

Application for Exemption from/Reduction in Duty for Certain Transfers

Note:

- Each transferee must complete the Statutory Declaration on page 3. If there is more than one transferee, each transferee must complete a separate form and attach to this application
 - Each transferee must also complete the Undertaking on page 4 if the land, or part of the land, being transferred is under the *Real Property Act 1900*
 - For your application to be considered, you must:
 - ▶ complete all relevant parts of this form
 - ▶ supply all supporting evidence requested (see below). All evidence must be provided for your application to be considered. Failure to provide this evidence will result in your documents being returned unprocessed
 - ▶ ensure all outstanding land tax has been paid
 - Under the *Taxation Administration Act 1996*, it is an offence to give false or misleading information
 - Before completing this form read the definition of terms below
 - Print clearly in the boxed spaces and tick the appropriate boxes.
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Supporting evidence required

For **all** applications you **must** lodge the following supporting evidence:

- transfer document signed and dated
- copy of certificate of title
- estimate of the value of the property.

In addition you will need to lodge the following if you are applying under:

- **Section 96:**
 - ▶ a copy of Memorandum and Articles of Association of the transferor corporation
 - ▶ a copy of the last annual return lodged with Australian Securities and Investments Commission
 - ▶ land tax assessment number
 - ▶ evidence that company owned the land as at 11/09/1990.
- **Section 97:**
 - ▶ a copy of the trust deed establishing the special trust and any amending documents
 - ▶ if the transferee was the person who actually paid the purchase money when it was acquired by the trustee under the trust, evidence of provision of the money e.g. bank statements
 - ▶ a copy of the contract for sale under which the trustee acquired the property
 - ▶ land tax assessment number
 - ▶ evidence that trust owned the land as at 11 September 1990.
- **Section 98:**
 - ▶ a copy of the Memorandum and Articles of Association of the transferor corporation
 - ▶ a copy of the last annual return lodged with the Australian Securities and Investments Commission
 - ▶ a copy of the trust deed establishing the special trust and any amending documents

Definitions

The *Duties Act 1997* provides an exemption from or reduction in duty for a transfer of a principal place of residence from a corporation or special trust to certain persons (Sections 96-98, 100). This exemption does not apply to an *Agreement for Sale of Land*.

- Corporation – has the same meaning as in the *Corporations Act 2001 of the Commonwealth*
- Land – includes any estate or interest in land
- Land tax – has the same meaning as in the *Land Tax Management Act 1956*
- Principal shareholder – in relation to a corporation means:
- any person (other than a corporation) whose voting entitlement (whether or not through the holding of shares) in the corporation is 50 per cent or more; or
 - any person (other than a corporation) who has a voting entitlement (whether or not through the holding of shares) in the corporation where all the persons have an equal voting entitlement.
- Shareholder – includes a member
- Special trust – has the same meaning as in Section 3(1) of the *Land Tax Management Act 1956*
- Voting entitlement –
- A person's voting entitlement in a corporation is that proportion of the total voting rights of all shareholders entitled to vote at general meetings of the corporation, which the person is entitled to exercise as a shareholder at general meetings of the corporation
 - A person is considered to have a voting entitlement in a corporation ('corporation A') if the person has a voting entitlement in another corporation ('corporation B') which itself has a voting entitlement in corporation A
 - The person's voting entitlement in corporation A is the proportion which results from multiplying the person's voting entitlement in corporation B by corporation B's voting entitlement in corporation A
 - If a person has a voting entitlement in the same corporation under different provisions of the clause, or under different applications of the same provision of this clause, the person's voting entitlement in the corporation is the aggregate of those entitlements
 - In determining a person's voting entitlement, proxies and other authorities to vote held by a shareholder are to be disregarded.

Client ID (if applicable)

Please indicate whether you are claiming an exemption from/reduction in duty on a transfer of the principal place of residence:

by a corporation to a person (or a spouse of a person) who is a principal shareholder of the corporation; and where the corporation owned the land on 11 September 1990 (Sect 96)

➤ *complete 2A of the Statutory Declaration*

by a special trust to a person (or the spouse of a person) who is a beneficiary of the special trust, or the settler of the land, or the person who actually paid the purchase money for the land when it was acquired by the trustee of the special trust; and where the land was subject to the special trust on 11 September 1990 (Sect 97) ➤ *complete 2B of the Statutory Declaration*

by a corporation (not acting in the capacity of trustee) to a person (or the spouse of a person) who is a beneficiary under a special trust and was a beneficiary of that trust when the land was acquired by the corporation and where the trustee of the special trust is a principal shareholder of the corporation at the time of the transfer; and where the corporation owned the land on 11 September 1990 (Sect 98) ➤ complete 2C of the Statutory Declaration

where the transfer would be eligible for exemption under Sect 96, 97 or 98 but for the fact that the land was not used and occupied solely as a principal place of residence at the relevant time, but the land value was then subject to a reduction under Sect 9C or 9D of the *Land Tax Management Act 1956* (Sect 100) ➤ complete either 2A, B or C of the Statutory Declaration, whichever is relevant

Statutory declaration by transferee

I,	
of	Daytime phone number ()

do solemnly and sincerely declare as follows:

1.	I am the transferee/one of the transferees in a transfer of land dated / /		
	between the transferor(s): Name(s)		
	and the transferee(s): Name(s)		
	of the land situated at: Street address:		
	Suburb	State	Postcode
	being the land comprised in: Folio Identifier(s)		

2A. The transferor is a corporation that owned the land on 11 September 1990, and

(a) I am a principal shareholder in the corporation; or

(b) I am the spouse of
(name of spouse), a principal shareholder.

OR

2B. The land was subject to a special trust on 11 September 1990; and

(a) I am the settler or the person who actually paid the purchase price for the land; or

(b) I was a beneficiary of the special trust immediately before the transfer took effect and immediately before the land was acquired by the trustee

(c) I am the spouse of a person referred to in 2B a), or 2B b);

and after the transfer, each of the transferees will hold the land beneficially.

OR

2C. The transferor is a corporation that owned the land on 11 September 1990, and

(a) I am a beneficiary of a special trust and was a beneficiary when the land was acquired by the corporation, or

(b) I am the spouse of a beneficiary referred to in 2C a); and

the trustee under the special trust is a principal shareholder in the corporation at the time of the transfer.

3. If I had been an owner of the land within the meaning of the *Land Tax Management Act 1956* (the act) on 31 December that last preceded the date of the transfer:

- the land transferred would, by the operation of Section 10 (1) (r) of the act, be exempt from land tax in respect of the year in which the transfer takes effect; or
- the land would be entitled to a reduction in land value under section 9C or 9D of the act.

Declaration

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1900*

Declared at (Place)	on (Date)	/	/	20
Signature of declarant				

in the presence of an authorised witness, who states:

I (Name of authorised witness),
a (Qualification of authorised witness)

certify the following matters concerning the making of this statutory declaration by the person who made it (**please cross out any text that does not apply*):

- *I saw the face of the person OR
*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
- *I have known the person for at least 12 months OR
*I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was

(Describe identification document relied on)

Signature of authorised witness	Date	/	/	20
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Undertaking

Note:

- To be completed by the transferee(s) for **Real Property Act land** only
- In this undertaking, the single includes the plural

I,	
of	Postcode

In the State of New South Wales being the transferee in the transfer dated / /

between as transferor

and myself as transferee in respect of property under the *Real Property Act 1900* and known as:

Folio identifier

hereby undertake to the Chief Commissioner of State Revenue that:

- the duty which would be payable on the transfer but for the granting of an exemption under Division 3 Part 8 of Chapter 2 of the *Duties Act 1997* will be paid by me if I do not become the registered proprietor of the land within 3 months (or such longer period as the Chief Commissioner may determine), after the transfer is stamped as exempt from the payment of duty
- I will, within 1 month after becoming the registered proprietor of the land (or such longer period as the Chief Commissioner may determine), provide evidence of that fact to the satisfaction of the Chief Commissioner


Declared at (Place)		
this (Day)	of (Month)	(Year) 20
Signed		

(Signature of transferee)

Privacy statement

Information collected from you on this form is required by the Office of State Revenue (OSR) to determine if you have a liability or entitlement. The information may be provided to third parties with your consent or as required or permitted by law. OSR will correct or update your personal information at your request. Read more about privacy at www.osr.nsw.gov.au


Contact details

 1300 139 814* (Monday – Friday, 8.30 am – 5.00 pm)

*Interstate clients please call (02) 9689 6200

 www.osr.nsw.gov.au

 duties@osr.nsw.gov.au

 Help in community languages is available.

Office (Monday – Friday, 8.30 am – 4.30 pm)

The Lang Centre,
132 Marsden Street, Parramatta

GPO Box 4042,
Sydney NSW 2001

DX 456
Sydney

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