

Torrens Assurance Levy: ad valorem provisions

Amendments to the *Real Property Act 1900* and the *Real Property Regulation 2008* were made in the *State Revenue Legislation Amendment Act 2010* to introduce an 'ad valorem' component to the Torrens assurance levy in relation to the registration of transfers of properties purchased for more than \$500,000. Revenue from the levy is available to make compensation payments from the Torrens Assurance Fund to landowners who suffer a loss due to fraud or error in title registration.

- For transfers where the purchase price is more than \$1,000,000, the levy is \$1,000.00 plus 0.25% of the amount by which the purchase price exceeds \$1,000,000.

All levies are rounded down to the nearest dollar.

Some indicative examples of the total amount of the levy are:

Purchase price	Basic levy	Ad valorem component	Total levy
\$500,500.00	\$4.00	\$1.00	\$5.00
\$550,000.00	\$4.00	\$100.00	\$104.00
\$600,000.00	\$4.00	\$200.00	\$204.00
\$750,000.00	\$4.00	\$500.00	\$504.00
\$1,000,000.00	\$4.00	\$1000.00	\$1004.00

The ad valorem component of the levy for properties purchased for \$1,000,000 or less is \$1.00 per \$500 paid above \$500,000. As levies are rounded down to the nearest dollar, this means that no ad valorem component is payable when the purchase price is below \$500,500. In this case only the basic \$4.00 levy is payable.

The \$4.00 levy will continue to be invoiced as part of the lodgment fee in all cases.

What is the Torrens assurance levy?

The levy comprises two parts:

- A basic \$4.00 levy applied as part of the lodgment fee for the registration of all land transactions – 'dealings' – in the land titles system maintained by Land and Property Information (LPI). This levy has been in place since 1992 and has been set at \$4.00 since 2004.
- An additional 'ad valorem' component applied to the registration by LPI of transfers where the purchase price of the property is more than \$500,000. This additional levy came into effect on 1 July 2010.

What does 'ad valorem' mean?

Ad valorem means 'according to value' and involves a sliding scale of charges set as a proportion of the value of the goods to which it is applied. In the case of the Torrens assurance levy, the 'value' is the price that a purchaser of real property agrees to pay the vendor.

The ad valorem component of the Torrens assurance levy has two tiers:

- For transfers where the purchase price is more than \$500,000 but not more than \$1,000,000, the ad valorem levy is 0.2% of the amount by which the purchase price exceeds \$500,000.

What does 'transfer' mean?

A transfer is a dealing that changes the ownership of an estate in land under section 46 of the *Real Property Act 1900*. The transfer is the dealing lodged with LPI to register a change of ownership following settlement of a contract for sale of land or other agreement to purchase land.

The following types of transfer, registered under section 46 of the *Real Property Act 1900* will attract an ad valorem levy **if the purchase price is more than \$500,000.**

Transfers - ad valorem may apply

Real Property Form Number

Transfer of:

estate in fee simple	01T
estate in remainder	01T
leasehold estate	01T
life estate	01T
part of the land	01T

Transfer by:

direction	01T
local council	01TS
State of NSW	01T

Transfer to:

Her Majesty Queen Elizabeth the Second	01T
Local Council	01T
Roads and Maritime Services	01T
State of NSW	01T
Transfer affecting common property or Lot 1 in a community title	01T
Transfer Excluding Physical Objects	01T
Transfer for Public Reserve or Drainage Reserve	01TD
Transfer including Covenant	01TCV
Transfer including Easement	01TE
Transfer involving Aboriginal Land	01T
Transfer involving Crown Lands	01T
Transfer of Closed Road	01TX
Transfer pursuant to a Writ	01T
Transfer under Power of Sale	01TP

Does the ad valorem component of the Torrens assurance levy apply to all transfers?

The Ad valorem component of the levy does not apply to any transfers where the purchase price is less than \$500,000. Nor does it apply to any transfers where the purchase price is more than \$500,000 but less than \$500,500, as the ad valorem amount in these cases would be less than \$1.00.

Does the ad valorem component of the Torrens assurance levy apply to other types of dealing that change the ownership of land?

The levy does not apply to any changes in ownership where registration occurs to give effect to matters such as distribution of a deceased estate, orders of court, statutory vestings or gifts of land.

The table below sets out dealing types that may change the ownership of land recorded on title, but which **will not** incur any ad valorem component of the Torrens assurance levy. In these cases only the basic \$4.00 levy is payable when the dealing is lodged with LPI for registration.

Ownership changes – no ad valorem Real Property Form Number

Annulment of Bankruptcy	04BAN
Application for Possessory Title	04YA
Application to Record a New Registered Proprietor	04RP
Bankruptcy Application	04BAP
Change of Name	10CN
Foreclosure	04FM
Miscellaneous Application in relation to Crown Land (forfeiture, purchase of a term Crown Lease etc.)	19MA
Notice of Death	02ND
Request a record a Reserve Trust as Registered Proprietor	11R
Surrender of a Crown Lease to the State of NSW	11R
Transfer by Sheriff pursuant to the <i>Family Law Act</i>	01T
Transfer by way of Discharge of Mortgage	01DT
Transfer changing shares of co-tenants	01JT
Transfer for natural love and affection	01T
Transfer of minerals	01T
Transfer of time share	01T
Transfer pursuant to an Order (including Order of Family Court of Australia)	01T
Transfer severing a joint tenancy	01TJ
Transfer Unilaterally Severing a Joint Tenancy	01TJ
Transfer without monetary consideration	01TWC
Transmission Application	03TA

What types of property incur an ad valorem levy if the purchase price is more than \$500,000?

Transfers of all property types – residential, commercial, rural, etc.

Is there a cap on the amount payable?

No.

Who is responsible for paying the Torrens assurance levy on transfers?

The purchaser (transferee) is responsible for paying the Torrens assurance levy, including any ad valorem component.

When and where is the Torrens assurance levy paid?

The purchaser (transferee) should make arrangements to have all monies payable to LPI for lodgment of the transfer and payment of the levy, including any ad valorem component, available at the time of settlement of their purchase.

These monies, including the levy, are payable when the transfer is lodged for registration in the land titles system at LPI's Queens Square Sydney office. LPI will issue an invoice itemising the lodgment fee, including the basic \$4.00 Torrens assurance levy, plus any ad valorem component. The lodgment fee and levy, including any ad valorem component must be paid together. It is not possible to pay the levy separately.

Information on current lodgment fees is available on our website at: www.lpi.nsw.gov.au.

How does LPI determine that an ad valorem component of the levy is payable?

LPI will generally rely on the purchase price recorded on the certified notice of sale or transfer of land (NOS) that accompanies the transfer at lodgment.

What date does LPI rely on to determine whether an ad valorem component is payable?

LPI relies on the contract date recorded on the NOS that accompanies the transfer at lodgment.

Purchasers under contracts of sale or other property transfer agreements entered into before 1 July 2010 do not incur the ad valorem component of the levy, regardless of the date on which their transfer is lodged for registration with LPI.

Does LPI provide assistance to help purchasers or their agents calculate the ad valorem component of the levy?

LPI has published an online calculator to help purchasers and their agents work out the amount payable.

The calculator can be accessed on our website at www.lpi.nsw.gov.au. The online calculator can also be accessed via kiosk facilities in the ground floor lodgment area of LPI's Queens Square Sydney office.

A worksheet for calculating the ad valorem component, together with examples appears on the last page of this fact sheet.

Are there any exemptions?

The way that the Torrens assurance levy has been structured provides an exemption for all transactions other than transfers of land. In addition, there is an exemption for all transfers of land purchased for \$500,000 or less. As the levy is calculated on the purchase price paid, gifts of land or other transfers made for no consideration are exempt.

Are there any penalties

The amendments to the *Real Property Act 1900* made by the *State Revenue Legislation Amendment Act 2010* enable the Registrar General to request the Chief Commissioner of State Revenue to take enforcement action for recovery of any levy that is unpaid, or under paid.

What is the difference between stamp duty and the Torrens assurance levy?

Stamp duty is a State Government tax payable on various dutiable transactions, including the transfer of property. It is collected by the Office of State Revenue.

Revenue from the Torrens assurance levy is collected to ensure that there are sufficient monies available for the Torrens Assurance Fund. It is collected by LPI.

The principle feature of the Torrens system of land registration is the State guarantee of title. This ensures that the land Register can be relied upon and provides the basis for an efficient cost effective conveyancing system. The State guarantee is underpinned by the Torrens Assurance Fund. In the event that a person loses land, or an interest in land, through fraud or error, compensation will be paid from the Fund.

Further information

For further information on performing a title search please contact the Customer Service Centre on T: 1300 052 637.

Working out your Torrens assurance levy ad valorem amount

Use this worksheet if you paid more than \$500,000 but not more than \$1,000,000 for your property. Note that ad valorem levies in this range are \$1.00 per \$500 paid above \$500,000 and that levies are rounded down to the nearest dollar. Therefore no ad valorem component is payable for purchase prices below \$500,500.

Example

Write the purchase price here (whole \$ only) A

Subtract this amount $-$ B

An ad valorem levy is payable on this amount (A minus B) $=$ C

Ad valorem rate applied to C (levy is 2 cents per \$10.00) \times D

Multiply C by D $=$ E

Round the amount at E down to the nearest dollar. This is the amount of your ad valorem levy. $=$ F

Purchase price is A

\$797,955.50 (enter whole \$ only) B

Subtract this amount $-$ C

An ad valorem levy is payable on this amount (A minus B) $=$ D

Ad valorem rate applied to C (levy is 2 cents per \$10.00) \times E

Multiply C by D $=$ F

Round the amount at E down to the nearest dollar. This is the amount of your ad valorem levy. $=$

Use this worksheet if you paid more than \$1,000,000 for your property. Note that the ad valorem levy for a purchase of \$1,000,000 is \$1,000. The levy for the portion of the purchase price over \$1,000,000 is 0.25%.

Example

Write the purchase price here (whole \$ only) A

Subtract this amount from A $-$ B

Write the amount of A minus B here $=$ C

Ad valorem rate applied to C (levy for portion of purchase price over \$1 million is 2.5 cents per \$10.00) \times D

Multiply C by D $=$ E

Round the amount at E down to the nearest dollar $=$ F

Add this amount to F (levy on purchase price of \$ million) $+$ G

This is the amount of your ad valorem levy $=$ H

Purchase price is A

\$2,335,649.95 (enter whole \$ only) B

Subtract this amount from A $-$ C

An ad valorem levy is payable on this amount (A minus B here) $=$ D

Ad valorem rate applied to C \times E

Multiply C by D $=$ F

Round the amount at E down to the nearest dollar $=$ G

Add this amount to F (levy on purchase price of \$1 million) $+$ H

This is the amount of your ad valorem levy $=$

Disclaimer

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.
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Customer Services

T 1300 052 637
T +61 2 9228 6666
F +61 2 9233 4357
www.lpi.nsw.gov.au