

Guideline

Duty instrument Tasmanian Revenue Online self-endorsement arrangements

Introduction

This guideline is for Tasmanian Revenue Online (TRO) agents and their authorised users. It sets out the dutiable transactions that are:

- *Mandatory* – must be self-endorsed using TRO;
- *Optional* – can be readily self-endorsed using TRO; and those that are
- *SRO-only* – must be submitted to the State Revenue Office for assessment.

A note about self-endorsement

TRO Agents must use the new TRO portal functionality to either self-endorse transactions or submit transactions to the SRO for assessment. If submitting to the State Revenue Office a user must create a new duties transaction and submit the transaction electronically, except for a transaction under Chapter 3 of the *Duties Act 2001*.

Entering a transaction into TRO ensures that all necessary data is collected. Currently, Chapter 3 transactions can be submitted electronically through the communications function in TRO or submitted manually.

TRO users should ensure that they have been given appropriate instructions for the transaction in order to process in TRO. If a user is unsure of i) the type of transaction they are processing, ii) which exemption or concession is being claimed, or iii) any response to data requests in TRO, in the first instance they should refer back to the instructing solicitor for clarification.

More information from the State Revenue Office

Phone (03) 6166 4400 (weekdays, 9:00am to 5:00pm) or 1800 001 388

Email dutyhelp@treasury.tas.gov.au

Website www.sro.tas.gov.au

Facsimile (03) 6173 0217

In person Ground floor
Salamanca Building Parliament Square
Salamanca Place HOBART TAS 7000
(weekdays, 9:00am to 5:00pm)

Post Commissioner of State Revenue, GPO Box 1374, Hobart Tas 7001

Mandatory On-line transactions – no fee charged

The following transactions are mandatory for self-endorsement provided the indicated criterion is met:

1.1. **Transfer of land** where:

- the transaction is an open market transaction (eg sold through a real estate agent or supported by a purchaser's statutory declaration of dutiable value). This includes a transfer where the transferee(s) on the transfer is the same as the purchaser(s) named in the agreement for sale **OR** a Section 36(i) Statutory Declaration has been completed by the appropriate transferee(s). Note: if a sub sale has occurred, each transaction will be required to be self endorsed.
- the transaction is not an open market transaction however the dutiable value can be determined in accordance with the Evidence of Value ruling. The duty payable would be determined as follows:
 - If the consideration paid is 85 per cent or more of the unencumbered value self endorse on the consideration. Note: the consideration must have been paid.
 - If the consideration is less than 85 per cent of the unencumbered value, but is supported by a valuation by a competent valuer, self endorse on the consideration.
 - If the consideration is less than 85 per cent of the unencumbered value, but is being endorsed on the Adjusted Government value of the property.

1.2. **Transfer of an easement** (including transfers of right of ways).

1.3. **Superannuation Trust Deed** including variations to superannuation trust deeds.

Relates to superannuation trust deeds and variations of trust deeds for superannuation funds dated prior to 1 July 2017 only. Superannuation trust deeds and variations to trust deeds for superannuation funds dated on or after 1 July 2017 are not required to be stamped (ie, not dutiable).

1.4. **Declaration of Trust** relating to establishing a trust over unidentified or non dutiable property.

Relates to trust deeds dated prior to 1 July 2017. Trust deeds establishing a trust over unidentified or non-dutiable property dated on or after 1 July 2017 are not required to be stamped (ie. not dutiable). Other trust documents that either establish a trust over dutiable property or vary a trust that holds dutiable property may still be dutiable.

1.5. **Duplicates & Counterparts** – if relating to a superannuation trust deed or declaration of trust.

Duplicate documents relating to superannuation trust deeds, including variations and declarations of trust over unidentified or non dutiable property dated prior to 1 July 2017, are required to be stamped.

1.6. **Exemptions** - Transfer of land using one of the following [Duties Act 2001](#) (the Duties Act) exemptions:

- Transfer by assent under [Administration and Probate Act 1935](#) relating to real estate – Section 53(j).
- Transfer of principal place of residence to a partner in a marriage or relationship – Section 55.
- Transfer of de facto relationship property on breakdown of relationship – Section 56A.
- Transfer of matrimonial property on breakdown of marriage – Section 56.
- Transfer of relationship property by order under [Relationships Act 2003](#) – Section 57.

- Transfer which relates to a matter for which legal aid is provided – Section 227(2).
- Transfer to council of a public road, park or garden – Section 57A(1).
- Transfer of mortgage – Section 52(d).

1.7 **Concessions** - Transfer of land using one of the following Duties Act concessions:

- Transfer to a beneficiary under deceased estate – Section 47.
- Transfer to a first home buyer purchasing an established home - Section 46E
- Transfer to a pensioner downsizing to a new home where existing home is sold before purchase of new home - Section 46N

Optional online transactions

(can be sent to the SRO, via TRO portal, for assessment)

– a fee will be charged –

The following transactions are optional for self-endorsement. If they are sent to the State Revenue Office for assessment, an administrative fee will apply to the lodgement.

- 2.1 **Transfer of land** where the transaction did not occur via the open market and the dutiable value can not be ascertained (eg a part property transfer that is not supported by a valuation). This includes a transfer where the transferee(s) on the transfer is the same as the purchaser(s) named in the agreement for sale **OR** a section 36(i) Statutory Declaration has been completed by the appropriate transferee(s).
 - Note: if a sub sale has occurred each transaction will be required to be processed.
- 2.2 Instruments granting, transferring or surrendering an interest in a restrictive covenant.
- 2.3 Transfers where aggregation may apply – Section 22.
- 2.4 Assignment of a lease.
- 2.5 Transactions relating to the sale or transfer of business assets - Section 6(1)(a) or 6(b)(iii).
- 2.6 A vesting order made under the *Land Titles Act 1980* – Section 35 of the Duties Act.
- 2.7 Transfer instruments relating to amendments to strata plans following an application to amend.
- 2.8 **Concessions** - Transfer of land using one of the following Duties Act concessions:
 - Transaction effected by more than one instrument – Section 16(1).
 - Transfer to a trustee subject to a declaration of trust where duty has been paid on the declaration – Section 16(3).
 - Transfer as a result of a change in trustee – Section 37.
 - Transfer back from a nominee – Section 40(1).
 - Transfer of property that is subject of a trust from a trustee to a beneficiary of the trust – Section 41.
 - Transfers affecting a partition of land – Section 26.
- 2.9 **Exemptions** - Transfer of land using one of the following Duties Act exemptions:
 - Transfer relating to the appointment of a receiver or trustee in bankruptcy – Section 52(a).
 - Transfer appointing a liquidator – Section 52(b).
 - Transfer for no consideration to a former bankrupt from the estate of the former bankrupt – Section 52(c).

**SRO-only transactions that must be lodged
with the SRO for assessment, via TRO portal,
- no fee charged -**

The following transactions must be lodged with the SRO for assessment:

- 3.1 Declarations of trust over dutiable property – Section 6(1)(b)(ii).
- 3.2 Transfers in which aggregation does apply and the parties are requesting the Commissioner of State Revenue to exercise their discretion not to aggregate.
- 3.3 Transfer of land in accordance with a deed of family arrangement.
- 3.4 Transfer where the improvements to the land have been made by the transferee – Section 20(3).
- 3.5 Transfer of land or a declaration of trust between apparent and real purchasers – Section 39.
- 3.6 Conversion of lots to strata titles – Section 48.
- 3.7 Transactions where there is no change in beneficial ownership – Section 49.
- 3.8 Transfer of land to a shareholder as a result of a company wind-up – Section 50.
- 3.9 Transfer or declarations of trust relating to special disability trusts – Section 54.
- 3.10 Put and call option agreements – Chapter 3.
- 3.11 Land-rich and Landholder acquisitions – Chapter 3.
- 3.12 Acquisitions of shares relating to land use entitlements – Chapter 3.
- 3.13 Transfer claiming an exemption as an intergenerational rural transfer – Section 225.
- 3.14 Transfer claiming an exemption for corporate reconstruction or corporate consolidation – Section 226F
- 3.15 Transfer where the dutiable value cannot be determined and an interim assessment is required – Section 31.
- 3.16 Any instrument / transaction that is not specifically listed in this guideline as either mandatory or optional for self-endorsement.
- 3.17 Any instrument / transaction that seeks to rely on a concession or exemption that is not specifically catered for on TRO.
- 3.18 Refund request for a pensioner downsizing to a new home where new home is purchased before existing home is sold - Section 46O
- 3.19 Any instrument / transaction that is subject to the Foreign Investor Duty Surcharge - either Chapter 2 or Chapter 3