

REVENUE RULINGS



Transfer of dutiable property from a deceased estate

Revenue Ruling DA.018

Replaces SD.022

Preamble

Section 42 of the *Duties Act 2000* (the Act) provides an exemption from duty in respect of a transfer of dutiable property to a beneficiary or to the legal personal representative of a beneficiary entitled to the dutiable property under a will or arising on an intestacy. Section 42(2) of the Act also exempts the vesting of dutiable property by virtue of section 13 of the *Administration and Probate Act 1958* from duty.

A transfer of dutiable property by the legal personal representative of a deceased person may arise pursuant to an order made as a result of an application to the Supreme Court under Part IV of the *Administration and Probate Act 1958* for the proper maintenance and support of a person for whom the deceased had responsibility to make provisions. The Supreme Court can make an order for such provisions to be made out of the estate of a deceased person, which may involve the transfer of dutiable property. The question raised is whether a transfer of dutiable property made pursuant to the Supreme Court order comes within the ambit of section 42(2) of the Act.

The purpose of this ruling is to clarify whether a transfer of dutiable property described in the above situation is exempt from duty.

Ruling

The Commissioner of State Revenue has ruled that a transfer of dutiable property by the legal personal representative of a deceased person pursuant to an order made as a result of an application to the Supreme Court under Part 4 of the *Administration and Probate Act 1958* is exempt from duty under section 42(2) of the Act.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

Commissioner of State Revenue
February 2002

