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# TRUST DUTY SUMMARY

## TRUSTS, SMSFS AND CHANGES OF TRUSTEE

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The following is an overview of duty outcomes on common trust documents throughout Australia with relevant section references. Not every jurisdiction specifically exempts duty; instead an interpretation of the law may show that an event is not dutiable. Establishment of a trust over dutiable property would be subject to duty based on the value of the dutiable property. The legislative and revenue office conditions need to be met to obtain a concession/exemption. Where an event is not standard (eg, variation of a trust deed that affects members' interests), it may be dutiable. Repealed sections referenced previously imposed duty. The below was prepared on 11 October 2023.

### **Victoria** — *Duties Act 2000* (Vic)

- Deed establishing discretionary or unit trust not relating to dutiable property, \$200 duty – s 37
- Transfer of dutiable property resulting from change of trustee, no duty – s 33
- Deed establishing SMSF or amending SMSF rules, no duty – s 39
- For more information and lodgement details: [www.sro.vic.gov.au](http://www.sro.vic.gov.au)

### **New South Wales** — *Duties Act 1997* (NSW)

- Deed establishing discretionary or unit trust not relating to dutiable property, \$750 duty – s 58
- Transfer of dutiable property resulting from change of trustee, \$100 – s 54 *strict conditions apply*
- Deed establishing SMSF or amending SMSF rules, no duty – s 65(10)
- For more information and lodgement details: [www.revenue.nsw.gov.au](http://www.revenue.nsw.gov.au)

### **Tasmania** — *Duties Act 2001* (Tas)

- Deed establishing discretionary or unit trust not relating to dutiable property, no duty, s 42 (repealed)
- Transfer of dutiable property resulting from change of trustee, \$50 duty – s 37
- Deed establishing SMSF or amending SMSF rules, no duty, s 44 (repealed)
- For more information and lodgement details: [www.sro.tas.gov.au](http://www.sro.tas.gov.au)

### **Queensland** — *Duties Act 2001* (Qld)

- Deed establishing discretionary or unit trust not relating to dutiable property, no duty – ss 9, 10
- Transfer of dutiable property resulting from change of trustee, no duty – s 117
- Deed establishing SMSF or amending SMSF rules, no duty – ss 9, 10
- For more information and lodgement details: <https://qro.qld.gov.au>

### **Western Australia** — *Duties Act 2008* (WA)

- Deed establishing discretionary or unit trust not relating to dutiable property, no duty – s 11
- Transfer of dutiable property resulting from change of trustee, \$20 (nominal) duty – s 119(3)(a)
- Deed establishing SMSF or amending SMSF rules, no duty – ch 2
- For more information and lodgement details: [www.wa.gov.au/organisation/departments-of-finance](http://www.wa.gov.au/organisation/departments-of-finance)

### **South Australia** — *Stamp Duties Act 1923* (SA)

- Deed establishing discretionary or unit trust not relating to dutiable property, no duty – s 71
- Transfer of dutiable property resulting from change of trustee, no duty – s 71(5)(d)
- Deed establishing SMSF or amending SMSF rules, no duty – Sch 2, Pt 2, it 30
- For more information and lodgement details: [www.revenuesa.sa.gov.au](http://www.revenuesa.sa.gov.au)

### **Australian Capital Territory** — *Duties Act 1999* (ACT)

- Deed establishing discretionary or unit trust not relating to dutiable property, no duty – s 59 (repealed)
- Transfer of dutiable property resulting from change of trustee, no duty – s 54 *strict conditions apply*
- Deed establishing SMSF or amending SMSF rules, no duty – s 61 (repealed)
- For more information and lodgement details [www.revenue.act.gov.au](http://www.revenue.act.gov.au)

### **Northern Territory** — *Stamp Duty Act 1978* (NT)

- Deed establishing discretionary or unit trust not relating to dutiable property, \$20 duty – ss 56BA, 9B, sch 1 it 2
- Transfer of dutiable property resulting from change of trustee, no duty – sch 2 it 6
- Deed establishing SMSF or amending SMSF rules, \$20 duty – ss 56BA, 9B and sch 1 it 2
- For more information and lodgement details [treasury.nt.gov.au/dtf/territory-revenue-office](http://treasury.nt.gov.au/dtf/territory-revenue-office)

**The above is no substitute for legal advice which should be sought if there is any doubt. Advice is required where property will be transferred due to a change of trustee. You should also seek advice if there is any doubt regarding which jurisdiction applies.**