



What is limited recourse borrowing?

A regulated superannuation fund (RSF) is prohibited from borrowing money or maintaining a borrowing of money. In the limited circumstances where borrowing is permitted, it is referred to as a limited recourse borrowing.

What is a trustee?

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

What is a custodian?

A custodian is a person, other than the RSF trustee, who acquires the property using the money provided by the RSF trustee and is registered as the legal freehold owner on title.

What duty is payable?

The following steps constitute dutiable transactions under the [Duties Act 2001](#):

1. the initial transfer of the property to the custodian;
2. the declaration of trust made by the custodian, whether this occurs before or after the transfer of the dutiable property; and
3. the final transfer of the property from the custodian to the trustee of the RSF.

What transaction type do I use when entering the transaction into TRO?

There are three (3) dutiable transactions, and depending on which dutiable transaction you have, one or more of the following steps may be required:

Dutiable transaction 1 - Initial Transfer

The first transaction is the transfer instrument where the property is being purchased. Enter that document in TRO using the Duty Transaction *Property transaction* (details on page two of this factsheet).

Dutiable transaction 2 - Declaration of Trust over Property

The second transaction is the declaration of trust where the custodian may declare that it is holding the property on trust for the RSF trustee. Enter that document in TRO using the Duty Transaction *Trust* (details on page two of this factsheet).

Dutiable Transaction 3 - Transfer of Property to the Trustee of the RSF

The third transaction is the transfer instrument where the property is being transferred from the custodian to the trustee of the RSF. Enter that document in TRO using the Duty Transaction *Property transaction* (details on page two of this factsheet).

Are there any concessions or exemption applicable?


For details see the [Limited Recourse Borrowing Arrangements - Transfers from custodian trustees guideline](#).

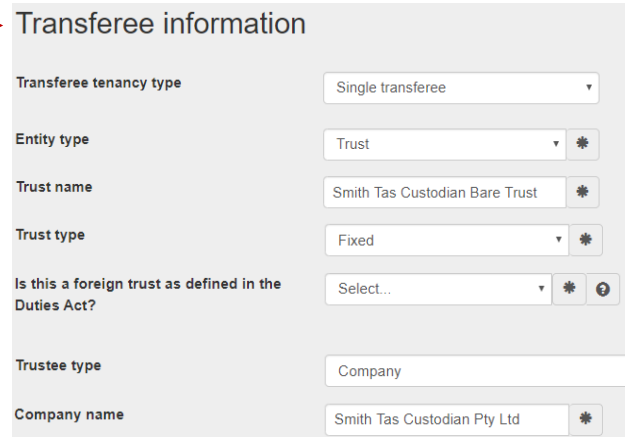
If a concession or exemption applies to your circumstances, the [Documentary evidence requirements guideline](#) sets out the supporting documentation required.

Entering transaction 1 in TRO

Initial transfer

(Enter this transaction in TRO as a *Property Transfer*).

1. *Property information* screen: enter the volume and folio of the property being transferred.
2. *Transferor information* screen: complete the Vendor's details.
3. *Transferee information* screen: 
 - a. *Entity type*: Trust.
 - b. *Trust name*: name of the Bare Trust.
 - c. *Trust type*: The type of trust is 'fixed' because the Superannuation Fund can be the beneficiary.
 - d. *Foreign trust*: insert details about information in the Trust.
 - e. *Trustee type*: the custodian details.
4. Complete the remaining screens.
5. **Self-endorse the transaction.**



Transferee information

Transferee tenancy type: Single transferee

Entity type: Trust

Trust name: Smith Tas Custodian Bare Trust

Trust type: Fixed




Is this a foreign trust as defined in the Duties Act?: Select...

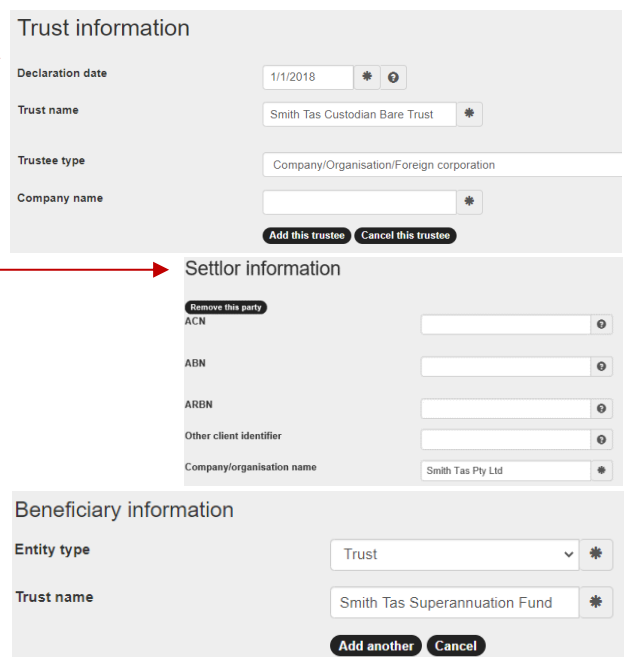
Trustee type: Company

Company name: Smith Tas Custodian Pty Ltd

Entering transaction 2 in TRO

Declaration of trust over property - Fixed Beneficiary

1. On the *Trust information* screen enter the: 
 - a. *Declaration date*: for the Trust.
 - b. *Trust name*: the name of the Custodian.
 - c. *Trustee type and name*.
 - d. *Add this trustee*.
2. *Settlor information* screen: About the trustee of the RSF. 
3. Complete the *Beneficiary Information* screen. 
4. Enter the *Property information*.
5. Complete the remaining screens.
The dutiable value will be the greater of the consideration and the unencumbered value.
6. **Submit this transaction to the SRO for approval.**
Attach all supporting evidence using the add-file function when submitting the transaction. See details on the next page about uploading file packages of 50MB or more.



Trust information

Declaration date: 1/1/2018

Trust name: Smith Tas Custodian Bare Trust

Trustee type: Company/Organisation/Foreign corporation

Company name:

Settlor information

Remove this party

ACN:

ABN:

ARBN:

Other client identifier:

Company/organisation name: Smith Tas Pty Ltd

Beneficiary information

Entity type: Trust


Trust name: Smith Tas Superannuation Fund

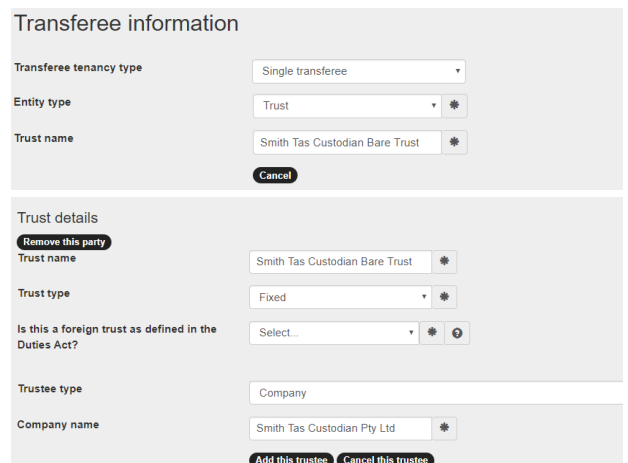
Add another **Cancel**

Entering transaction 3 in TRO

Transfer of property to the Trustee of the RSF

(Enter this transaction in TRO as a *Property Transfer*). Submit the completed transaction to the SRO for approval.

1. On the *Property information* screen, enter the volume and folio of the property being transferred.
2. Complete the *Transferor information* screen with the Bare trust and Custodian information.
3. Complete the *Transferee information* screen. 
 - a. *Entity type*: Trust.
 - b. *Trust name*: name of the Superannuation Fund.
 - c. *Trust type*: Superannuation.
 - d. *Foreign trust section*: based on the information in the Trust.
 - e. *Trustee type*: details about the Trustee of the Superannuation Fund.
4. Complete the remaining screens.
5. **Submit this transaction to the SRO for approval.**



Transferee information

Transferee tenancy type: Single transferee

Entity type: Trust

Trust name: Smith Tas Custodian Bare Trust

Cancel

Trust details

Remove this party

Trust name: Smith Tas Custodian Bare Trust

Trust type: Fixed

Is this a foreign trust as defined in the Duties Act?: Select...

Trustee type: Company

Company name: Smith Tas Custodian Pty Ltd

Add this trustee **Cancel this trustee**

Attach all supporting evidence using the add-file function when submitting the transaction. See details on the next page about uploading file packages of 50MB or more.

Frequently asked questions

Q. What evidence must be included with 'Transaction 2 - Declaration of Trust' when it is submitted to the SRO?

A. Refer to the [Documentary evidence requirements](#).

Q. What evidence is required to be provided with 'Transaction 3 - Transfer of property to the Trustee of the Superannuation Fund' when it is submitted to the SRO?

A. Refer to the [Documentary evidence requirements](#).

Q. Is there an exemption or concession available, if the superannuation fund has repaid the loan?

A. In some instances, a concessional rate of duty may be applicable where the superannuation fund has repaid the loan to the lender. Refer to [section 46 of the Duties Act 2001](#).

Q. Is there an exemption or concession available if the superannuation fund and the Custodian have repaid the loan?

A. No, because the entire loan has not been repaid by the superannuation fund. Ad valorem duty is payable on any transfer to the superannuation fund from the Custodian.

Duty should be assessed on the unencumbered value of the property, and the [Evidence of Value Ruling](#) would apply.

Q. I have an unnamed bare trust. How should I record it in the Trust Name field?

A. Enter the property address and the words 'Bare Trust' in the Trust Name field. For example, 2 Luxton Drive Hobart, Bare Trust.

Q. I need to submit the transaction to the SRO for assessment with a large volume of supporting evidence. Am I able to attach it to the transaction in TRO?

A. The combined file size of attachments should not exceed 50MB. If your documents are in excess of this limit, upload them in smaller batches using the 'transactions mail' function in TRO.