



Office of State Revenue
NSW TREASURY
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Revenue Ruling No. DUT 6

Exemption from Duty - Societies or Institutions for the Relief of Poverty or Promotion of Education

Ruling history

Ruling no.	Issued date	Dates of effect		Status
		From	To	
DUT 6	01 July 1998	01 July 1998	08 March 2007	Replaced by DUT 34

Preamble

1. Section 275 (a) of the *Duties Act 1997* provides that duty is not chargeable on certain transactions by or on behalf of societies or institutions for the relief of poverty or promotion of education. The exemption is limited by reference to the use of resources in accordance with the rules and objects of the society or institution.
2. The exemption only applies to a society or organisation for the time being approved by the Chief Commissioner. This ruling outlines the factors which will be considered by the Chief Commissioner in granting such approval, and applies to transactions effected or instruments executed on or after 1 July 1998.
3. This ruling also considers the similar exemption in section 149 (1) (f), which applies to sales and purchases of marketable securities by a broker. A separate ruling discusses the exemption in section 275 (b), which grants exemption to certain transactions by or on behalf of charitable or benevolent societies or institutions.

Ruling

Exempt transactions

4. The following transactions or instruments are eligible for exemption:
 - a transfer of dutiable property to an approved society or institution;
 - an agreement for the sale or transfer of dutiable property to an approved society or institution;
 - a lease of dutiable property to an approved society or institution;
 - a declaration of trust over dutiable property held or to be held in trust for an approved society or institution;
 - a mortgage given by or on behalf of an approved society or institution; and
 - sales or purchases of marketable securities by or on behalf of an approved society or institution, being transactions to which Chapter 4 of the Duties Act (Broker provisions) applies.

Rules and objects of the society or institution

5. To obtain the benefit of the exemption the applicant must provide evidence that:
 - (a) its rules or objects include either the promotion of education in Australia or the relief of poverty in Australia or both of them; and
 - (b) its resources are used wholly or predominantly on either or both of the promotion of education in Australia or the relief of poverty in Australia.

6. Consideration will be given to any current or proposed transactions in determining whether the institution's resources are being used predominantly for the promotion of education or relief of poverty.

Approval for the time being

7. The words 'for the time being approved' do **not** allow approvals to be limited to a single transaction. The exemption is determined by the nature of the society or institution, and not by reference to the purposes for which the organisation enters into a particular transaction.
8. An approval will remain in force until withdrawn. However, an approval ceases to be in force upon any changes to the memorandum and articles of association or constitution of the organisation, unless the Chief Commissioner is notified of these changes immediately. The exempt status of the organisation will be reviewed, and the applicant will be advised whether the approval is to continue for the time being or is withdrawn.
9. All approvals will be subject to periodic review, and may be withdrawn by the Chief Commissioner, by notice in writing, until such time as evidence is provided that the applicant continues to qualify under paragraph 5.
10. An approval which is in force will apply to all transactions or instruments of the nature specified in paragraph 4. A copy of the notice of approval should be lodged whenever an instrument or statement is lodged with the Office of State Revenue for stamping.
11. An approval granted under section 275 (a) will be taken to also constitute approval under section 149 (1) (f) (exempt transactions - on-market transfers of marketable securities).
12. Approvals will have effect from the date of application, and will not be granted retrospectively. However, where approval is granted, any transaction or instrument upon which a liability to duty arose within 3 months prior to application for approval will be assessed on the basis that the society or institution was approved at the time of that liability.
13. Where approval under section 275 (a) is granted, but application for exemption was made more than 3 months after the initial liability to duty arose, approval for the specific transaction or instrument will be considered favourably under section 275 (b).
14. If approval is **not** granted under section 275 (a), approval will still be considered under section 275 (b) to the specific transaction, although further application would have to be made for each new transaction.

B Buchanan

Chief Commissioner of State Revenue

1 July 1998