

Under review, new publication being developed

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Stamp Duty

Circular No. 109

**STAMP DUTIES (CONCESSIONS) AMENDMENT ACT, 1994
FAMILY FARM TRANSFERS**

Your attention is drawn to the above Act which was assented to on 30 May, 1994 and came into operation on that date.

The information set out below is of necessity brief and the precise nature and scope of the changes must be taken from the reading of the provisions as set out in the Amending Act in conjunction with the Stamp Duties Act, 1923.

FAMILY FARM TRANSFERS TO BE EXEMPT FROM DUTY

The new provisions give relief from stamp duty on instruments which exclusively transfer the family farm between specified categories of relatives (or trustees of those relatives) where certain criteria are met.

WHAT TYPES OF FARM PROPERTY ARE ELIGIBLE

The concession is available on transfers of a family farm when:-

1. The land is used wholly or mainly for the business of primary production. The business of primary production is defined as the business of agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming, forestry or any other business consisting of the cultivation of soils, the gathering in of crops, the rearing of livestock or the propagation and harvesting of fish or other aquatic organisms.
2. The land is not less than 0.8 hectares in area.

WHAT RELATIONSHIP MUST EXIST

In order to qualify for the concession there must have existed immediately before the instrument was executed a business relationship between the parties to the transfer. This would include a partnership arrangement, previous employment relationship, share farming arrangement or the provision of assistance in the running of the business.

FAMILY RELATIONSHIPS

Broadly, the transfer between relatives is limited to the following relationships:

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1. From grandparents to parents or children.
2. From a child to parents or grandparents.
3. Between brothers and sisters.
4. Between spouses or a spouse of any person referred to in 1, 2 or 3.

For example, a person could transfer a farm to a brother-in-law or to a daughter-in-law.

Spouse is defined to include a defacto relationship which involves cohabitation for a period of at least five (5) years.

COMPANY TRANSFERS

Transfers involving companies are excluded from the concession.

The concession is only available to natural persons. In cases where family trusts are involved the beneficiaries under the trust must be natural persons and meet all other criteria of the legislation.

INFORMATION TO BE PROVIDED

In order that a concession can be provided an application in the form of a statutory declaration is required. The application form covers the criteria set out in the legislation.

A copy of the application form can be obtained from the Stamp Duties Office.

APPLICATION PROCEDURE

The completed application form and executed transfer will need to be lodged for the opinion of the Commissioner in relation to a concessional rate of duty.

A processing time of two business days should be allowed.

Any enquiries should be directed to the State Taxation Office enquiry area on telephone (08) 226 3750 or (08) 226 3719.

31 May, 1994

COMMISSIONER OF STAMPS