



EXEMPT FAMILY FARM TRANSACTIONS – TRANSFER DUTY

SECTIONS 99 - 106 OF THE *DUTIES ACT 2008*

BUNDLE ID

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APPLICATION FOR ASSESSMENT OR REASSESSMENT

An exemption from transfer duty may be available on the transfer of farming property between family members. For eligibility and definitions of terms used, please refer to Duties Fact Sheet '[Exempt Family Farm Transactions - Transfer Duty](#)', which is available from the Office of State Revenue website at www.osr.wa.gov.au.

IMPORTANT

This application form must be submitted to the Office of State Revenue together with the following information, where applicable:

1. Copies of the Certificate(s) of Title;
2. Complete latest income tax returns of the individual(s) currently farming the property, or complete latest financial accounts of any entity currently farming the property;
3. A copy of the trust deed and all amending deeds;
4. A copy of the partnership agreement and all amending deeds;
5. A copy of the company extract from ASIC;
6. A copy of the lease agreement if the property is subject to a lease and all amending deeds;
7. The transaction record (e.g. offer and acceptance and/or transfer of land); and
8. Form [FDA41 'Foreign Transfer Duty Declaration'](#) for each transferee.

NOTE: If applying for a refund of duty, provide the transaction record on which the original duty stamp is printed, or to which the Certificate of Duty is attached.

1. Details of the parties to the transfer

Transferor(s)		
	(Surname)	(Given Names)
	(Surname)	(Given Names)

Transferee(s) (a)		
	(Surname)	(Given Names)
	(Surname)	(Given Names)

Date of Birth:	/	/

(Surname)	(Given Names)

Date of Birth:	/	/

OR

(b)		
	(Trustee)	(Name of Discretionary Trust or Beneficial Owner)

2. Nature of Transfer

Interest in farming property (Indicate Share) _____ %

Interest in farming partnership (Indicate Share) _____ %

Name of Partnership: _____

3. Description of the farming property including farming property owned by a farming partnership or farming corporation

Lot or Location No.	Survey No. (e.g. Plan/Diagram)	Certificate of Title (Vol/Folio)	Interest Transferred (e.g. 100%)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3.1 Other dutiable property that is used solely or dominantly in connection with the business of primary production

(if insufficient space, attach an annexure)

4. What is the estimated market value of the farming property described in item 3? \$

5. Previous exemption

5.1 Did the transferor(s) acquire the farming property, interest in the farming partnership or shares in the farming corporation the subject of the application in the past five years? Yes/No

5.2 If the answer to question 5.1 is **YES**, was the acquisition by the transferor approved as an exempt family farm transaction under the *Duties Act 2008*? Yes/No

5.3 Was the farming property acquired by a discretionary trust, where the acquisition was approved as an exempt family farm transaction under the *Duties Act 2008*? Yes/No

5.4 If the answer to question 5.3 is **YES**, provide a copy of the duty endorsed transaction record which was previously approved as an exempt family farm transaction, a copy of the discretionary trust deed and any subsequent amendments. Provided/Not Provided

6. Use of property

6.1 Was the transferor(s) using the farming property in the business of primary production immediately before the transaction took place?

Yes/No

6.2 If the answer to question 6.1 is **NO**:

(a) Has the transferor previously used the farming property in the business of primary production?

Yes/No

(b) Was a family member of the transferor using the farming property in the business of primary production immediately before the transaction took place?

Yes/No

If the answers to (a) and (b) are both yes, provide a detailed submission outlining the circumstances surrounding the use of the property. This includes all relevant dates regarding when the transferor and any family members farmed the property. The submission should be accompanied by appropriate supporting evidence, including the financial statements or tax returns of the entities that farmed the property.

If the answer to 6.1 or 6.2 is **YES**, indicate how the transferor(s) (and family member if applicable) was using the farming property. Select multiple boxes if it was used in the business of primary production through a combination of entities.

- i)** Personally
- ii)** Through a trust
Name of the trust: _____
- iii)** Through a corporation
Name of corporation: _____
- iv)** Through a partnership
Name of partners: _____

6.3 Was each entity using the farming property in the business of primary production related to the transferor?

Yes/No

6.4 What is the nature of the primary production business to which the farming property relates?

6.5 Is all the farming property used solely or dominantly for the purpose of primary production?

Yes/No

6.6 If the answer to 6.5 is **NO**, please provide details of the use and proportion of the land being used for non-primary production purposes.

6.7 Is any part of the transferred farming property leased to a third party?

Yes/No

6.8 If the answer to question 6.7 is **YES**, is the land leased solely for the purpose of tree farming or reforestation purposes?

Yes/No

6.9 If the answer to question 6.8 is **NO**, please provide details:

6.10 Does the transferee(s) intend to continue to use the farming property in the business of primary production?

Yes/No

If the answer to 6.10 is **YES**, indicate how the transferee(s) will be using the farming property. Select multiple boxes if it will be used in the business of primary production through a combination of entities.

- i)** Personally
- ii)** Through a trust
Name of the trust: _____
- iii)** Through a corporation
Name of corporation: _____
- iv)** Through a partnership
Name of partners: _____

6.11 Is each entity that will be using the farming property in the business of primary production related to the transferor and transferee, as is relevant?

Yes/No

7. Relationship

7.1 What is the relationship between the transferor(s) and transferee(s)?

7.2 Is the transferee(s) acting as agent or trustee or otherwise on behalf of any person (other than as trustee of a discretionary trust)?

Yes/No

7.3 If the answer to 7.2 is **YES**:

(a) What is the relationship between the transferor(s) and the beneficiary?

(b) Provide full details of the nature of the trust together with a stamped/endorsed document evidencing the trust.

7.4 Is the farming property being transferred to the transferee(s) in its capacity as trustee of a discretionary trust?

Yes/No

7.5 If the answer to 7.4 is **YES**, please answer the following questions.

(a) Will the transferor(s) be 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 the whole or any part of the income of the trust property?

Yes/No

(b) Where the trustee of the discretionary trust is a corporation, will the transferor(s) be in a position to influence, either directly or indirectly, the vesting of the whole or any part of the capital or income from the trust property?

Yes/No

(c) Where the trustee of a discretionary trust is a corporation, is the transferor(s) beneficially entitled to a share in that corporation or related corporation or to act as director or secretary of that corporation or related corporation?

Yes/No

(d) Is each beneficiary of the trust the transferor or a family member of the transferor?

Yes/No

IMPORTANT – YOU MAY HAVE A FUTURE LIABILITY

If, where the farming property has been transferred to the trustee of a discretionary trust, one of the following events occurs:

a) during the lifetime of the transferor, a person that is not the transferor or a family member of the transferor becomes entitled to a share or interest in the trust property or otherwise benefits from the trust; or

b) the transferor gains control of the trust,

while the trust continues to hold the relevant farming property, that event is taken to be a transfer of the farming property, and transfer duty will be charged at the general rate on the subsequent transaction. Under these circumstances the trustee of the trust must lodge a transfer duty statement within two months of the event.

DECLARATION

I/We, do solemnly and sincerely declare that the answers and information which I/we have given in this application are true, complete and correct in every particular.

Transferee(s)

(if insufficient space, attach an annexure)

Name		Date	/ /
Signature			

Name		Date	/ /
Signature			

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.

CONTACT THE OFFICE OF STATE REVENUE

Complete this application form and submit it online if you wish to receive your refund by EFT

Online 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 callers only – local call charge)
Postal address	Office of State Revenue GPO Box T1600 PERTH WA 6845	Web Enquiry	www.osr.wa.gov.au/DutiesEnquiry
		Website	www.osr.wa.gov.au
