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Public Ruling Duties Act:

CONCESSIONS FOR PARTICULAR INVESTMENT SCHEMES

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

1. From 1 July 1998, the *Managed Investments Act 1998* (Cth) (MIA) repealed the provisions of Division 5 of Part 7.12 of the *Corporations Law*¹ which related to prescribed interests, and established a new regulatory regime.
2. Some existing investment schemes which offered prescribed interests (prescribed interest schemes) had until 30 June 2000, or such further time as the Australian Securities and Investment Commission (ASIC) allowed, to comply with the requirements of the MIA.² Other prescribed interest schemes were not required by the *Corporations Law* to make such a transition, but it may have been necessary for them to do so for commercial reasons.
3. Section 111 of the *Duties Act 2001* (the Duties Act) lists certain dutiable transactions which may occur during the conversion of an existing prescribed interest scheme to a managed investment scheme that is registered under s.601EB of the *Corporations Act* (registered managed investment scheme).
4. Transfer duty of \$100 is imposed on a dutiable transaction listed in s.111 of the Duties Act provided the conditions as set out in s.112 of the Duties Act are met.³
5. The purpose of this Public Ruling is to outline the lodgement requirements for the application of the transfer duty concession available under s.113 of the Duties Act.

¹ The *Corporations Law* has been superseded by the *Corporations Act 2001* (Cth) (the *Corporations Act*).

² Section 1454 of the *Corporations Law* – this transitional provision continues to have effect despite the repeal of the *Corporations Law*: s.1408 of the *Corporations Act*.

³ Section 113 of the Duties Act

Ruling and explanation

6. Persons wishing to obtain the benefit of the concession available under s.113 of the Duties Act must lodge a statutory declaration together with the relevant instrument or transfer duty statement and approved form.⁴
7. The statutory declaration must declare that:
- (a) the dutiable transaction was made for giving effect to the conversion of a prescribed interest scheme to a registered managed investment scheme and
 - (b) the transaction was entered into in the period commencing on 1 July 1998 and expiring on the last day permitted by the Corporations Act or ASIC for the transition of a prescribed interest scheme to a registered managed investment scheme and
 - (c) the persons who are members of the registered managed investment scheme had the same beneficial interest in the property of the scheme immediately before the transaction was entered into as they have immediately after the transaction was entered into.
8. A private ruling under Public Ruling DA000.1 – *Private rulings on unexecuted instruments or proposed transactions* will not be provided on unexecuted instruments or statements relating to this concession because the amount of the duty payable does not depend on whether the Commissioner will exercise a discretion.

Date of effect

9. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 1 February 2010

References

Public Ruling	Issued	Dates of effect	
		From	To
DA113.1.1	1 February 2010	1 February 2010	19 June 2011

⁴ Section 19(3)(a) and (b) of the Duties Act