



What is a trust?

A trust is a legal relationship where a person/company holds property or rights on behalf and for the benefit of another.

What is a trustee?

A trustee is a person/company that is responsible for the administration of the trust as stated in the trust deed.

Is duty payable on the establishment of a trust?

Trust deeds establishing a trust over identified, dutiable property are liable for duty.

Trust deeds establishing a trust over non-dutiable or unidentified property dated on or after 1 July 2017 are **not** liable for duty.

Is duty payable on the retirement and appointment of a new trustee?

A. Duty is payable if:

- the trust holds dutiable property, as defined in Section 9 of the [Duties Act 2001](#) (the Act); and
- the dutiable property of the trust vests in the new trustee(s) pursuant to Section 15 of the [Trustee Act 1898](#).

B. Duty is **not** payable if:

- the trust did **not** hold any dutiable property at the date the deed of variation was signed; or
- the trust documentation has been drafted in a manner that results in dutiable property not being vested in new and/or replacement trustees.

Note: Most trust deeds make provision for property to be vested in the new/replacement trustees when there is a change of trustees.

Are there any duty concessions available when changing trustees?

Yes - there are two duty concessions.

1. Section 37(2) of the Act provides a concessional rate of duty where the property is transferred to a special trustee on the retirement of a trustee or the appointment of a new trustee.

Note: The term “special trustee” is defined in Section 37(1) of the Act.

2. Section 37(3) of the Act provides a concessional rate of duty where the property is transferred to a person other than a special trustee on the retirement of a trustee or the appointment of a new trustee. Please refer to [the Act](#) for more information.

What is the dutiable document when there is a change of trustees?

Where the variation to the trust changes the trustee(s) **only**, generally there will be two documents that need to be stamped.

The first will be the deed of variation that amends the trustees of the trust. Enter this document in TRO as a vesting of property (see page 2 of this factsheet for more information).

The second document will often be a Land Titles Office transfer instrument, which transfers real property to the new trustees. Enter this document in TRO as a property transfer; it may be eligible for a concessional rate of duty in accordance with Section 49 of the Act (see page 2 of this factsheet for more information).

If the variation of the trust extends beyond changing the trustee, it may be considered a resettlement of the trust.

More information

- a) Guideline: [Documentary evidence requirements](#). b) Revenue Ruling: [Evidence of Value](#).



Entering the transaction in TRO

Transaction 1 - Vesting of property (this relates to the deed of variation)

1. Tick the *There is no LTO instrument* box on the *Dealing information* page.
2. The *Date of Deed* field will appear. Enter the date of the deed of variation.
3. On the *Transferor Information* screen:
 - Select the *Entity type* of *Trust* and enter the *Trust Name*.
 - Enter the *Trust type*, *Trustee type* and the trustee details.
 - Click on *Add this trustee*
 - You will need to repeat this process for and enter the details for each of the original trustee(s), including the retiring trustee(s).

4. On the *Transferee information* screen:
 - From the *Entity type* drop-down options, select *Populate from Transferor <trust name>* (in this instance shown as *Transferor Trust 123ABC* in the adjacent screen shot). TRO will auto populate the trustees of the trust including the retiring trustee.
 - Remove the retiring trustee(s) from the transferee details and add any newly appointed trustee(s).

5. Enter all other details for the transaction including the concession being claimed. If the deed of variation relates to a change of trustee only, you may qualify for a concession under Section 37 of the Act. You can either self-endorse this transaction or submit to SRO for approval.

Transaction 2 - Property transfer (this relates to the transfer instrument)

1. Locate *Vesting of property* on the *Duty Transactions* page and select *View/update*.
2. From the Transaction view mode, select *Create Related Transaction*, which will open an exact copy of the first transaction.
3. Change the *Transfer type* to *Property transfer* and enter the *LTO dealing number*.
4. Update the contact details for the Transferor and Transferee trustees.
5. Enter the Concession being applied. If the deed of variation relates to a change of trustee only, you may qualify for a concession under Section 49 of the Act (change in trustee).
6. You may be able to self-endorse depending on your access levels in TRO.

If submitting either of the transactions to the SRO, please ensure you attach all supporting evidence, including the original trust deed and the deed of variation. To submit a transaction, use one of following options: i) the *Add file* function, or ii) the *Duty transaction mail* function.
File Limit: The combined file size should not exceed 50 MB.



Frequently asked questions

Q. If my trust does not hold property, do I still need to pay duty when the trustees change?

A. No, if the trust does not hold dutiable property it is not a dutiable transaction.

Q. Why do I have to enter a vesting of property and a property transfer?

A. Two dutiable transactions have occurred.

The first of these was a vesting of dutiable property as a consequence of changing the trustee(s) of the trust.

The second is the LTO transfer instrument where the change of ownership is noted on the property title.

Q. What should I do if I have endorsed the transfer claiming Section 37 and have not stamped the deed?

A. You should amend the transaction to include the concession type, *Section 49 Transfer for change of trustee where Trust Deed stamped*.

Enter a new transaction with a transfer type of *Vesting of Property* (refer to the instructions on page 2 of this factsheet). You can use this transaction to stamp the deed of variation that changed the trustees of the trust.

Q. My trust deed was established in 2001 and was not assessed for duty. I am now changing the trustees of the trust. Do I need to have the trust deed and the deed of variation assessed for duty?

A. The trust deed **will** need to be stamped if:

- the declaration of trust was signed (by any party) in Tasmania; or
- the declaration of trust declared a trust over Tasmanian property.

The trust deed will **not** need to be stamped if neither of the above tests are met.

The deed of variation will need to be stamped if, at the time the deed was signed, the trust owned Tasmanian dutiable property.