

This form must be used for applications made on or after 1 February 2024, where a dutiable transaction has been entered into.

### Application for Concessional Duty: Corporate Reconstructions – Post-transaction

#### Definitions:

A **Corporation** includes a unit trust scheme.

A **Corporate Group** consists of a parent corporation and its subsidiaries and includes stapled corporations. A corporation is the *parent corporation* of another corporation (which is the *subsidiary* of the first corporation) if the first corporation, directly or indirectly:

- a) holds at least 90% of the securities of the other corporation, and
- b) holds voting control over the other corporation.

A corporation that is a unit trust scheme is taken to be a member of a corporate group for the purposes of a corporate reconstruction transaction if the transaction is between the trustee of the unit trust scheme, acting as trustee of the scheme, and another corporation that is a member of the same corporate group as the unit trust scheme.

A **Discretionary Trust** is a trust, the terms of which (such as the identity of income or capital beneficiaries, the amounts they might receive, the duration of the trusts, and the property in the trust fund) depend upon the exercise of, or the failure to exercise, powers bestowed by the trust deed upon the trustee.

**Relevant members of the corporate group** are the parties to the transaction and every other corporation necessary to establish the connection between the parties as parent corporation and subsidiary, or as subsidiaries of the same parent corporation.

**Security of a corporation** means:

- a) in the case of a corporation other than a unit trust scheme, an issued share of the corporation, or
- b) in the case of a unit trust scheme, a unit issued under the scheme.

**Stapled Corporations** are formed as a corporate group when a corporation, all of the securities of which are stapled to the securities of one or more other corporations. The corporate group includes all of those other corporations and their subsidiaries.

**Target** any landholder in which the Transferor has an interest in for the purposes of Chapter 4 of the *Duties Act 1997* (NSW)

**Voting control** means being in a position to cast, or control the casting of, at least 90% of the maximum number of votes that may be cast at a general meeting of that corporation (other than votes to which a person is entitled under the provisions of a debenture or trust deed securing the issue of a debenture).

**Interest and penalties apply if the correct duty is not paid within three months of the transaction occurring.**

#### Transaction details

A concession is sought for the following transactions:

- a transfer of dutiable property between members of the corporate group
- an agreement for sale or transfer of dutiable property between members of the corporate group
- a surrender of an interest in land in New South Wales by and to members of a corporate group
- a vesting of dutiable property by or as a consequence of a court order, where the property is held by a member of the corporate group both before and after the vesting
- a vesting of land in New South Wales by, or expressly authorised by, statute law where the property is held by a member of the corporate group both before and after the vesting
- an application to register a motor vehicle as a result of a transfer of the vehicle between members of the corporate group
- an acquisition of an interest in landholder (within the meaning of Chapter 4) by a member of a corporate group from another member of the same group

## Supporting documentation/information checklist

You must provide the following to support this application:

Cover letter explaining the transaction(s)

Group structure diagram immediately before and after the transaction occurred. If there is more than one step, provide a diagram at each individual step, and

- if the Corporate Group includes any Trustee, Custodian, Responsible Entity or Stapled Securities, these relationships should be clearly shown in the group structure diagrams, and
- if the Corporate Group includes any Managed Investment Schemes, indicate if they are registered or unregistered Managed Investment Schemes.

Copies of share or unit register(s) as at the date of the transaction(s).

- if the provided registers are not dated, include a written statement from a relevant officeholder as evidence that they are current as at the date of the transaction.
- if the Corporate Group contains any foreign entities, and any foreign entity is not required to maintain a register by law, provide a company extract or equivalent accompanied by a letter from a relevant officeholder confirming that the foreign entity is not required to maintain a register by law.

If the Corporate Group contains any foreign entities, provide an explanation of how the entity is a "Corporation" and whether the entity issues securities. If applicable, provide evidence e.g., limited liability company operating agreement.

Copies of any executed documents or instruments entered into in relation to the transaction.

Copies of endorsed trust deeds for any trusts within the corporate group.

Copies of current title searches for any land being transferred.

If this transaction involves an acquisition of an interest in a landholder:

- a) a completed Acquisition Statement – ODA 043A, including the required supporting information identified in the statement, and
- b) any additional supporting information identified in the Duties Act – Acquisition of interests in landholders evidentiary requirements

If this transaction involves an agreement for the sale and/or transfer of dutiable property include all supporting information identified in the Duties Act – Corporate Reconstruction evidentiary requirements.

## Completing the application

- Under the *Taxation Administration Act 1996*, it is an offence to knowingly give false or misleading information or omit information<sup>1</sup>
- This application and the undertaking must be completed by the transferee corporation or a corporation that will remain a member of the group after the transaction.
- The Declaration must be completed by a director of the corporation making the application.
- If the reconstruction involves transfers to more than **one corporation**, you must lodge a **separate** application for each corporation.
- If you need more room, complete your answers on a separate sheet and attach to this form.
- **Applicant must provide the required information specifically noted in this form. Failure to provide the requested information will result in your application being rejected.**

## Applicant's details

Corporation name		
Address		
Suburb	State	Postcode
Contact name	Daytime phone no. (    )	
Email address		

## Corporate Group details

List all relevant members of the corporate group > *Go to page 1 for definitions.*

Name of corporation	ACN/ABN	Date of incorporation (Enter date as dd/mm/yyyy)
Transferor:		
Transferee:		
Target (if any):		

Other relevant members:	ACN/ABN	Date of incorporation

Is the Transferor or Transferee holding the subject property in a Trustee capacity or on behalf of a Partnership/ Partners of the Partnership?

If Yes, provide an explanation of the arrangement.

Are there any trusts within the group?

If Yes, provide an explanation of the arrangement.

Are there any Trustees, Responsible Entities, Custodians, Sub-custodians or stapled securities within the group?

If Yes, diagrams before and after the reconstruction must clearly indicate these relationships.

Does the corporate group contain any foreign entities?

If Yes, provide an explanation of how each foreign entity is a 'corporation' and if it issues securities or not.

## Property details

Identify the property the subject of your application by completing the boxes below:

- a) Land in NSW > Please *tick/cross one*      Transfer of land      Landholder liability

The property is described as (title reference)	
situated at street no and address	
Suburb	State
Estimated value of this dutiable property \$	

- b) Marketable securities > *Please tick/cross one*

Shares in a NSW company      Units registered on a register kept in NSW

Name of company	Number of shares
Name of unit trust scheme	Number of units
Unencumbered value of this dutiable property \$	
Is this company/unit trust scheme a landholder within the meaning of <u>Chapter 4</u> of the Act? Yes > <i>If Yes, go to a) and e) and give details of its landholdings and goods</i> No	

- c) Lease over land in NSW

The property is described as (title reference)	
situated at street no and address	
Suburb	State
Unencumbered value of this dutiable property \$	

- d) Motor vehicles registered in NSW

Registration number(s) of the vehicle(s)
Unencumbered value of the motor vehicle(s) \$

- e) For transactions over business assets or goods of a landholder:  
Other dutiable property such as goods in NSW / partnership interest etc

Description of dutiable property
Unencumbered value of this dutiable property \$

## Undertaking

The applicant corporation undertakes:

1. to abide by any other conditions subject to which approval is given, and
2. to advise the Chief Commissioner in writing as soon as practicable if any such conditions are not met, and
3. to pay all duty assessed on the transactions or instruments if any such conditions are not met and if approval is revoked.

## Declaration

I, (Name of director)

a director of

Date (DD/MM/YYYY)

do solemnly and sincerely declare that:

1. I am authorised by the applicant corporation to make this declaration on its behalf.
2. The transaction is one of a series of transactions, undertaken for the purpose of changing the structure of a corporate group and/or changing the holding of assets within the corporate group.
3. The circumstances of the transaction including the purpose of the corporate reconstruction is:

4. The transaction is not undertaken for:
  - i. the purpose of avoiding or reducing duty on another transaction, or
  - ii. for the sole or dominant purpose of avoiding or reducing a liability for tax other than duty, including tax imposed under a law of another State, a Territory or the Commonwealth.
5. The corporations are members of a corporate group, being the parent corporation and subsidiary corporations or stapled corporations.

➤ Go to page 1 for definitions.

Every relevant member is not acting in the capacity of trustee of:

- (a) a unit trust scheme that is not a member of the same corporate group as the other party to the transaction, or
- (b) a discretionary trust, or
- (c) a trust for any person who is not a member of the corporate group.

➤ Go to page 1 for definitions.

6. The undertaking given in this application is complied with.

Under the *Taxation Administration Act 1996*, it is an offence to knowingly give false or misleading information or omit information<sup>1</sup>

I declare that all information provided is true and correct in every particular.


<sup>1</sup> Penalties of up to 1,000 penalty units or 2 years imprisonment (or both) may apply.

### Privacy statement




Your information is being collected by Revenue NSW under authority of the *Duties Act 1997*. We collect your information for administration of your duty obligations. Revenue NSW takes the protection and privacy of your personal information seriously by handling personal information in a responsible manner and in accordance with the NSW Privacy Laws: *Privacy and Personal Information Protection Act 1998* and *Health Records and Information Privacy Act 2002*.

Your information may be provided to third parties as required or permitted by law. Please refer to the [Revenue NSW Privacy Policy](#) for information on how to access or amend your personal information, or to make a privacy complaint.

### Contact details

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

\*Interstate clients please call (02) 7808 6900

 [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au)  [corporate.reconstruction@revenue.nsw.gov.au](mailto:corporate.reconstruction@revenue.nsw.gov.au)  Help in community languages is available

### Postal address

GPO Box 4042  
Sydney NSW 2001

© State of New South Wales through Revenue NSW, 2023. This work may be freely reproduced and distributed for most purposes, however some restrictions apply. Read the copyright notice at [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au) or contact Revenue NSW.