

Ashurst

Stamp Duty & Land Tax – Rates & Thresholds

State Taxes – Australia

1 July 2023

Outpacing change

Table 1: Transfer duty rates

| State | Dutiable Property ¹ | Threshold | Rate of Duty ² |
|------------------------|---|----------------------------|---|
| ACT | Interests in land and goods (commercial real estate transactions) ^{3,7} | \$0 – \$1,800,000 | Nil ⁵ |
| | | More than \$1,800,000 | 5% flat ⁵ |
| | Interests in non-commercial land ⁴ | More than \$1,455,000 | 4.54% flat |
| NSW⁶ | Interests in land and goods ^{3,7} | More than \$1,168,000 | \$47,295 plus 5.5% on amounts over \$1,168,000 ⁸ |
| NT | Interests in land and chattels | \$3,000,000 – \$ 4,999,999 | 5.75% flat |
| | | \$5,000,000 or more | 5.95% flat |
| QLD | Interests in land, chattels and business assets (including trading stock and trade debts) | \$540,000 - \$1,000,000 | \$17,325 plus 4.5% on amounts over \$540,000 |
| | | More than \$1,000,000 | \$38,025 plus 5.75% on amounts over \$1,000,000 |
| SA | Interests in land (residential and primary production land) | More than \$500,000 | \$21,330 plus 5.5% on amounts over \$500,000 |
| | Interests in land (other than residential or primary production land) | N/A | Nil |
| TAS | Interests in land and goods ³ | More than \$725,000 | \$27,810 plus 4.5% on amounts over \$725,000 |
| VIC⁹ | Freehold interests in land, certain leasehold interests, economic entitlements, fixtures and goods ³ | More than \$2,000,000 | \$110,000 plus 6.5% on amounts over \$2,000,000 |
| WA¹⁰ | Interests in land, chattels and business assets (other than trading stock and trade debts) | More than \$725,000 | \$28,453 plus 5.15% on amounts over \$725,000 |

1. The categories of dutiable property differ among the States and Territories but typically include certain estates and interests in land; goods and chattels transferred with land; and, in QLD and WA, includes intellectual property, goodwill and certain other business assets. The *Stamp Duty Amendment Bill 2023* (NT), which passed on 22 June 2023, abolished non-land categories of dutiable property in the Northern Territory, with retrospective effect from 9 May 2023.
2. Rates shown are generally the highest marginal rates which apply (unless indicated otherwise). Surcharges on top of the general rate may apply to the purchase of residential land (and primary production land in TAS) by foreign purchasers in some States (see Table 5).
3. Dutiable property includes goods (other than trading stock) if transferred with land.
4. Non-commercial transfer duty applies to property which is used for residential or rural purposes.
5. Commercial transfer duty on property which is used, wholly or partly, for commercial purposes, eg industrial, business or retail.
6. The NSW rates shown are effective as at 1 July 2023.
7. Eligible home buyers are eligible for concessional or nil transfer duty rates in a number of jurisdictions.
8. This rate applies for the portion of the dutiable value over \$1,168,000. A premium rate of 7% applies to transfers of residential land with a dutiable value exceeding \$3,505,000.
9. In the 2023-24 Victorian Budget, a transition away from the imposition of stamp duty on commercial and industrial land in favour of an annual property tax was announced.
10. The general rate shown applies to commercial property, rural property that is not also used as residential property and vacant land which does not qualify for the residential rate. The residential rate of \$28,453 plus 5.15% on amounts over \$725,000 applies to places of residence, rental homes and land on which a residence is constructed within five years from the date the liability to duty arose, in addition to mixed use property.

Table 2: Corporate reconstruction relief

| State | Pre-association period ¹ | | | Pre-association period exception for New Co | | | Post-association period ² | | |
|--------------------|-------------------------------------|--------|------|---|----------------|-----|--------------------------------------|--------|------|
| | 3 Years | 1 Year | None | Yes | Limited | N/A | 3 Years | 1 Year | None |
| ACT | | ✓ | | ✓ ³ | | | | ✓ | |
| NSW | | | ✓ | | | ✓ | | | ✓ |
| NT | ✓ | | | | ✓ ⁴ | | ✓ | | |
| QLD | ✓ | | | | ✓ ⁵ | | ✓ | | |
| SA | | | ✓ | | | ✓ | | | ✓ |
| TAS ⁶ | | ✓ | | ✓ ³ | | | | ✓ | |
| VIC ^{6,7} | | | ✓ | | | ✓ | | | ✓ |
| WA | | | ✓ | | | ✓ | ✓ | | |

1. This is the period prior to the dutiable transaction that the transferor and transferee must have been members of the same corporate group (subject to certain exceptions for newly incorporated companies and acquisitions of shelf companies). Refer also to column 2.
2. This is the period after the dutiable transaction that the transferor and transferee must remain members of the same corporate group in order to avoid an effective clawback of relief including, potentially, interest and penalties. There are limited exceptions to the post-association requirement in all jurisdictions, eg liquidation, public float.
3. The entities must have been members of the same corporate group since incorporation, unless New Co was acquired as a shelf company.
4. This is only if New Co is a subsidiary or parent corporation which was newly interposed.
5. This is only if New Co is the immediate subsidiary of the transferor.
6. Unlike other jurisdictions, an application for exemption cannot be made prior to the transaction occurring. In VIC, it may be possible to apply for a private ruling where the availability of relief is uncertain.
7. The relief provides for a 90% concession of the duty otherwise payable. In the other jurisdictions, relief is for 100% of the duty otherwise payable.

Table 3: Time limits for stamping / payment¹

| State | Period for transfer duty ² | Period for landholder duty |
|------------|---|--|
| ACT | Lodgement and payment 90 days after liability for duty arises (eg first execution of agreement) or, if the instrument is to be registered with the registrar-general, payment is to be made within 14 days of registration. | Lodgement and payment 90 days after the day the relevant acquisition is made ³ , or if the acquisition arises from an agreement to purchase units/shares in a landholding entity, when the agreement is completed. |
| NSW | Lodgement and payment 3 months after liability for duty arises (eg first execution of agreement). | Lodgement and payment 3 months after the relevant acquisition is made. ³ |
| NT | Lodgement and payment 60 days after liability for duty arises (eg first execution of agreement). | Lodgement and payment within 60 days after the occurrence of the relevant acquisition. ³ |
| QLD | Lodgement within 30 days after liability for duty arises (eg execution of agreement), and payment usually within 30 days of issue of notice of assessment. ⁴ | Lodgement within 30 days after the making of an agreement (whether conditional or not) for the relevant acquisition or, if there is no agreement, within 30 days after the making of the relevant acquisition. ³ Payment is usually required within 30 days of the issue of an assessment notice but can be shorter if a lodgement extension is obtained. |
| SA | If instrument executed in SA, within 2 months of execution; or if instrument executed outside SA, lodgement and payment within 2 months after its receipt in SA or within 6 months after its execution, whichever period first expires. | Lodgement and payment within 2 months after the relevant acquisition. ³ |
| TAS | Lodgement and payment 3 months after liability for duty arises | Lodgement and payment within 3 months after the relevant acquisition is made. ³ |
| VIC | Lodgement and payment 30 days after liability for duty arises (eg completion of agreement). | Lodgement and payment within 30 days after the relevant acquisition is made. ³ |
| WA | Lodgement within 2 months after liability for duty arises (eg execution of agreement) ⁵ , and payment generally within 1 month of issue of notice of assessment. ⁶ | Lodgement within 2 months after the making of an agreement (whether conditional or not) ⁶ for the relevant acquisition or, if there is no agreement, within 2 months after the making of the relevant acquisition. ⁶ Payment is required within one month after the issue of an assessment notice. |

1. As a practical matter, it may be necessary to lodge and pay duty earlier in order to complete/register a transaction, in particular land sales through PEXA.
2. In jurisdictions other than TAS and VIC the liability for duty arises on execution of agreements, not completion / settlement of agreements, regardless of conditions precedent or delay in completion/ settlement.
3. A relevant acquisition can be made in a variety of ways, for example the issue, transfer, cancellation or redemption of securities or varying rights. Typically the date of the relevant acquisition is the date of the completion of the transaction (for example when unit transfer forms are executed or the consideration is paid). NSW also has special deeming provisions that can deem a relevant acquisition to occur earlier than completion (for example, on the first anniversary of the execution of an agreement for the relevant acquisition).
4. This period may be extended for certain conditional agreements (refer to Public Ruling DA019.1.5). If the transaction is subject to self-assessment, payment must be made within 14 days.
5. In WA, an agreement is deemed to include a simultaneous put and call option agreement.
6. Special rules may apply to the timing of the payment of duty in relation to certain conditional agreements.

Table 4: Landholder duty

| State | Local land holdings value test ¹ | Acquisition Threshold | | | | | | Duty base | |
|---------------------|---|-----------------------|---------|------------------|---|-----------------------------|--------------|--------------------------------|-------|
| | | Companies | | Trusts | | | | Land and fixtures ⁴ | Goods |
| | | Listed | Private | Listed | Unlisted widely held ² | Wholesale unit ³ | Private unit | | |
| ACT | Nil | N/A | 50% | N/A | N/A | 50% | 50% | ✓ | X |
| NSW | \$2,000,000 | 90% ⁵ | 50% | 90% ⁵ | 90% ⁵ | 50% | 50% | ✓ | ✓ |
| NT | \$500,000 | 90% ⁶ | 50% | 90% ⁶ | 50% | 50% | 50% | ✓ | X |
| QLD | \$2,000,000 | 90% ⁷ | 50% | 90% ⁸ | Trust acquisition duty applies ⁸ | | | ✓ | X |
| SA ^{10,11} | Nil | 90% ⁷ | 50% | 90% ⁷ | 90% ⁷ | 50% | 50% | ✓ | X |
| TAS | \$500,000 | 90% ⁷ | 50% | 90% ⁷ | 90% ⁷ | 50% | 50% | ✓ | ✓ |
| VIC | \$1,000,000 | 90% ⁷ | 50% | 90% ⁷ | 90% ⁷ | 50% | 20% | ✓ | X |
| WA | \$2,000,000 | 90% | 50% | 90% | 50% | 50% | 50% | ✓ | ✓ |

- Foreign purchaser residential land stamp duty surcharges apply to relevant acquisitions by foreign persons in all jurisdictions other than ACT and NT (see Table 5 below).
- There are differing stamp duty specific requirements that must be satisfied in order to qualify as a “widely held” trust.
- There are differing stamp duty specific requirements that must be satisfied in order to qualify as a “wholesale” trust.

- “Land” is defined differently between jurisdictions. Duty extends to items which are not “fixtures” at law in some jurisdictions.
- The *Revenue Legislation Amendment Act 2023* (NSW) abolished the concessional rate of duty for landholder duty in respect of public landholders. The amendment takes effect on 1 July 2023.
- The threshold may be 50% for a “merger vesting” of shares or units.

- Duty applies at a concessional rate of 10% of the ordinary transfer duty otherwise payable. However, duty will apply at the general rate in VIC if the entity has been listed for less than 12 months or, in the case of a widely held trust, it has satisfied the definition of that term for less than 12 months at the date of the relevant acquisition. This concessional rate does not apply to foreign purchaser residential land stamp duty surcharge in all jurisdictions. Further, in VIC the listing of a company or trust or becoming a widely held trust attracts duty at the concessional rate of duty.

- Duty is imposed independently of the landholder duty regime on trust creations, acquisitions and surrenders where the trust directly or indirectly holds any dutiable property. No value threshold applies and no acquisition threshold applies to changes in interests in certain “private” unit trusts.
- “Landholdings” are limited to residential land and primary production land.
- A separate regime (with no land value or acquisition threshold) applies to certain trusts in SA, which are not registered managed investment schemes.

Table 5: Transfer duty – foreign purchaser residential land stamp duty surcharge rates¹

| State/Territory | Surcharge rate | Total rate ^{3,4} |
|-----------------|---|--|
| NSW | 8% | 15% |
| QLD | 7% | 12.75% |
| SA | 7% | 12.5% |
| TAS | Residential: 8% Primary Production: 1.5% | Residential: 12.5% Primary Production: 6% |
| VIC | 8% | 14.5% |
| WA | 7% | 12.15% |

1. The surcharge applies to any dutiable transaction where a foreign purchaser acquires “residential” land (which is broadly defined) and is in addition to the normal transfer duty rate. In TAS, the surcharge also applies to primary production land. In addition, the surcharge applies for relevant acquisitions by foreigner acquirers in landholders for landholder duty purposes. ACT/NT do not have surcharge duties. Please see “Foreign Purchaser Stamp Duty & Absentee Owner Land Tax Surcharges Summary” for further information.

2. Revenue NSW has announced that foreign surcharge duty is inconsistent with international tax treaties with New Zealand, Finland, Germany, India, Japan, Norway, Switzerland and South Africa.

3. The total surcharge rate is the highest effective transfer duty rate relevant to each Australian State and/or Territory (see Table 1), plus the surcharge rate.

4. The NSW total surcharge rate is the premium transfer duty rate of effectively 7% (which applies to transfers of NSW residential land with a dutiable value exceeding \$3,505,000), plus the NSW surcharge rate. If the premium rate does not apply, the highest effective rate is 5.5%.

Refunds are potentially available for surcharge duty paid on or after 1 January 2021 in specific situations. VIC has announced it will continue to apply foreign surcharge duty to all foreign purchasers.

Table 6: Lease premium duty¹

| State | Application |
|------------------------|---|
| ACT | Duty applies to the grant or transfer of a “commercial lease” where a premium is paid that exceeds the determined threshold of 25% above market rent over the term of the lease (see revenue circular DAA015.1). |
| NSW² | Duty applies to a lease of land in NSW or an agreement for a lease of land in NSW in respect of which a premium is paid or agreed to be paid. A premium in respect of a lease entered into pursuant to an option, includes an amount paid or payable for the grant of the option. Non monetary consideration can also be considered as a premium. ² |
| NT | Duty is payable on the grant of a lease if a premium is paid in addition to, or instead of, rent. Duty is calculated on the amount or value of the premium. |
| QLD | Duty applies to the grant of a lease if a premium, fine or other consideration (including non-monetary consideration) is paid for the lease. The dutiable value of a lease includes the consideration or value of any movable chattels taken over by the lessee. |
| SA | Duty applies to consideration paid or agreed to be paid, other than rent reserved, for a lease. |
| TAS | Duty applies to the grant, transfer or surrender of a lease where premiums of more than \$3,000 are paid for or in connection with the lease. |
| VIC | <p>Duty applies on the grant or a transfer/assignment of a lease for which any consideration (other than rent reserved) is paid or agreed to be paid either in respect of the grant or the transfer/assignment of the lease or in respect of:</p> <ul style="list-style-type: none"> • a right to purchase the land or a right to a transfer of the land; • an option to purchase the land or an option for the transfer of the land; • a right of first refusal in respect of the sale or transfer of the land; or • any other lease, licence, contract, scheme or arrangement by which the lessee or transferee obtains any right or interest in the land the subject of the lease, other than the leasehold estate. <p>The amount of duty payable is calculated by reference to the greater of the consideration and the unencumbered value of the land.</p> |
| WA | Duty applies to a lease if consideration is paid, or agreed to be paid, for the grant or surrender of the lease. |

1. Duty is imposed on premiums for leases at transfer rates (see Table 1). Lease duty on rents (not being premiums) has been abolished in all States and Territories. Foreign surcharges may also apply to premiums on leases of residential land (see Table 5).
2. The changes introduced by the *State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022* to the *Duties Act 1997* (NSW) also impact duty on the grant of a lease in NSW (eg pursuant to the amendments the grant of a lease for non-monetary consideration now is prima facie dutiable in NSW). Revenue NSW has released guidelines on the operation of these provisions on leases (in particular, see CPN 027: Leases and change in beneficial ownership).
3. The *Stamp Duty Amendment Bill 2023* (NT), which passed on 22 June 2023, abolished stamp duty on various non-land interests. It also introduced an exemption from duty on chattel conveyances forming part of a lease transaction for nil or nominal dutiable value, which do not include a conveyance of other dutiable property.

Table 7: General insurance duty¹

| ACT ² |
|------------------|
| N/A |

| NSW ³ |
|---|
| <p>9% Type A (other than Type B & C)⁴</p> <p>5% Type B (disability income, motor vehicle and other)</p> <p>9% Type C (crop and livestock) before 1 January 2018⁵</p> |

| NT |
|---|
| <p>10% All general insurance</p> |

| QLD ⁶ |
|--|
| <p>9% Class 1 (all other than class 2 or CTP insurance)</p> <p>Class 2 (includes riders)⁷</p> |

| SA |
|---|
| <p>11% All general insurance</p> |

| TAS |
|---|
| <p>10% All general insurance</p> |

| VIC |
|---|
| <p>10% All general insurance</p> |

| WA |
|---|
| <p>10% All general insurance</p> |

1. General insurance can include life riders to general insurance policies in some jurisdictions, depending on the nature of the life rider.
2. Insurance duty has been abolished in the ACT for policies entered into on or after 1 July 2016.
3. Certain small businesses are exempt from some insurance duties from 1 January 2018 (eg, commercial vehicle insurance, commercial aviation insurance, occupational indemnity insurance, product and public liability insurance).
4. Lenders mortgage insurance duty is abolished for premiums in relation to insurance paid on or after 1 July 2017.
5. Crop and livestock insurance duty is exempt from duty and are not types of general insurance, if effected or renewed on or after 1 January 2018.
6. For accident insurance, duty of 5% of the net premium applies, and for CTP insurance a flat rate of \$0.10 applies per policy.
7. Class 2 general insurance refers to general insurance for, or relating to, professional indemnity, personal injury to a person relating to the person's travel on an aircraft, a motor vehicle (other than CTP insurance), a home mortgage that is a first mortgage, or a life insurance rider.
8. The *State Taxation Acts Amendment Act 2023* (Vic) introduced a gradual abolishment of insurance duty over a 10-year period. From 1 July 2024 to 30 June 2025, for example, the rate will be 9%, with insurance duty to be abolished from 1 July 2033.

Table 8: Life insurance duty¹

| State | Temporary / Term | Trauma / disability income | Group | Other |
|------------|----------------------------|---|---|-----------------------------|
| NSW | 5% of first year's premium | 5% of all premiums | 5% of first year's premiums (and for succeeding years for additional lives) | Approx. 0.1% of sum insured |
| QLD | 5% of first year's premium | Other, approx., at highest rates on sum insured: 0.1% | | |
| TAS | 5% of first year's premium | Other, approx., at highest rates on sum insured: 0.1% | | |
| SA | 1.5% of all premiums | | | |
| ACT | N/A | | | |
| NT | N/A | | | |
| VIC | N/A | | | |
| WA | N/A | | | |

1. Life insurance duty no longer applies in ACT, NT, VIC, and WA.

Table 9: General land tax and surcharge land tax rates¹

| State | General land tax rate ¹ | Surcharge land tax rate ² | Foreign corporations ³ | Foreign (Non-discretionary) trusts | Liability date |
|--------------------------|---|--|---|---|---|
| ACT⁴ | Fixed charge of \$1,565 plus valuation charge up to 1.14% on five year average of unimproved value of the residential land. | 0.75% on the average unimproved value of all residential land owned by foreign persons | <ul style="list-style-type: none"> Corporation not incorporated in Australia; or One or more foreign persons or associated persons of foreign persons have 50% or more control (maximum votes and shares) | <ul style="list-style-type: none"> 50% or more of the capital of the trust estate is held by one or more foreign beneficiaries and their associates | Midnight on 1 July, 1 Oct, 1 Jan and 1 April in each year |
| NSW^{5,6} | <p>Land value of \$969,000 or more: \$100 plus 1.6%</p> <p>Land value of \$5,925,000 or more: \$67,364 plus 2%</p> | 4% on all residential land owned by foreign persons | <ul style="list-style-type: none"> Applies FIRB definition Substantial interest" of 20% or "aggregate substantial interest" of 40% for two or more foreigners | <ul style="list-style-type: none"> Applies FIRB definition "Substantial interest" of 20% of the income or property of the trust or "aggregate substantial interest" of 40% for two or more foreigners | Midnight on 31 December each year |
| NT⁷ | N/A | N/A | N/A | N/A | N/A |
| QLD⁶ | For companies and trustees with freehold land of \$10m or more: \$187,500 plus 2.75% | 2% on all freehold land of \$350,000 or more owned by foreign persons | <ul style="list-style-type: none"> Corporation not incorporated in Australia; or One or more foreign persons or associated persons of foreign persons have 50% or more control (maximum votes and shares) | <ul style="list-style-type: none"> 50% or more of the trust interests in the trust are foreign interests | Midnight on 30 June each year |

1. Rates shown are generally the highest marginal rates which apply.
2. The surcharge rates apply in addition to the applicable general land tax rate.
3. Different rules apply for corporations, trusts and individuals.
4. The effective rate from 1 October 2022.
5. The land tax early payment discount has been lowered to 0.5% effective from 1 January 2023.
6. Eligible build-to-rent (BTR) projects may be entitled to land tax concessions. In NSW, eligible BTR projects are entitled to a 50% reduction in the land value and exemption from the surcharge rate until 2040 upon application and subject to conditions. The Revenue Legislation Amendment Act 2023 (Qld), which was enacted on 23 June 2023, introduced a 50% land tax concession and 100% reduction in the taxable value of land for land tax foreign surcharge for up to 20 years for land which is used as an eligible BTR development.
7. From 30 June 2022 the property activation levy based on the unimproved capital value of vacant and unoccupied non-residential properties in Darwin no longer applied.

| State | General land tax rate ¹ | Surcharge land tax rate ² | Foreign corporations ³ | Foreign (Non-discretionary) trusts | Liability date |
|----------------------------|--|---|---|---|-----------------------------------|
| SA⁸ | Land value over \$2m: \$25,685 plus 2.4% ⁹ | N/A | <ul style="list-style-type: none"> N/A | <ul style="list-style-type: none"> N/A | Midnight on 30 June each year |
| TAS | Land value of \$500,000 or more: \$1,800 plus 1.5% ¹⁰ | 2% on all residential land owned by foreign persons | <ul style="list-style-type: none"> Corporations not incorporated in Australia; or Foreign persons are in a position to control more than 50% of the voting power, or have an interest of 50% or more in issued shares | <ul style="list-style-type: none"> One or more foreign person has more than a 50% interest in the capital of the trust | Midnight on 1 July each year |
| VIC^{11,12} | Land value of \$3m or more: \$31,650 plus 2.65% ^{15,16} | 4% on all land owned by absentee owners ¹² | <ul style="list-style-type: none"> Corporation not incorporated in Australia; or One or more foreign persons can control the composition of the board, or have more than 50% control (maximum votes and shares) | <ul style="list-style-type: none"> At least one foreign person has a beneficial interest in land under the trust, or is a unitholder in a unit trust | Midnight on 31 December each year |
| WA | Land value over \$11m: \$186,550 plus 2.67% | N/A ¹⁴ | N/A | N/A | Midnight on 30 June each year |

8. As announced in the 2023-24 South Australian budget, and in the draft Statutes Amendment (Budget Measures) Bill 2022 (SA) currently before Parliament, it is proposed there will be a 50% reduction in the taxable value of land when assessing land tax for eligible BTR developments. The reduction will be available for the 2023-24 financial year for eligible new build-to-rent projects, where construction commences on or after 1 July 2023. The land tax reduction will be available up to, and including, the 2039-40 financial year.
9. The effective rate from 1 July 2023.
10. The effective rates from 1 July 2022.
11. In Vic, the Treasurer may provide an exemption to a foreign corporation or foreign trust, subject to certain criteria being satisfied (eg for acquisitions by Australian based developers for developments which add to the supply of housing stock in Victoria). Separately, recent legislative amendments have introduced specific concessions for BTR projects, namely 50% reduction of land tax and full exemption from absentee owner surcharge land tax for up to 30 years upon application and subject to conditions.
12. As announced in the 2023-24 Victorian Budget, and pursuant to the State Taxation Acts Amendment Act 2023 (Vic), the land tax rates in Victoria have increased to offset COVID-19 debt.
13. From 1 July 2023, a windfall gains tax applies to land subject to rezoning which results in a value uplift of more than \$100,000.
14. A metropolitan region improvement tax rate of 0.14% applies to the aggregated taxable value of land in excess of \$300,000 for property located in the metropolitan area surrounding Perth

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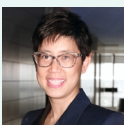
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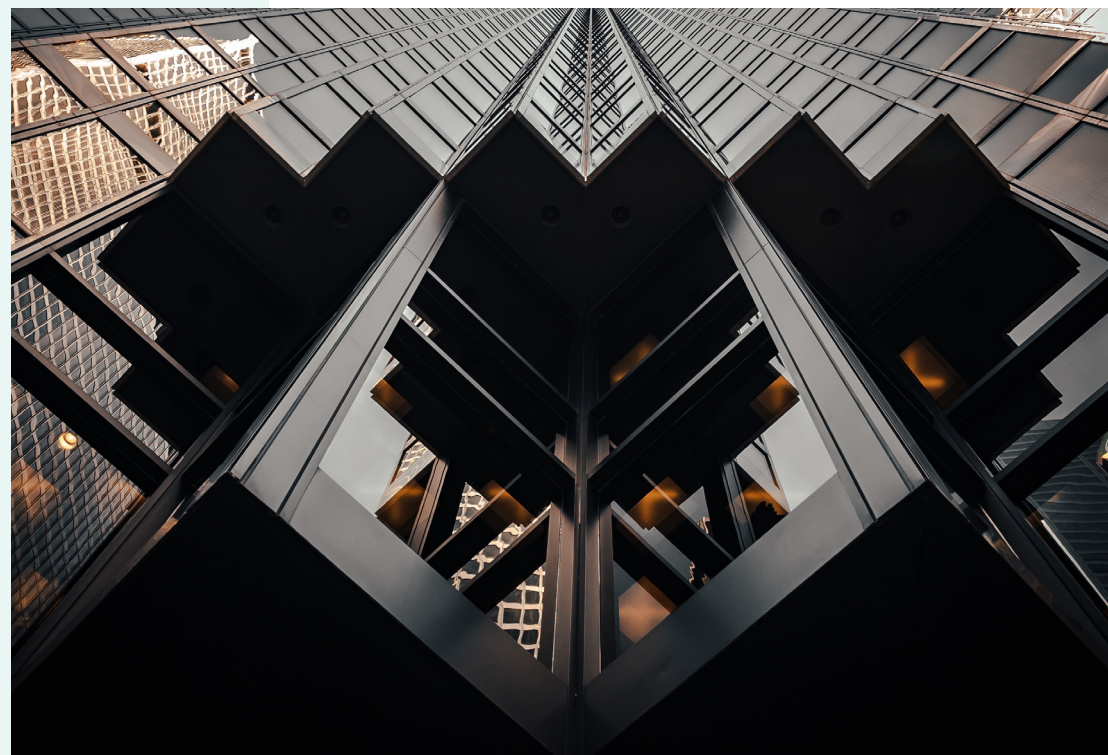
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