



## EXEMPT FAMILY FARM TRANSACTION – LANDHOLDER DUTY

SECTIONS 171 -174 OF THE *DUTIES ACT 2008*

### APPLICATION FOR EXEMPTION

#### INSTRUCTIONS

Chapter 3 of the *Duties Act 2008* ('Duties Act') imposes landholder duty on a relevant acquisition by a person (either solely or jointly with a related person) of an interest in a corporation that is a landholder. An exemption from landholder duty may be available where the land is used for primary production and the acquisition is between family members.

**NOTE: All sections of this form must be completed and all required supporting information must be attached. This form must be accompanied by a landholder acquisition statement, which is available on the website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).**

For further information, including the definitions of terms used in this form, please refer to the Duties Act and to [Duties Fact Sheet 'Landholder Duty'](#) and [Duties Fact Sheet 'Exempt Family Farm Transactions – Landholder Duty'](#), which are available on the Office of State Revenue website at [www.osr.wa.gov.au](http://www.osr.wa.gov.au).

### GENERAL REQUIREMENTS

#### 1. Details of the corporation in which the interest was acquired:

Name of corporation \_\_\_\_\_  
ABN/ACN \_\_\_\_\_  
Registered office/principal place of business \_\_\_\_\_  
Postcode \_\_\_\_\_

#### 2. Details of the person/s who acquired the interest:

a) Name(s) of person(s) \_\_\_\_\_  
\_\_\_\_\_

OR

b) Trustee of the trust (other than a unit trust scheme or a discretionary trust): \_\_\_\_\_  
\_\_\_\_\_

Name of trust (if applicable) \_\_\_\_\_

Beneficial owner of trust property \_\_\_\_\_

*(Provide copies of all documents evidencing the trust)*

OR

c) Trustee of discretionary trust \_\_\_\_\_  
 Name of trust \_\_\_\_\_  
 (Provide copies of the discretionary trust deed and any amending documents )

**3. Details of the person(s) from whom the interest was acquired:**

Name(s) of person(s) \_\_\_\_\_

**4. Details of relationships:**

(a) (i) Where 2(a) above applies, what relationship does each acquirer have to each person from whom the acquisition was made?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(ii) Does any acquirer intend to hold the interest acquired as agent, trustee or otherwise on behalf of any other person?   
 Yes/No

OR

(b) Where 2(b) above applies, what relationship does the beneficial owner have to each person from whom the acquisition was made?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OR

(c) (i) Where 2(c) above applies, are all the persons who have a share or interest in the trust property (whether vested or contingent), or who may benefit from the discretionary trust, family members of each person from whom the acquisition was made? Note that **family members** are defined in section 100 of the Duties Act.   
 Yes/No

(ii) Is any person from whom the acquisition was made in a position to influence, either directly or indirectly, the vesting of the whole or any part of the capital of the trust property, or of the whole or any part of the income from the trust property?   
 Yes/No

(iii) Where a corporation is in a position to influence, either directly or indirectly, the vesting of the whole or any part of the capital of the trust property, or of the whole or any part of the income from that trust property, is any person from whom the acquisition was made beneficially entitled to a share in that corporation or a related corporation or to act as a director or secretary of that corporation or related corporation?   
 Yes/No

**5. Usage and value of the land owned by the corporation. Please include all land used by a linked entity in your responses to these questions. A linked entity is described in section 156 of the Duties Act.**

(a) How did the corporation use the land? Please include all uses for which the land or part of the land was used before the acquisition of shares in the corporation.

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(b) What is the land used for now? Please include all uses for which the land or part of the land is used.

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(c) What is the value of the land?

\$ \_\_\_\_\_

(d) How does the corporation, intend to use the land after the acquisition?

Yes/No

(e) (i) Is some, but not all, of the land leased to another person?

Yes/No

(ii) If YES, is the lessee, under the lease, using the leased land solely or dominantly for the purposes of silviculture or reforestation?

Yes/No

**6. Partial exemption:**

(a) Immediately before the acquisition, was some of the land to which the corporation, or a linked entity, was entitled not used solely or dominantly in the business of primary production?

Yes/No

If YES:

(b) (i) What is the value of the land in Western Australia that was not used in the business of primary production?

\$ \_\_\_\_\_

(ii) Please provide the land description as it appears on the Certificate of Title:

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(iii) What is the value of plant and equipment in Western Australia (other than plant and equipment held or used in connection with the business of primary production) to which the corporation or a linked entity was entitled?

\$ \_\_\_\_\_

**7. Previous Exemption:**

(a) Was there an acquisition of an interest in the corporation within five years prior to the date of the acquisition the subject of this application?

Yes/No

If the answer is YES:

(b) (i) Was a farming property exemption under Part IIIBAA of the *Stamp Act 1921* or a family farm exemption under the Duties Act granted for the earlier acquisition?

Yes/No

(ii) Is any of the land to which the corporation is entitled, and for which the current exemption is being sought, land to which the corporation was entitled when the earlier acquisition occurred?

Yes/No

**YOU MAY HAVE A FUTURE LIABILITY**

Where the acquisition of the interest in the corporation was made by the trustee of a discretionary trust, the trustee is taken to have made an acquisition of an interest in the corporation if one of the following events occurs whilst the corporation is still a landholder and the corporation, or a linked entity, is still using any of the land to which it was entitled when the acquisition occurred solely or dominantly in the business of primary production:

- a) during the lifetime of the transferor, a person that is not a family member of the transferor becomes entitled to a share or interest (whether vested or contingent) in the trust, or otherwise benefits from the trust; or
- b) the transferor gains control of the trust (in the terms described in 4(c)(ii) and (iii) above);

The trustee must lodge an acquisition statement with the Commissioner within two months of the event.

**IMPORTANT**

A person who provides information to the Commissioner knowing it to be false or misleading in a material particular commits an offence under the *Taxation Administration Act 2003*. The penalty for the offence is:

- a) \$20,000 and
- b) three times the amount of duty that was avoided or might have been avoided if the false or misleading information had been accepted as true.

**DECLARATION**

I \_\_\_\_\_

of \_\_\_\_\_

Telephone ( ) \_\_\_\_\_

declare that the information contained in this application is, to the best of my knowledge and belief, true, accurate and complete in every particular.

Official capacity in which declaration is made \_\_\_\_\_

Dated / / \_\_\_\_\_

Signature \_\_\_\_\_

## CONTACT THE OFFICE OF STATE REVENUE

This form can be lodged electronically, as an attachment to a web enquiry, or in person.

**Online:** [www.finance.wa.gov.au/cms/State\\_Revenue/Online\\_Services/Online\\_Services.aspx](http://www.finance.wa.gov.au/cms/State_Revenue/Online_Services/Online_Services.aspx)

### Delivery to:

**Office** Office of State Revenue  
200 St Georges Terrace  
PERTH WA 6000

**Postal address** Office of State Revenue  
GPO Box T1600  
PERTH WA 6845

### Enquiries:

**Telephone** (08) 9262 1100  
1300 368 364  
(WA country STD callers only – local call charge)

**Web Enquiry** [www.osr.wa.gov.au/DutiesEnquiry](http://www.osr.wa.gov.au/DutiesEnquiry)

**Website** [www.osr.wa.gov.au](http://www.osr.wa.gov.au)

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