

Document Class:	EXEMPTIONS
Document Name:	Financial Products
Document Description:	Trustee to Trustee with Stamped Deed
Document Code:	EX

Introduction

This guide note applies to a conveyance (transfer) of financial products, that are not quoted on a recognised stock exchange, from a trustee to a trustee, of the same trust, where there is **a stamped document** evidencing the change in trustees. The transaction should be for the purpose of effectuating the retirement of a trustee and/or appointment of the new trustee

Schedule 2, General Exemption 20 of the SD Act provides an exemption from stamp duty where there is conveyance of financial products pursuant to **a stamped document** which evidences or records the:

- retirement of a trustee;
- appointment of a new trustee; or
- appointment of a further trustee.

This stamped document is generally known as an “Appointment of New Trustee”.

It is irrelevant whether the trustee is a person or a company.

If there is **no stamped document** evidencing the appointment of trustee - refer to document heading:

- [Financial Products –Trustee to Trustee \(no other doc\)](#) (EX).

For an “Appointment of a New Trustee” refer to the document heading:

- [Other - Appointment of New Trustee](#) (EX).

What *documents* can I stamp under this document heading?

The document can be in the form of:

- a Standard Transfer Form;
- a Share or Unit Transfer Form; or
- any other document where the financial products are conveyed pursuant to a stamped Retirement/Appointment of Trustee.

Split Trust

Trust splitting can be described as partitioning, splitting, dividing or allocating trust properties into two or more parts and having different trustees appointed in respect of the trust property that is now in each separate part. This is generally referred to as creating a split trust or sub-trust. It is considered by RevenueSA that there is only one trust but different trustees in respect of different parts of the trust property. The trustees are governed by the same trust deed.

If you have a transfer of property from a trustee to a trustee pursuant to a trust splitting arrangement as described above, this transfer **cannot** be stamped on RevNet and must be submitted for opinion. Your submission should include full details of the transaction and why you consider the section 71(5)(d) exemption should apply.

Cloned Trust

A discretionary trust (ie, the original trust) is cloned when one or more trusts are established with the same terms and beneficiaries as the original trust. A cloned trust will usually have a different name to the original trust. A cloned trust may also have a different trustee and a different appointor.

A cloned trust is a separate trust from the original trust. . A transfer of property to a cloned trust is liable to *ad valorem* duty pursuant to section 71(3)(a)(i) of the SD Act. Section 71(5)(d) of the SD Act does **not** apply to exempt from stamp duty a transfer of property to a cloned trust.

If you have a transfer of financial products to a cloned trust this should be submitted for opinion.

What types of *transactions* can I stamp under this document heading?

A conveyance of financial products pursuant to the appointment of trustee is deemed **suitable** for self-stamping under this document heading where:

- the financial products are not quoted on a recognised stock exchange;
- there is no change to the beneficial ownership of the trust property of the beneficiaries;
- the financial products remain in the same trust;
- another document evidencing the change in trustee has been stamped (eg. Appointment of New Trustee); and
- the conveyance is not part of a trust splitting or cloning arrangement (as described above).

What stamp duty is payable on this document?

The document is “Exempt” from stamp duty.

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation:

- a copy of the stamped document;
- a copy of the Trust Deed establishing the trust;
- a copy of the Amending/Variation Deeds (if applicable); and
- a copy of the stamped document evidencing the change in trustee; and
- a copy of the resolution recording the retirement of a trustee and/or the appointment of a new trustee (if applicable).

Example 1 –Trustee to Trustee pursuant to stamped Appointment of New Trustee

Ann is the trustee of the Smith Unit Trust. Ann owns shares in Carr Pty Ltd, a company not quoted on a recognised stock exchange, in her capacity as trustee of the trust.

Ann has been advised by her accountant to have a corporate trustee as trustee of the trust, and has set up a company for this purpose.

A Deed of Appointment of New Trustee has been executed and stamped, and the shares now need to be transferred to the new trustee. A standard transfer form is executed in which Ann in her capacity as trustee of the Smith Unit Trust transfers the shares in Carr Pty Ltd to the company as trustee of the Smith Unit Trust.

There is no change to the beneficial ownership of the trust property of the beneficiaries.

The standard transfer form is “Exempt” from stamp duty.

What section of the SD Act applies?

Schedule 2, General Exemption 20