

REVENUE RULING

SUPERSEDED

DA 19.0

DUTIES APPLYING FOR A CONNECTED ENTITIES EXEMPTION

INTRODUCTION

1. This ruling sets out the Commissioner of State Revenue ¶ V ¶ & R P P L V V L R Q H U ¶ interpretation of certain terms relevant to applying for a connected entities exemption under the Duties Act 2008 ¶ ' X W L H V \$ F W ¶

BACKGROUND

2. Chapter 6 of the Duties Act provides an exemption from duty for relevant transactions¹ between corporations and unit trust schemes that are members of a

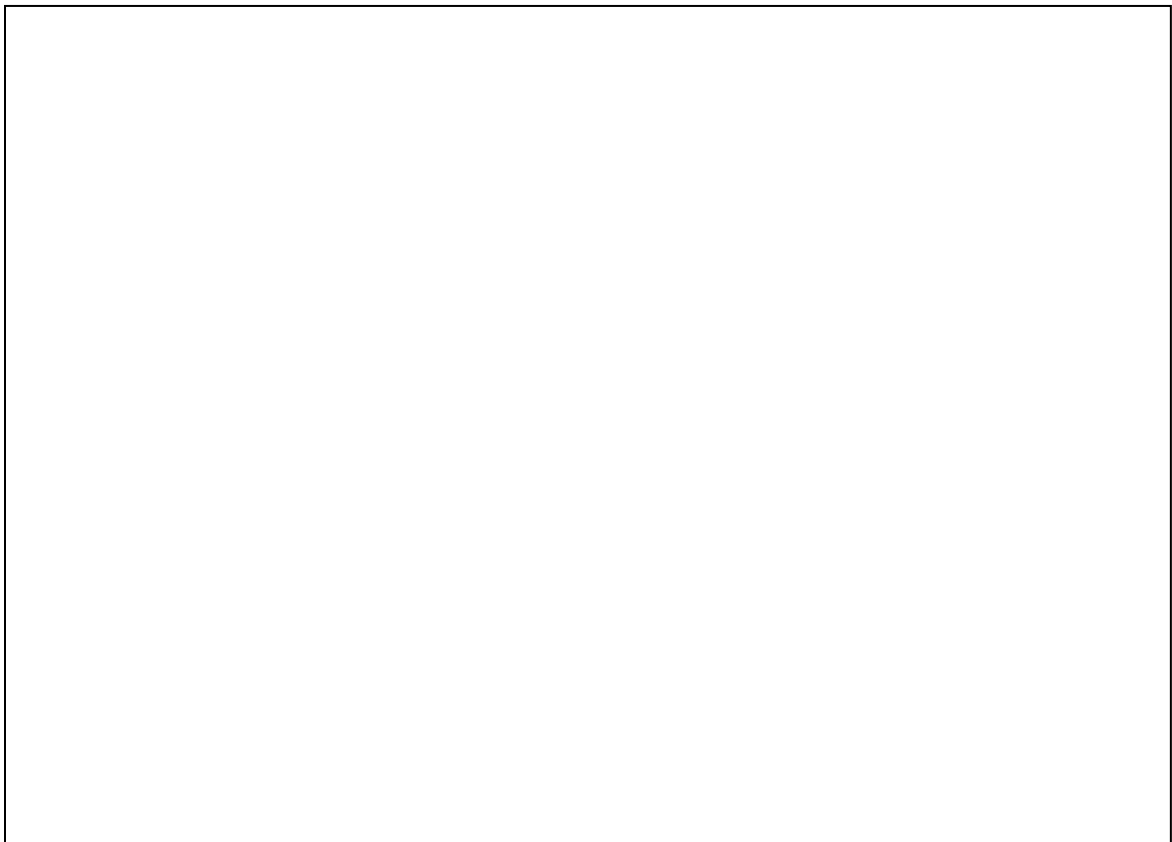
RULING

Timeframe for Lodging an Exemption Application

9. Where a taxpayer lodges an exemption application with the Office of State Revenue ~~in relation to a relevant transaction~~, the application will only be considered if it is made in the approved form within 12 months after the relevant transaction date.
10. The date of a relevant transaction is the date liability to duty arose on the transaction under the Duties Act,¹⁶ for example, the date the agreement for transfer is made or the date the acquisition of an

parties and is not the date of the transaction for duties purposes. In these circumstances, the dutiable transaction is an agreement to transfer and liability to duty arises when the agreement is made.

16. Where an earlier effective date is nominated in an agreement and the transfer of the dutiable property does not require any further documentation to be effected, the Commissioner will treat the date of the agreement as the transaction date where:



Form of Application

18. To request a pre-transaction decision for a proposed transaction, the following approved forms are available on the State Revenue website at www.osr.wa.gov.au:
- (a)) R U P) ' \$ [Relevant Consolidation Transaction](#) ¶¶
 - (b)) R U P) ' \$ [Relevant Reconstruction Transaction](#) ¶¶ and
 - (c)) R U P) ' \$ [Revocation of Exemption for Relevant Transaction](#) ¶¶
19. The approved forms for an application for exemption are:
- (a) where the exemption application is lodged without a pre-transaction decision that the transaction would be exempted if it were entered into¹⁸ ±the Relevant Consolidation Transaction ¶¶ or Relevant Reconstruction Transaction ¶¶ form referred to in paragraph 18; or
 - (b) where the exemption application is lodged after the grant of a pre-transaction decision that the transaction would be exempted if it were entered into ±the completed application form the Commissioner provided to the taxpayer when the pre-transaction decision was made.

Material Difference

20. The Commissioner is not bound by a pre-transaction decision that a proposed transaction would be exempt if it was entered into if there is a material difference ¶¶ between the actual transaction and the information given about the proposed transaction in the pre-transaction decision request.
21. For a difference to be material it is necessary for it to change the substance of the proposed transaction that is the subject of the pre-transaction decision request. These changes may be to the parties to the transaction, the property the subject of the transaction, or other significant aspects of the transaction.
22. Examples of differences that would not usually be considered material include:
- (a) changes to the date of a transaction, unless the date change results in transactions occurring in a different order;
 - (b) minor changes to the consideration for a transaction as contemplated by the agreement or resulting from a change in currency exchange rates or the balance of an outstanding loan;
 - (c) minor changes to the chattels that are transferred with land or business assets as a result of changes to plant and equipment in the normal course of business; and
 - (d) the addition of a newly granted mining tenement to a transaction relating to other mining tenements in the same mineral field.

18

Outstanding Tax Liability

23. An exemption will not be granted for a relevant transaction where any of the family members has an outstanding tax liability, including members who are not parties to the transaction.
24. $\$ Q \mu R X W V W D Q G L Q J W D [O L D E L O L W \setminus \uparrow L V Q R W T G H I L Q H G$
Commissioner interprets the term to mean all tax that is unpaid after the due date specified in an assessment notice or because a return has not been lodged as required under a special tax return arrangement, including any amount subject to a tax payment arrangement under section 47 of the TAA. This does not include any land tax that remains payable as instalments under a land tax assessment notice.¹⁹
25. The requirement to satisfy all outstanding tax liabilities exists at the time an exemption is granted. If an outstanding tax liability exists at the time a pre-transaction decision is made the taxpayer will be notified that an exemption will only be granted if the outstanding liability is paid at that time.
26. $6 W D W H 5 H Y H Q X H \uparrow V W D [U H Y F r e n d s / a n d R e q u e s t f r a t a n d P L O$
Before granting an exemption for a relevant transaction the Commissioner will review outstanding tax liabilities be paid.
27. Tax liabilities in other jurisdictions such as the Commonwealth or other States are not included within the meaning of outstanding tax liability and do not affect the availability of the connected entities exemption.

Example 2

Company A has various landholdings and receives a land tax notice of assessment for the current financial year. The notice of assessment is issued on 8 October 2016 with a due date for payment on 26 November 2016. The notice of assessment gives the taxpayer three payment options.

Company A opts to pay its land tax liability over three instalments. The first instalment is paid on 26 November 2016 with the second instalment due on 7 April 2017. During February 2017, Company A purchases land from a wholly owned family member and immediately applies for a connected entities exemption from duty.

$\$ O W K R X J K W K H V H F R Q G D Q G W K L U G L Q V W D O P H Q W V$
bill have been recorded as debits against its tax records, the due date for payment of both instalments has not yet passed and there are no outstanding tax liabilities to be paid. Providing all other requirements under Chapter 6 of the Duties Act have been satisfied, a connected entities exemption

RULING HISTORY

Revenue Ruling	Issued	Dates of effect	
		From	To
DA 19.0	5 December 2017	5 December 2017	16 July 2019