

Revenue Rulings

Transfer under a will for consideration

Revenue Ruling SD.066

CEASED 30 June 2001

Replaced by DA.013

CEASED 30 June 2001

Preamble

Transfers of marketable securities ('shares') or conveyances of real property generally attract a liability to stamp duty unless an exemption applies.

Exemption 1 of Heading IVA of the Third Schedule to the *Stamps Act 1958* ('the Act'), exempts from duty transfers of shares which are made to a beneficiary entitled thereto under a will. Likewise, Exemption 16 of Heading VI exempts from duty conveyances of real property.

Uncertainty arises where the entitlement of the beneficiary under a will is conditional upon a payment being made. The purpose of this ruling is to outline the circumstances in which the exemption will be available when the beneficiary's entitlement is conditional.

Ruling

Where the entitlement is conditional upon the beneficiary paying certain monies, either to the estate or a third party, the terms of the will must be strictly complied with if the stamp duty exemption is to apply.

Where for example, the will states that party 'A' is entitled to the property 'Greenacres' upon payment of \$100,000 to party 'B', the exemption is only available if the payment is made in accordance with the terms of the will. If 'A' were to pay the estate \$100,000 or pay party 'B' a lesser amount than \$100,000, the exemption would not be available.

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.

Denzil Griffiths

Commissioner of State Revenue

30 June 1996

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