



Office of State Revenue  
NSW TREASURY  
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## Revenue Ruling No. DUT 2

# Exemption from Duty - Intergenerational Rural Transfers and Leases

### Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
DUT 2	01 July 1998	01 July 1998	31 January 2002	Replaced by <a href="#">DUT 24</a>

### Preamble

1. Since 1994, families in the rural sector have been able to claim relief from stamp duty on the transfer of farming properties to younger generations. The intention to encourage younger members of farming families to stay on the farm, and to allow the older generation to retire without the value of the farm affecting their entitlement to a pension.
2. Section 274 of the Duties Act provides that duty is not chargeable on certain transactions relating to land used for primary production. The exemption is limited by reference to the use of the land, the parties to the transaction, and other requirements contained in guidelines approved from time to time by the Treasurer.
3. This ruling details how the exemption applies, including guidelines approved by the Treasurer. The guidelines apply to transactions effected on or after 1 July 1998.

### Ruling

#### Transactions which qualify for exemption

4. The following transactions are eligible for exemption:
  - a transfer of land;
  - an agreement for the sale or transfer of land;
  - a lease of land;
  - a transfer or assignment of a lease or permit in respect of land; and
  - a transfer of shares in a share management fishery within the meaning of the *Fisheries Management Act 1994*.
5. If the transaction relates to land and other property, the exemption extends to other property that is an integral part of the business of primary production. Examples of this are an entitlement to water, a milk quota and shares in a co-operative.

#### Land used for primary production

6. The land to which the transaction relates must be land used for primary production. This means land used primarily for:
  - (a) the cultivation of the land for the purpose of selling the produce of the cultivation
  - (b) the maintenance of animals or poultry on the land for the purpose of selling them or their natural increase or bodily produce
  - (c) the keeping of bees on the land for the purpose of selling their honey
  - (d) a nursery within the meaning of the *Horticultural Stock and Nurseries Act 1969*, being a nursery of which a person is registered under that Act as a nurseryman
  - (e) the propagation for sale of mushrooms, orchids or flowers

- (f) aquaculture, being land subject to an aquaculture permit within the meaning of the *Fisheries Management Act 1994*
- (g) fishing.

7. The Chief Commissioner must be satisfied that the land was used for primary production by the transferor, lessor or assignor immediately before the transaction, and that the land will continue to be used for primary production by the transferee, lessee or assignee. Exemption will not be granted if the primary production business is leased to a person who is not a descendant.

**Parties to the transaction**

8. The transferee, lessee or assignee must be a natural person who is a descendant of the transferor, lessor or assignor in accordance with the following table:

**Transferor, lessor or assignor**

Natural person

**Transferee, lessee or assignee**

Descendant of the transferor, lessor or assignor

**Transferor, lessor or assignor**

Proprietary limited company

**Transferee, lessee or assignee**

Descendant of a shareholder or shareholders:

- (i) who hold the shares beneficially;
- (ii) who are entitled to vote at meetings of the company; and
- (iii) who were entitled (as shareholders) to 25% of the assets of the company on winding up, being an entitlement which existed for at least 3 years prior to the date of transfer or lease, unless the company was incorporated within 3 years of that date

**Transferor, lessor or assignor**

Trustee of a bare trust for named beneficiaries

**Transferee, lessee or assignee**

Descendant of a named beneficiary of the trust

**Transferor, lessor or assignor**

Trustee of a discretionary trust

**Transferee, lessee or assignee**

Descendant of a person or persons who are entitled (as takers in default of appointment) to a 25% interest in the capital of the trust fund

**Transferor, lessor or assignor**

Trustee of a private unit trust

**Transferee, lessee or assignee**

Descendant of a unitholder or unitholders:

- (i) who hold the units beneficially; and
- (ii) who were entitled (as unitholders) to 25% of the assets of the unit trust on winding up, being an entitlement which existed for at least 3 years prior to the date of transfer or lease, unless the trust was established within 3 years of that date

9. For the purposes of these guidelines, descendant means:

- child or step child;
- grandchild;
- brother or sister;
- niece or nephew;

or the spouse of any of them.

## **Other requirements**

10. The transferee must take legal and beneficial ownership of the property.
11. The transferor may retain the farm house and the existing area of land on which the farm house is situated.
12. Applications for exemption should contain any relevant supporting information, including the following:
  - (a) an estimate of the value of the land;
  - (b) where the transferor is a trustee of a discretionary trust or a trust for a named beneficiary, a copy of the stamped trust deed and any amendments;
  - (c) where the transferor is trustee of a unit trust, copies of the stamped trust deed and the latest balance sheet of the unit trust; and
  - (d) where the transferor is a company, copies of the memorandum and articles of association, and the latest balance sheet of the company, together with a certified copy of the share register.
13. An application in the form of a statutory declaration can be obtained from the Office of State Revenue. Enquiries can be made on:

(02) 9689 6564	(Parramatta)
(02) 4925 5333	(Newcastle)
(02) 4226 8303	(Wollongong)

## **B Buchanan**

Chief Commissioner of State Revenue

1 July 1998