

## NSW STAMP DUTY SMALL BUSINESS EXEMPTION GUIDELINES AND DECLARATION FORM

The NSW Government has introduced a new small business stamp duty exemption for certain types of insurance policies acquired on or after 1 January 2018. In order to get the benefit of the exemption, the insured person must:

- be an eligible small business; and,
- provide the following Declaration to the insurer by the commencement date of the policy.

**IMPORTANT:** To be eligible to claim the NSW small business stamp duty exemption the following Declaration must be received by the inception date of an eligible insurance policy. If the Declaration is not received by this date NSW stamp duty will be payable.

### What types of insurance are eligible for the exemption?

The types of insurance that may be eligible include:

- Commercial vehicle insurance, for a motor vehicle that is used primarily for business purposes.
- Occupational indemnity insurance (including professional indemnity) covering liability arising out of the provision by a person of professional services or other services (other than medical indemnity cover).
- Product and public liability insurance covering liability for personal injury or property damage occurring in connection with a business or arising out of the products or services of a business.
- Commercial aviation insurance for an aircraft that is used primarily for business purposes.

Special definitions apply to each of these insurances and the Insurer will apply the exemption where they determine the policy is affected (in whole or part).

### When does the exemption apply?

The exemption only applies to eligible insurances with a commencement date on or after 1 January 2018 (this applies to new business, variations and renewals).

### Definition of a small business

The legislation is complex and Revenue NSW has issued Guidance summarising when you are a small business as follows:

“A small business is an entity within the meaning of section 152-10 (1AA) of the [Income Tax Assessment Act 1997](#) of the Commonwealth for the income year in which the insurance is effected or renewed. At present, you are a small business entity if you are an individual, partnership, company or trust that:

- is carrying on a business, and
- has an aggregated turnover of less than \$2 million.

Aggregated turnover is your annual turnover plus the annual turnovers of any business entities that are your affiliates or are connected with you.

A business is affiliated with your business, if an individual or company, in relation to their business affairs, acts or could reasonably be expected to act:

- in accordance with your directions or wishes, or
- in concert with you.

Trusts, partnerships and super funds can't be your affiliates. However, a trust, partnership or super fund may have an affiliate who is an individual or company.

Your business is connected with another business if:

- either entity controls the other entity, or
- both entities are controlled by the same third entity.

As this is only a basic summary, you need to refer to the definition in s259A of the Duties Act 1997 (NSW) in the first instance to form a proper view or seek professional advice from your accountant or financial adviser. Unfortunately, we cannot assist you in determining eligibility for the exemption or provide advice on taxation matters.

### Helpful Information and Links

The Stamp Duty exemption applies under the [NSW Duties Act 1997](#) and is administered by Revenue NSW.

Key definitions under the NSW Duties Act include:

- [Section 259B](#) Eligible insurances
- [Section 259A](#) Meaning of “small business”.

Further guidance by NSW Revenue is available at:

[www.revenue.nsw.gov.au/taxes/insurance/exemptions/sbe](http://www.revenue.nsw.gov.au/taxes/insurance/exemptions/sbe)

Revenue NSW may be able to directly clarify any queries you have relating to the law and your obligations.

[www.revenue.nsw.gov.au/taxes/insurance/factsheet/overview](http://www.revenue.nsw.gov.au/taxes/insurance/factsheet/overview)

**How to complete the required Declaration**

An eligible insured person (or a person acting on their behalf) must provide a Declaration that they are or will be a small business at the time the relevant insurance is effected or renewed. Please complete the following Declaration and return to our office as soon as possible to ensure the information is passed onto the insurer by the required time.

If the Declaration is not received by the date that the relevant insurance is effected or renewed, the exemption will not be applied and stamp duty will be payable. If the Declaration is submitted after the effective or renewal date any refund of the stamp duty paid by you will be subject to the approval of Revenue NSW. The insurer also reserves the right not to make any premium adjustment or refund and/or to deduct the reasonable cost incurred from the recovered stamp duty prior to refund.

**WARNING:**

We recommend you seek appropriate professional advice from your Accountant or Financial Adviser to complete this Declaration.

- *A false or misleading Declaration may attract a maximum penalty of up to \$11,000 for an individual and \$55,000 for a corporation;*
- *If, because of a false Declaration (whether dishonest or not), the insurer is liable to pay a duty, the insurer may require you to pay an amount equal to the duty, plus any interest or penalty tax payable; and*
- *A fraudulent declaration may affect your rights under the policy.*

**DECLARATION TO CLAIM THE NSW DUTIES ACT 1997 SMALL BUSINESS STAMP DUTY EXEMPTION:**

This declaration covers policies effected or renewed during the year ended 30 June 2019.

- I declare that at the time the above policies are effected or renewed, I am/will be a "small business" as defined in section 259A of the Duties Act 1997 (NSW):

YES      NO

- I have read and understand the Guidance provided above with this Declaration and do not have any questions:

YES      NO

Insured name:

ABN of Insured:

I declare the above as the Insured or if not the Insured, do so with the authorisation of the Insured to declare on their behalf.

Print Name

Signature

Date Declared

Contact Details    Mobile     Email