

REVENUE RULING NO. SD 029

TRANSMISSION APPLICATIONS/CONSENTS - DEVISEE

PREAMBLE

As a consequence of the repeal of death duty in terms of the Stamp Duties Act 1920 in respect of all estates of persons dying on and after 31 December 1981, the function of marking transmission applications (and occasional transfers) "Registration Not Opposed" to enable registration of devisees at the Land Titles Office ceased. The instruments in question had thereafter been assessed and stamped at the nominal fixed stamp duty charge without further enquiry.

It was subsequently ascertained that a procedure understood to be operating within the Land Titles Office whereby the entitlement of the relevant person to be registered as "devisee" was verified had been discontinued.

A resultant sampling of transmission applications specifying a "devisee" registration revealed that a noticeable number had been incorrectly completed. The term, for example, had been sometimes used to include a spouse of a devisee and also a child/children jointly with the devisee/s as beneficiary/ies.

The following procedure has been implemented.

RULING

To ensure that a transmission application/consent does not attract the ad valorem rate of stamp duty in lieu of a fixed \$10 charge evidence is required to establish the entitlement of the specified devisee/s to the specific property in accordance with the terms of the will of the testator.

In order to avoid unnecessary delay each application should be accompanied on lodgement by a certified copy of the will or, preferably, the Probate of the will which will have incorporated therein a reference to the specific assets of the deceased person. In some instances further clarification may be necessary, for example, to identify a beneficiary or a particular asset or to establish the application of Section 73(1)(g).

With respect to intestate estates a statement by the administrator detailing the estate assets and substantiating entitlement will usually be required.

Whilst the procedures outlined have more relevance to the transmission of real property they also apply to holdings of marketable securities.

(Departmental reference: GI 92)

A.D. CLYNE,
Chief Commissioner of Stamp Duties
10 July, 1986 (Revised)

Last Updated: 20-Sep-2001