

**From:** Engele, Sam  
**Sent:** Thursday, 15 January 2009 4:58 PM  
**To:** secretary\_email  
**Cc:** Catherine Hull; Roger Broughton; Purcell, John; Peffer, Dave; Philip, Andrew  
**Subject:** 2009 Update New Developments – Land rich provisions

John,

Specifically to the new developments detailed in Attachment A to the Letter, the ACT supports all the Commission's proposed approaches. Regarding the questions in the new developments letter on land rich provisions please find the following ACT response to the questions posed:

**Question:** *Is it reasonable to conclude that because other States have not identified revenue from transactions involving land rich listed companies that these transactions are not captured by their revenue provisions?*

**Answer:** In the ACT duty on listed marketable securities was abolished on 1 July 2001 in accordance with the Intergovernmental Agreement on the reform of Commonwealth-State financial relations (IGA). The transfer of shares or units in a unit trust scheme in a Territory company that are quoted on a recognised stock exchange (listed marketable securities) are therefore not liable to duty in the ACT. This includes Territory companies that own land in the ACT where the company's shares are quoted on a recognised stock exchange. Therefore landholder transactions effected through a listed company would not be captured under current provisions.

Prior to the abolition, the transfer of the shares in land rich listed companies would have been subject to duty at marketable security rates only. However, the number and type of listed companies that held property in the ACT would have been significantly less than in the current financial market where listed property trusts etc. have become much more common.

**Question:** *If not, how would these transactions be captured under your legislation?*

**Answer:** A landholder transaction involving a company whose shares are listed on a recognised stock exchange would not be captured in the ACT and have never been captured in the past

**Question:** *We believe that in the past there must have been examples of land rich transactions by listed companies in other States. Can States provide examples of how they were treated by their legislative provisions?*

**Answer:** Not applicable. See answers to questions above.

**Question:** *We are aware from State submissions that States are moving to harmonise their conveyance legislation. The inference is that currently areas of difference exist. Is land-rich transactions by listed companies one of those areas? If so, is this one of the areas of legislation States are intending to harmonise?*

**Answer:** The harmonisation is related to administration only and not the application of tax policy as such. The ACT will seek to harmonise its provisions which includes both listed and unlisted Land holder transactions where property in the ACT is transferred by means of transferring all the shares in a company that holds the land.. However, ultimately the final decision to harmonise these provisions is a matter of policy for the Government of the day.

Regards,

**Sam Engele**

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