

REVENUE RULING NO. SD 022

APPLICATION BY A TRUSTEE IN BANKRUPTCY PURSUANT TO SECTION 90 OF THE REAL PROPERTY ACT - DIXON'S CASE

PREAMBLE

In **Dixon v. Chief Commissioner of Stamp Duties (N.S.W.)** 85 ATC 4718, there were two appeals by way of case stated **under the Stamp Duties Act** 1920 (N.S.W.). In each case, the plaintiff was the trustee of the property of a bankrupt who was the registered proprietor, or one of the registered proprietors, of land registered under the **Real Property Act** 1900 (N.S.W.).

FACTS

Under section 58 of the **Bankruptcy Act** 1966 (Commonwealth), the property of a bankrupt is vested in the trustee of his estate. The trustee applied under section 90 of the **Real Property Act** for registration as the owner of land which had vested in him by operation of the **Bankruptcy Act**. The Chief Commissioner of Stamp Duties (N.S.W.) assessed the document in each case to ad valorem duty as a conveyance of property. In each case, the appeal was allowed and the application by the trustee for registration was held not to be liable for stamp duty.

RULING

An application by a trustee in bankruptcy pursuant to section 90 of the **Real Property Act** 1900 for registration as proprietor of land under the provisions of the Act which has been vested in him by virtue of section 58 of the **Bankruptcy Act** 1966 is not liable to stamp duty either as a conveyance of property or as a deed.

It is to be noted that "trustee" includes registered (private) trustees as well as the Official Trustee (formerly titled the Registrar in Bankruptcy).

Applications of this nature are to be treated as falling within the terms of paragraph (b) of the exemptions under the heading "Real Property Act, 1900, as amended", in the Second Schedule to the Stamp Duties Act.

(Departmental reference: T.I. 129)

A. D. CLYNE,
Chief Commissioner of Stamp Duties
28 April 1986

Last Updated: 20-Sep-2001