

REVENUE RULING NO. SD 229

STAMP DUTY - TRANSFERS TO TRUSTEES

PREAMBLE

1. The Stamp Duties Act (the Act) was amended by Act No. 33 of 1992 to provide a concessional rate of \$2 stamp duty where certain marketable securities or units in a unit trust scheme, or rights to same, are transferred to a trustee.
2. These provisions are contained in Section 73(2AE) of the Act and commenced on 18 May 1992.
3. This Ruling is to explain the intention of the legislation and outline the Chief Commissioner's requirements where this type of matter is under consideration.

RULING

4. The intention of the legislation is to provide that:

* the beneficial owner of marketable securities or units in a unit trust scheme, or rights to same, may transfer them to a trustee to be held by the trustee on the beneficial owner's behalf; or

* marketable securities or units in a unit trust scheme, or rights to same, held by a manager or trustee may be transferred to a custodian or another trustee,

for duty of \$2 instead of ad valorem duty, where the Chief Commissioner is satisfied that there is no change in the underlying beneficial ownership of these marketable securities, units or rights and that none is contemplated.

5. The provisions do not apply to the transfer of any other type of property other than marketable securities, units or rights to same.

6. To satisfy the Chief Commissioner that a transfer meets the requirements of Section 73(2AE) it will be necessary to provide a statutory declaration by the transferee or the transferor stating:

- (i) in the case of a transfer from a beneficial owner to a trustee-

* the name of the beneficial owner and confirming that this person does not change following the transfer;

* the name of the trustee;

* that the transfer does not result in the beneficial owner acquiring a legal or a greater interest in the property conveyed;

* that the transfer is not made in contemplation of any change in the beneficial ownership in that property; and

(ii) in the case of a transfer from a trustee to a trustee, custodian or nominee -

* confirmation that the beneficial ownership does not change following the transfer;

* the name of the trustee;

* the name of the new trustee, custodian or nominee;

* that the transfer does not result in the beneficial owner acquiring a legal or a greater interest in the property conveyed;

* that the transfer is not made in contemplation of any change in the beneficial ownership in that property.

In each case, copies of any existing declarations of trust or trust deeds should be produced.

7. Section 73(2AE) does not apply to transfers from a trustee to a beneficial owner as such a transfer would convey a legal interest to the beneficial owner.

B. Buchanan,
for CHIEF COMMISSIONER OF STAMP DUTIES,
10 December 1992.

Last Updated: 20-Sep-2001