



## SUPERANNUATION FUND TRANSACTIONS

SECTIONS 121 – 126 OF THE *DUTIES ACT 2008*

### APPLICATION FOR NOMINAL DUTY

Upon application, certain dutiable transactions relating to superannuation funds will be assessed with nominal duty. For further details on eligibility, please refer to Duties Fact Sheet '[Superannuation Transactions](#)', which is available from the [Office of State Revenue \('OSR'\) website](#).

#### IMPORTANT

- **A transfer of dutiable property to a superannuation fund for consideration (section 122 of the Duties Act) can be self assessed for nominal duty through Revenue Online by an approved agent.**
- If you are lodging with the Commissioner, this form should be lodged with either the transaction record (document) that effects or evidences the transaction, or the relevant transfer duty statement, together with the additional supporting information listed on page 3.
- This application form is **not** required for transfers from a superannuation fund to a member pursuant to section 127 of the Duties Act. Please refer to the [Duties Information Requirements](#) for transfers pursuant to section 127.
- Only **one** of sections A, B, C or D of the form should be completed. Separate forms must be completed if you are seeking nominal duty on more than one transaction.

#### Details of parties to the transfer

Transferor(s)

|           |               |
|-----------|---------------|
| (Surname) | (Given Names) |
|-----------|---------------|

|           |               |
|-----------|---------------|
| (Surname) | (Given Names) |
|-----------|---------------|

|  |                  |
|--|------------------|
| (Trustee/custodian of superannuation fund) | (ABN of trustee) |
|--|------------------|

Transferee

|  |                  |
|--|------------------|
| (Trustee/custodian of superannuation fund) | (ABN of trustee) |
|--|------------------|

#### Details of dutiable property

Provide details of the dutiable property transferred or agreed to be transferred

What interest in the property is being transferred? %

| Lot No. | Plan/Diagram/Strata Plan No. | Certificate of Title No. (Vol/Fol) |  |        |  |
|---------|------------------------------|------------------------------------|--|--------|--|
|         |                              | Volume:                            |  | Folio: |  |

| Street No. | Street | Suburb |
|------------|--------|--------|
|            |        |        |

**A Section 122 – Transfer to a trustee, or a custodian of a trustee, of a superannuation fund with consideration**

| Yes | No |
|-----|----|
|-----|----|

- (a) Is there consideration payable for the transfer or agreement to transfer?  Yes  No
- (b) Can anyone other than the transferor be a member of the superannuation fund?  Yes  No
- (c) If the answer to (b) is yes, is the property that is being transferred being specifically held for the transferor(s), so that the property cannot be pooled with contributions of assets of any other member?  Yes  No
- (d) Is the property to be held in the superannuation fund to be provided to the transferor(s) as a retirement benefit?  Yes  No

**Notes:**

- (i) Section 123 of the *Duties Act 2008* provides that the occurrence of certain events may result in a future liability being incurred in relation to a transaction assessed with nominal duty under section 122. A failure by a trustee, or a custodian of a trustee, of a superannuation fund, to fulfil their obligations under section 123 may result in a fine of \$20,000 being imposed.
- (ii) Transfers directly from a member to a custodian of a superannuation fund are only applicable under this section for transactions executed on or after 27 May 2015.

**B Section 124 – Transfer to an employer-sponsored superannuation fund without consideration**

| Yes | No |
|-----|----|
|-----|----|

- (a) Is there consideration payable for the transfer or agreement to transfer?  Yes  No
- (b) Is the transferee an employer-sponsored fund within the meaning of section 16(3) of the *Superannuation Industry (Supervision) Act 1993* (Cth)?  Yes  No

**C Section 125 – Transfer from one superannuation fund to another**

| Yes | No |
|-----|----|
|-----|----|

- (a) Is there consideration payable for the transfer?  Yes  No
- (b) Is the transfer as result of a person (“the member”) ceasing to be a member, or ceasing to be entitled to benefits in respect of a superannuation fund or an entity that was a superannuation fund within 12 months before this transfer?  Yes  No
- (c) If the answer to (b) is yes, provide the following information:

Name of the member:

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Name of the superannuation fund that the member was a member of or is no longer entitled to benefits from:

- (d) Is the transferee the trustee of a superannuation fund that the member has become a member of, or otherwise become entitled to a benefit in respect of?  Yes  No
- (e) If the answer to (d) is yes provide the name of the superannuation fund:

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- (f) If the answer to (d) is no, will the entity that the transferee is trustee of be a superannuation fund within 12 months of the transfer?  Yes  No

(g) if the answer to (f) is yes then the following must be supplied:

A statutory declaration from a trustee (or a director of a trustee that is a corporation) of each of the transferor and transferee concerned stating that, in their opinion, the entity of which the transferee is trustee will be a superannuation fund before the end of the period of 12 months after the day on which the property is transferred.

**Note:** For the purposes of section 125 of the *Duties Act 2008*, a superannuation fund does not include a pooled superannuation fund.

**D Section 126 – Transfers between trustees and custodians of a superannuation fund**

Yes No

- |   |                          |                          |
|---|--------------------------|--------------------------|
| (a) Is the transferor the trustee or the custodian of a trustee of a superannuation fund or an entity that, in the opinion of its trustee, will be a superannuation fund before the end of 12 months after the day on which the property is transferred?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) Is the transferee the trustee or the custodian of a trustee of a superannuation fund or an entity that, in the opinion of its trustee, will be a superannuation fund before the end of 12 months after the day on which the property is transferred?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (c) If the entity is not a superannuation fund but, in the opinion of its trustee, will be a superannuation fund before the end of 12 months after the day on which the property is transferred, the following information must be supplied:<br>A statutory declaration from the trustee (or a director of a trustee that is a corporation) of the entity stating that, in their opinion, the entity of which it is trustee will be a superannuation fund before the end of the period of 12 months after the day on which the property is transferred. |                          |                          |
| (d) Will the agreement to transfer or transfer result in a change in the beneficial ownership of the dutiable property the subject of the dutiable transaction?   | <input type="checkbox"/> | <input type="checkbox"/> |

**ADDITIONAL SUPPORTING INFORMATION****All transactions must be lodged with:**

- A copy of the superannuation fund deed and any subsequent amendments (stamped copies if executed prior to 1 July 2008).
- A completed [Form FDA41 'Foreign Transfer Duty Declaration'](#) for each transferee.

**Section 122 – Transfer to a superannuation fund with consideration**

- Provide evidence to show that the property will be held solely for the transferor(s), for example, minutes of meeting, declaration of trust etc.
- If the consideration payable is non-monetary, provide an explanation as to the type of non-monetary consideration payable.

**Section 124 – Transfer to an employer-sponsored superannuation fund without consideration**

- Provide evidence that the superannuation fund is an employer-sponsored fund, such as financial statements, business activity statements etc.

**Section 125 – Transfer from one superannuation fund to another & Section 126 – Transfers between trustees and custodians of a superannuation fund**

- Provide evidence that the member has ceased to be a member or has ceased to be entitled to benefits of the superannuation fund (for section 125 only).
- Provide a copy of either:
  - the duty endorsed agreement for transfer evidencing the original acquisition of the dutiable property by the custodian/trustee on behalf of the superannuation fund, for example, contract for sale or offer and acceptance contract; or
  - a duty endorsed declaration of trust made by the custodian/trustee declaring that it will hold the property as trustee for the superannuation fund.
- If the information above is not available, or the trustee relationship is not disclosed on the agreement for transfer, additional evidence must be provided to demonstrate that the custodian/trustee holds the dutiable property on behalf of the superannuation fund, examples of which include (but are not limited to):
  - documentary evidence that the superannuation fund provided the money to purchase the property, such as bank statements, deposit receipts, etc;
  - where the custodian/trustee borrowed money to acquire the property, documentary evidence that the money was provided as a loan to, or will be repaid by, the superannuation fund, such as loan documents from a financial institution, bank statements, receipts, etc.;
  - complete financial statements of the superannuation fund for the three financial years prior to the date of transfer of the dutiable property to the other superannuation fund.

## 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 (    ) \_\_\_\_\_

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signature \_\_\_\_\_

## CONTACT THE OFFICE OF STATE REVENUE

**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)

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

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

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

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