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| Document Type: | Exemptions – Transfer of Motor Vehicle |
| Exemption Provision: | Pursuant to a Will or Intestacy |

Introduction

This Document Guide Note refers to a transfer of the registration of a motor vehicle pursuant to a will of a deceased person, or, the laws of intestacy.

An Application to Transfer the Registration of a Motor Vehicle to a beneficiary entitled under the will of a deceased person or the laws of intestacy, is exempt from stamp duty.

The laws of intestacy are defined by the *Administration and Probate Act 1919*. This Act states that if a person dies intestate, then the property should be distributed in the manner set out in that Act.

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. An Application to Transfer the Registration of a Motor Vehicle pursuant to a Court Order of this type can be self-determined under this document type.

This exemption applies where the beneficiary under the will takes the transfer of registration of the motor vehicle as a trustee, e.g., the will directs the property to the ABC Family Trust. A transfer is drawn from the executor to a person who takes the transfer of registration of the motor vehicle as trustee of the ABC Family Trust. The transfer is self-determined under this document type.

What documents can I self-determined under this document type?

The document can be in the form of:

- Application to Transfer the Registration of a Motor Vehicle.

What types of transactions can I self-determined under this document type?

An Application to Transfer the Registration of a Motor Vehicle pursuant to the terms of a will or the laws of intestacy is deemed **suitable** for self-determination under this document type where:

- the conveyance is pursuant to the terms of the will of a deceased person or the laws of intestacy and for no other consideration;
- the registration is conveyed to the beneficiary pursuant to the terms of the will of a deceased person and to no other party; and

- the conveyance is **not** pursuant to a Deed of Family Arrangement.

The following similar transactions cannot be self-determined under this document type:

A transfer of the registration of a motor vehicle pursuant to a Deed of Family Arrangement must be **submitted to the Commissioner for assessment** together with a copy of the will, a copy of the Deed of Family Arrangement and a detailed description of the transaction. Note: All Deeds of Family Arrangement must be **submitted to the Commissioner for assessment**.

Once the Application to Transfer the Registration of the Motor Vehicle has been self-determined, the document must be forwarded to Service SA to have the change in ownership noted on their records.

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- a copy of the documents;
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document);
- a copy of the will of the deceased person 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).

What Section(s) of the *Stamp Duties Act 1923* applies?

- Schedule 2, clause 2 (2), Exemption 19.

What stamp duty is payable on this document?

This document is exempt from stamp duty.

Example

Transfer of the registration of a motor vehicle pursuant to a will

Ann has been appointed the executor of Bob's estate. Pursuant to Bob's will, his net estate, which includes a Motor Vehicle, is bequeathed to Kate and Dave equally.

The consideration panel in the Application to Transfer the Registration of a Motor Vehicle (from Ann, as executor to Kate and Dave) recites 'pursuant to the terms of the will of Bob, deceased'.

The document is self-determined under this document type as **Exempt**.

Version History

| Version No. | Release Date |
|-------------|---------------|
| 1 | May 2018 |
| 2 | November 2018 |
| 3 | July 2019 |