

Application for Exemption – Transfer of Land used for Primary Production Between Family Members

Note:

- For transactions entered into before 19/05/2022, the exemption is only available for transferee/s that are individuals (natural persons).
- Under the *Taxation Administration Act 1996*, it is an offence to knowingly give false or misleading information or omit information.
- When completing this declaration; **transferee** includes lessee and assignee, **transferor** includes lessor and assignor.
- This declaration must be completed by the transferee or the person directing the transferee.
- If there is more than one transferee or person directing the transferee, a separate declaration must be completed by each.
- If you need more room to complete this form, attach a separate sheet with your additional information.

Supporting evidence

For a complete list of evidentiary requirements, refer to *Duties Act -Section 274: Transfer of certain business property between family members*.

Declaration

Transferee details

1.	I
	am a transferee or person directing the transferee in respect of a transaction over the property described as
	Address
	being title reference (e.g. Folio ID)

2a. The transaction was entered into on or before 18 May 2022 and I will hold the property in the capacity as:

an individual (natural person) ➤ go to question 3

an executor of a deceased estate ➤ go to question 3

2b. The transaction was entered into on or after 19 May 2022 and the property will be held in the capacity of:

an individual (natural person)

an executor of a deceased estate

a proprietary limited company

a trustee of a trust

If a trustee, select the type of trust:

Unit trust Discretionary trust Fixed trust Super fund Other trust

If the trust is a unit trust, fixed trust, discretionary trust or superfund, provide the name of the trust. If any other type of trust (e.g. bare trust) provide the name of the beneficiaries (i.e. real purchaser/s).

(Name of trust/beneficiaries)

Transferor details

3. The transferor is

(Transferor Name)

and holds the property in the capacity as:

- an individual (natural person) ➤ *go to question 5*
- an executor of a deceased estate ➤ *go to question 5*
- a proprietary limited company ➤ *go to question 4*
- a trustee of a trust

If a trustee, select the type of trust:

Unit trust Discretionary trust Fixed trust Super fund Other trust

If the trust is a unit trust, fixed trust, discretionary trust or superfund, provide the name of the trust. If any other type of trust (e.g. bare trust) provide the name of the beneficiaries (i.e. real purchaser/s).

(Name of trust/beneficiaries)

4. The person directing the transferor is ➤ *See notes 1 and 2:*

(Name)

5. The transferor (or person directing the transferor) is a member of my family by reason of being
➤ *See notes 3 and 4:*

(Relationship)

- 6 Prior to this transaction, the **land was used for primary production*** in connection with a business carried on by me or a member of my family (whether alone or with others). The dominant use of which is for:

- Cultivation, for the purpose of selling the produce of the cultivation,
- Maintenance of animals (including birds) for the purpose of selling them or their natural increase or bodily produce,
- Commercial fishing or the commercial farming of fish, molluscs, crustaceans or other aquatic animals,
- The keeping of bees, for the purpose of selling their honey,
- Operating a commercial plant nursery (but not a nursery at which the principal cultivation is the maintenance of plants pending their sale to the general public),
- The propagation for sale of mushrooms, orchids, or flowers,
- Other

* **Land used for primary production** means land that is exempt from land tax under section 10AA (Exemption for land used for primary production) of the *Land Tax Management Act 1956*.

7. The business of primary production was carried on by:

(Individual or entity name)

8. I will continue to carry on the business (whether alone or with others) after the transfer, lease or assignment.
9. The relevant supporting information is attached
➤ *Evidentiary requirements Duties Act -Section 274: Transfer of certain business property between family members*

10. The estimated value of the property transferred is

\$

11. If the **transferee** is a proprietary limited company, or a trustee of a discretionary trust or of a private unit trust scheme, the family member directing the **transferee** will maintain a **minimum 25% interest** in the **transferee** for **3 years after the transfer of land**. ➤ See Note 1.

If the family member directing the **transferee** ceases to maintain a **minimum 25% interest** in the **transferee** at any time before **3 years from the transfer of land**, I undertake to notify the Chief Commissioner in writing within 14 days of the interest reducing.

Note: Failure to maintain the ownership requirement will result in the transfer of land being re-assessed on the unencumbered value of the dutiable property.

Declaration

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

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

Name	Date DD/MM/YYYY
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¹ Penalties of up to 1,000 penalty units or 2 years imprisonment (or both) may apply.

Notes

1. The person directing the transferor/transferee, lessor/lessee or assignor/assignee is determined in accordance with this table. There are no other cases in which a person is considered to be a person directing a transferor/transferee. If the person directing a transferor or transferee is not in this table, the exemption Section 274 does not apply.

Transferor/transferee, lessor/lessee or assignor/assignee	Person directing the transferor/transferee, lessor/lessee or assignor/assignee
Natural person (not acting in the capacity of executor or trustee)	Transferor/transferee, lessor/lessee or assignor/assignee (as applicable)
Executor of a deceased estate	The deceased person
Proprietary limited company	A shareholder or shareholders who: <ol style="list-style-type: none"> i) are beneficially entitled to those shares in the company; and ii) are entitled to vote at meetings of the company; and iii) are entitled as shareholders to not less than 25 per cent of the assets of the company on winding up, being an entitlement that existed: <ol style="list-style-type: none"> i) for a transferor - at least 3 years prior to the date of transfer, lease or assignment, or from the date of incorporation of the company, or ii) for a transferee - at least 3 years after the date of the transfer.
Trustee of a bare trust for named beneficiaries	A person who is a named beneficiary of the trust.
Trustee of a discretionary trust	A person or persons who are entitled (as takers in default of appointment) to not less than a 25 per cent interest in the capital of the trust fund, being an entitlement that existed: <ol style="list-style-type: none"> i) for a transferor - at least 3 years prior to the date of the transfer, lease or assignment, or from the date of establishment of the trust, or ii) for a transferee - at least 3 years after the date of the transfer.
Trustee of a private unit trust scheme	A unit holder or unit holders in the unit trust scheme who: <ol style="list-style-type: none"> i) hold the units beneficially; and ii) were entitled (as unit holders) to not less than 25 per cent of the assets of the unit trust on winding up, being an entitlement, which existed: <ol style="list-style-type: none"> i) for a transferor - at least 3 years prior to the date of the transfer, lease or assignment, or from the date of establishment of the trust, or ii) for a transferee - at least 3 years after the date of the transfer.
Trustee of a self-managed superannuation fund	A person who is a member of the fund
Subsidiary entity (for a transfer involving a proprietary limited company or unit trust scheme)	The person directing the parent entity (the subsidiary entity is owned by this parent entity being another proprietary limited company or unit trust scheme)

2. In the case of a transfer, lease or assignment by a company or unit trust scheme that is owned by another company or unit trust scheme, a person is taken to be directing the subsidiary entity if the Chief Commissioner is satisfied that, had the parent entity been the transferor, lessor or assignor, the person would be the person directing the parent entity in accordance with the table in note 1
3. A member of the family of the transferee, lessee or assignee means:
 - a) the transferee's spouse,
 - b) a parent of the transferee or the transferee's spouse,

- c) a grandparent of the transferee or the transferee's spouse,
- d) a brother, sister, nephew, niece, uncle or aunt of the transferee or the transferee's spouse,
- e) a child or grandchild of the transferee or the transferee's spouse,
- f) the spouse of anyone mentioned in paragraph b), c), d) or e).

4. **Spouse** includes a former spouse, a de facto partner and a former de facto partner.

6. **Transfer of land** includes the following –

- a) An agreement for the sale or transfer of the land,
- b) A lease of the land,
- c) A transfer or assignment of a lease or permit in relation to the land.


Note: The Dictionary also defines **transfer** to include an assignment and an exchange.

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