

<b>Document Class:</b>	<b>EXEMPTIONS</b>
<b>Document Name:</b>	<b>Marketable Securities</b>
<b>Document Description:</b>	<b>Pursuant to a Will or Intestacy</b>
<b>Document Code:</b>	<b>EX</b>

### Introduction

This guide note explains how stamp duty is calculated on a conveyance of marketable securities to.

- an executor or administrator of a deceased person's estate, or
- the beneficiaries of the deceased person's estate pursuant to the terms of the will of the deceased; or
- the beneficiaries of the deceased person's estate pursuant to the terms of the laws of intestacy.

Schedule 2, General Exemption 19 of the SD Act provides an exemption from stamp duty on these transactions.

A Court Order pursuant to the *Inheritance (Family Provisions) Act 1972* or the *Wills Act 1936* and which amends the terms of a will is regarded as a codicil to the will. A transfer of marketable securities pursuant to a Court Order of this type can be stamped under this document heading.

### The following similar transactions cannot be stamped under this document heading:

Transfers of marketable securities that are quoted on a recognised stock exchange, pursuant to a will or the laws of intestacy, do not require stamping providing the document is dated on or after 1 July 2001.

A transfer of units pursuant to the terms of a will or the laws of intestacy must be stamped under the document heading:

- [Units – Pursuant to Will](#) or Intestacy (EX).

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

The document can be in the form of:

- a Standard Transfer Form; or
- any document that conveys an interest in marketable securities pursuant to the terms of a will.

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

A transfer of marketable securities pursuant to the terms of a will or the laws of intestacy is deemed **suitable** for self-stamping under this document heading where:

- the conveyance is pursuant to the terms of the will or the laws of intestacy and for no other consideration;
- the property is conveyed to the beneficiary pursuant to the terms of the will and to no other party; and
- the conveyance is **not** pursuant to a Deed of Family Arrangement.

### 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 will of the deceased or an explanation as to how the beneficiary is entitled to the property pursuant to the laws of intestacy; and
- a copy of the court order pursuant to the *Inheritance (Family Provisions) Act 1972* or the *Wills Act 1936* (if applicable).

### Example 1 – Transfer of marketable securities pursuant to the terms of a will

Elsie has died, and in her will she has bequeathed her shares in ABC Pty Ltd to her grandson, Steve. The shares in ABC Pty Ltd are not quoted on a recognised stock exchange. Tim has been appointed as executor of Elsie’s estate.

The consideration panel in the share transfer states “pursuant to the will of Elsie, deceased”.

The document is “Exempt” from stamp duty.

### What section of the SD Act applies?

Schedule 2, General Exemption 19