



Contents	Page
What this Ruling is about	1
Ruling and explanation	2
Date of effect	2
References	2

## Public Ruling Duties Act:

### TRANSFER DUTY RELIEF – INCORPORATION OF CERTAIN ASSOCIATIONS

A Public Ruling, when issued, is the published view of 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, subsidy or exemption, as the case may be, in accordance with the law.

## What this Ruling is about

1. Exemption 6 of the 'Conveyance or Transfer' head of charge in Schedule 1 of the *Stamp Act 1894* provided an exemption from stamp duty for a conveyance or transfer of property on the incorporation of an association where certain conditions were satisfied. The exemption applied regardless of whether the incorporation was effected under the *Associations Incorporation Act 1981* or the *Corporations Act 2001* (Cwlth).
2. Under the *Duties Act 2001* (the Duties Act), transfer duty is imposed on the dutiable value of a dutiable transaction.<sup>1</sup>
3. However, duty is not imposed on an instrument or transaction for a vesting of property in an incorporated association under the *Associations Incorporation Act 1981*, because of the association's incorporation under Part 2 or Part 9, Division 2 of that Act.<sup>2</sup>
4. Under an approved administrative arrangement ex gratia relief will be provided from transfer duty otherwise payable on the vesting of property because of an association's incorporation under the *Corporations Act 2001* (Cwlth), in certain circumstances.
5. This Public Ruling clarifies the circumstances in which the administrative arrangement will apply.

<sup>1</sup> Section 8(2) of the Duties Act

<sup>2</sup> Section 427 of the Duties Act

## Ruling and explanation

---

6. Ex gratia relief will be available from transfer duty on a dutiable transaction which, upon the incorporation of an association of persons, is necessary for the purpose of vesting in the incorporated body all property of which the association was beneficial owner immediately prior to its incorporation under the *Corporations Act 2001* (Cwlth), where the following conditions are satisfied:
- (a) the association was formed with the object of:
    - (i) providing recreation or amusement
    - (ii) promoting religion, charity, patriotism or the arts or
    - (iii) achieving another object that, in the Commissioner's opinion, is useful to the community and
  - (b) the association's constitution provides for the application of its funds to its objects and prohibits the distribution of any part of its funds or profits to its members.
7. An application for ex gratia relief in accordance with the administrative arrangement is to be made in writing to the Office of State Revenue and lodged with all other documents necessary to enable an assessment of duty to be made.

## Date of effect

---

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

David Smith  
 Commissioner of State Revenue  
 Date of Issue 24 February 2009

## References

---

Public Ruling	Issued	Dates of effect	
		From	To
DA427.1.1	24 February 2009	24 February 2009	14 April 2010
Supersedes Practice Direction DA 58.1	6 January 2003	20 November 2002	23 February 2009