basis other than that provided by the Schedule of Apportionment and the Commissioner may apportion the premium or amount on the other basis.<sup>4</sup>

If the Commissioner is not satisfied that a premium paid or another amount in relation to a policy of insurance has been properly apportioned for each risk insured, the Commissioner may determine the apportionment, reassess the liability to duty and charge interest and penalty tax accordingly.<sup>5</sup>

Where the Schedule indicates that alternative methods of apportionment are available, the 'policy measuring factor' used in calculating the premium should be used. The policy measuring factor is the factor used as a basis for establishing the risk/premium under an insurance policy. For example, where a public liability policy is based on floor area units, then duty should be apportioned in the same manner.

A general insurer should refer any new policies that are not covered by the Schedule to the Insurance Council of Australia prior to the issue of the policy. This will enable the apportionment method to be determined by the States and Territories in consultation with Insurance Council of Australia. The new policy will then be included in the Insurance Council of Australia Conspectus, which is published annually.

**Commissioner's Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from TRO's website.**

#### **Date of effect**

This version of the Guideline takes effect from 1 July 2008.



Craig Vukman

#### **COMMISSIONER OF TERRITORY REVENUE**

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<sup>4</sup> Section 49C(2) of the SDA.

<sup>5</sup> Section 49C(3) of the SDA and Part 5 of the *Taxation Administration Act*.

Northern Territory Stamp Duty Act:  
Section 49B – Schedule of Apportionment

Class of Insurance	Agreed basis of apportionment
Aviation Hull, Aviation Hull Third Party Property Liability and Aviation Hull Personal Liability	<p>Where the aircraft, the subject of insurance, is a high capacity regular public transport aircraft, apportioned on the basis of actual take-offs and landings in the previous year in each jurisdiction of all aircraft covered by the policy.</p> <p>Where the aircraft, the subject of insurance, is other than a high capacity regular public transport aircraft, jurisdiction of usual hangering of the insured property or location of the insured property.</p> <p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. The basis of apportionment will also apply whenever the insured company or any of its subsidiaries operate High Capacity Regular Public Transport Aircraft and Low Capacity Regular Public Transport Aircraft in Australia.</li> <li>2. For the purposes of this Schedule of Apportionment, <b>High Capacity Regular Public Transport Aircraft</b> means a regular public transport aircraft whose certificate type approval permits the aircraft:               <ol style="list-style-type: none"> <li>a) to have a maximum seating capacity of more than 38 seats; OR</li> <li>b) to carry a maximum pay load of more than 4200 kilograms.</li> </ol> </li> </ol> <p><b>NB.</b> This definition is contained in regulations made under the <i>Civil Aviation Act 1988</i> (Statutory Rule 294 of 1994)</p>
Baggage	See <i>Travel</i> .
Banker's Blanket Policy	Apportioned according to individual policy types outlined in this schedule.
Blood Stock	Place of (usual) location of the asset.
Boiler Explosion	Asset value/sum insured or exposure level for each jurisdiction.
Burglary	Asset value/sum insured or exposure level for each jurisdiction.
Business Interruption	Reasonably estimated profit revenue, fees, rent or other business measurement factor.
Care Custody and Control of Blood Stock	Place of (usual) location of the asset.

Cash in Transit	Number of premises.  Asset value/sum insured or exposure level for each jurisdiction.
Company Reimbursement	Salaries and wages, number of people/employees.
Comprehensive Crime Policy	Salaries, wages, number of people/employees.
Contract Works	Asset value/sum insured or exposure level for each jurisdiction.
Contractor Risks	Asset value/sum insured or exposure level for each jurisdiction.
Crop	Asset value/sum insured or exposure level for each jurisdiction.
Deterioration of Stock	Asset value/sum insured or exposure level for each jurisdiction.
Disability – Single	Place of residence of the insured/place of registration of business.
Disability – Group	Place of residence of the insured/place of registration of business.
Directors and Officers	Turnover or sales or number of people.
Fidelity Guarantee	Salaries and wages or number of people.
Fire	Asset value/sum insured or exposure level for each jurisdiction.
General Property	Asset value/sum insured or exposure level for each jurisdiction.
Home Building and Contents	Asset value/sum insured or exposure level for each jurisdiction.
Industrial Special Risk Section – 1 Property	Asset value/sum insured or exposure level for each jurisdiction.
Industrial Special Risk Section – 2 Consequential Loss	Reasonably estimated profit revenue, fees, rent or other business measurement factor.
Legal expense insurance	Salaries and wages or number of people.
Livestock	Place of (usual) location of asset.
Loss of Profits	Reasonably estimated profit revenue, fees, rent or other business measurement factor.
Machinery Breakdown (including computers and engineering)	Asset value/sum insured or limit of liability declared in each jurisdiction.
Marine – Builder's Risk	Asset value/sum insured or exposure level for each jurisdiction.



Marine – Carrier’s Legal Liability - Coastal and international shipping	Predominant location.
Marine – Charterer’s Liability - Coastal and international shipping	Predominant location.
Marine – Hull Liability - Coastal and international shipping	Predominant location.
	<p><b>Notes</b></p> <p>The apportionment for coastal and international shipping is determined, regardless of the GMT of the vessel, based on the ‘predominant location’ of the vessel as defined below:</p> <p>(a) On the basis that most vessels will operate from their port of registration, the predominant location should be taken to be that port, subject to (b);</p> <p>(b) If it is disclosed to the insurer at the time the policy is commenced, effected or renewed that the vessel will operate out of another port for the majority of the insurance year, then that other port will be taken to be its predominant location for that insurance year. If a vessel is intended to operate out of a number of ports in an insurance year and none of those periods is for the majority of the year, the port of registration will be taken to be the predominant location for that insurance year.</p> <p><b>NB</b> section 24 of the <i>Marine Insurance Act 1909</i> (Cth) requires the insured to inform the insurer of every material circumstances known by the insured at the time insurance is obtained.</p>
Marine Private Pleasure	Place of registration or place of residence of the insured.
Money	Number of premises.  Asset value/sum insured or exposure level for each jurisdiction.
Mortgage Insurance	Apportionment is based on the location of the property secured. If the security consists of two or more properties that are located in different jurisdictions, the apportionment will be based on a value basis.
Motor Vehicle (private use) and Extended Warranty for Private Use Vehicles	Apportionment based on normal place of garaging of the vehicle.

Motor Vehicle or Extended Warranty – Commercial	Place of registration or deemed registration.
Motor Vehicle or Extended Warranty – Federal Interstate	Place of registration or deemed registration.
Motor Vehicle or Extended Warranty – Unregistered	Place of (usual) location of asset – garaging.
Occupational (Professional Indemnity)	Salaries, wages, number of people/employees. Estimated profit, fees, rent, revenue etc.
Personal Accident and Illness – Group	Place of residence of the insured/place of registration of business.
Personal Accident and Illness – Single	Place of residence of the insured/place of registration of business.
Personal Liability	State of registration of business or place of residence of the person insured.
Personal Property	Asset value/sum insured or exposure level for each jurisdiction.
Pluvius	Asset value/sum insured or exposure level for each jurisdiction.
Public Liability or Product Liability or Broadform	Salaries, wages, number of people/employees. Turnover or sales. Number of premises. Floor area units or rent by State of risk. Number of members of the organisation in each jurisdiction.
Railway - property	Proportion of kilometres travelled by the rolling stock in each jurisdiction in the previous year.
Railway - public liability	Proportion of kilometres travelled by the rolling stock in each jurisdiction in the previous year.
Sprinkler Leakage	Asset value/sum insured or exposure level for each jurisdiction.
Strata Unit	Asset value/sum insured or exposure level for each jurisdiction.
Title Insurance	Location of the property.
Trade Credit	Turnover or sales.

<p>Travel (outbound from Australia) – includes baggage</p>	<p>Duty payable on 10% of premium received. State of Registration of Business (where the insured is not a natural person) or place of residence of the person insured.</p> <p><b>Note:</b> Should an insurance company disagree with this basis of apportionment they may apply to the Commissioner for apportionment on another basis. Where an insurance company elects to apportion duty on some other basis that method of apportionment must be applied consistently across all jurisdictions.</p>
<p>Travel (within Australia) – includes baggage</p>	<p>Place of residence of the person insured or state of registration of the business (where the insured is not a natural person).</p>