

Document Class:	CONVEYANCE - OTHER
Document Name:	For Consideration
Document Description:	Assignment of Interest in a Land Contract
Document Code:	C

Introduction

This guide note explains how stamp duty is calculated on an assignment of an equitable interest in a contract for the sale and purchase of an interest in land for a **consideration**.

Assignments of other forms of property are discussed in other areas of this guide - refer to the appropriate document heading for details of how the stamp duty is calculated.

The value of the assignment for stamp duty purposes is, usually at the least, the amount of the deposit paid as at the date of the assignment.

More than one assignment can arise out of a contract, or the same interest can be assigned more than once. Where this occurs, each assignment is to be stamped separately.

Note: The Memorandum of Land Transfer should recite the total purchase price as expressed in the contract for sale and purchase of the land, and not a consideration less the amount paid in the assignment of interest in a land contract – refer section 68(5) of the SD Act.

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

An assignment of interest in a land contract where there is **no consideration** passing between the parties - refer to the document heading:

- [Conveyance – Other – For No Consideration – Assignment of Interest in a Land Contract](#) (VC)

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

The document can be in the form of:

- an Agreement that evidences the conveyance of an equitable interest in a contract for the sale and purchase of land;
- a Deed that evidences the conveyance of an equitable interest in a contract for the sale and purchase of land; or
- any other document that evidences the conveyance of an equitable interest in a contract for the sale and purchase of land.

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

An assignment of interest in a contract for the sale and purchase of land is deemed **suitable** for self-stamping under this document heading where:

- there is a consideration passing from the assignee to the assignor.

The document can be stamped under this document heading regardless of whether:

- the parties are related or unrelated; and/or
- the assignment is for a full interest or a fractional interest.

What stamp duty is payable on this document?

The assignment is chargeable with *ad valorem* conveyance stamp duty. The stamp duty is charged on either the **consideration** or **value** of the interest being assigned, **WHICHEVER IS THE GREATER**. Usually, the value of the assignment is, at least, the amount of the deposit paid as at the date of the assignment.

The assignment document should state (if applicable) if the assignment consideration includes the amount of the deposit.

Where no deposit is paid and the contract is assigned for consideration, the stamp duty is charged on the consideration using the *ad valorem* conveyance rate of stamp duty.

If the deposit in the contract for sale and purchase of the land is secured by a bank guarantee **and** the assignment document is drawn in Deed form, and the assignment is for no consideration, the document must be stamped under the document heading:

- [Conveyance – Other – For No Consideration – Assignment of Interest in a Land Contract](#) (VC)

If the deposit in the contract for sale and purchase of the land is secured by a bank guarantee and the contract is now being assigned for a consideration, the stamp duty is charged on the consideration.

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 that assigns the interest in the land contract; and
- copy of the relevant contract for the sale and purchase of land.

Example 1 – Assignment of an interest in a contract for a consideration same as the deposit

Pam contracts to sell land to Jim for \$120,000 and a deposit of \$10,000 is paid.

Jim then assigns his interest in the contract to Bob for a consideration of \$10,000.

Stamp duty is calculated on the greater of the value of the deposit or the consideration. With this transaction, the value of the deposit is equal to the consideration of \$10,000 (ie. \$100 stamp duty), ie, the contract is being assigned for an amount equal to the deposit. The assignment of interest in the contract is stamped under this document heading.

At settlement, Bob pays Pam \$110,000 and the Memorandum of Transfer states \$120,000 in the consideration panel as per the contract. Stamp duty is charged on \$120,000 and the document is stamped under the document heading:

- [Conveyance of Land – For Consideration – Conveyance of Land](#) (CL).

Example 2 – Assignment of an interest in a contract for a consideration greater than the value of the deposit

Megan contracts to sell land to John for \$260,000 and a deposit of \$10,000 is paid.

John then assigns his interest in the contract to Fred for a consideration of \$20,000, which includes the deposit of \$10,000

As the consideration paid for the assignment is **greater** than the value of the deposit, *ad valorem* conveyance stamp duty is charged on \$20,000 (ie. \$280 stamp duty).

At settlement, Fred pays Megan \$250,000 and the Memorandum of Transfer states \$260,000 in the consideration panel as per the contract. Stamp duty is charged on \$260,000 and the document is stamped under the document heading:

- [Conveyance of Land – For Consideration – Conveyance of Land](#) (CL).

Example 3 – Assignment of an interest in a contract for less than the deposit

Lisa contracts to sell land to purchaser Pam for \$85,000 and a deposit of \$8,000 is paid.

Pam then assigns her interest in the contract to Tom for \$2,000.

Stamp duty is calculated on the value of the deposit, (\$8,000). As this is **greater** than the consideration, *ad valorem* conveyance stamp duty is charged on \$8,000 (ie. \$80 stamp duty).

At settlement, Tom pays Lisa \$77,000 and the Memorandum of Transfer states \$85,000 in the consideration panel as per the contract. Stamp duty is charged on \$85,000 and the document is stamped under the document heading:

- [Conveyance of Land – For Consideration – Conveyance of Land](#) (CL).

Example 4 – Assignment of an interest in a contract for no consideration.

Frank contracts to sell land to purchaser Michael for \$385,000 and a deposit of \$10,000 is paid.

Michael then assigns his interest in the contract to Tom for no consideration.

Stamp duty is calculated on the value of the deposit, (\$10,000). As this is **greater** than the consideration, *ad valorem* conveyance stamp duty is charged on \$10,000 (ie. \$100 stamp duty).

At settlement, Tom pays Frank \$375,000 and the Memorandum of Transfer states \$385,000 in the consideration panel as per the contract. Stamp duty is charged on \$385,000 and the document is stamped under the document heading:

[Conveyance of Land – For Consideration – Conveyance of Land](#) (CL).

Example 5 – Multiple assignments resulting from the same contract

Ann contracts to sell 10 separately titled allotments to Bob for \$1,200,000 and pays a deposit of \$120,000 i.e.10%. Bob then assigns each allotment to 10 separate unrelated purchasers.

Allotments 1 to 7, consideration is \$120,000 each, assigned for \$12,000 each

Allotment 8, consideration is \$150,000 assigned for \$20,000

Allotment 9, consideration is \$80,000, assigned for \$5,000

Allotment 10, consideration is \$130,000, assigned for \$45,000

Duty on the assignments for allotments 1-7 is calculated on the consideration of \$12,000 as this is equal to the value of the assigned interest.

Duty on the assignment for allotment 8 is calculated on the consideration of \$20,000 as this is greater than the assigned value i.e.10% of \$150,000 is \$15,000.

Duty on the assignment for allotment 9 is calculated on the value of \$8,000 i.e. 10% of \$80,000 is \$8,000, as this is greater than the consideration.

Duty on the assignment for allotment 10 is calculated on the consideration of \$45,000 as this is greater than the assigned value i.e.10% of \$130,000 is \$13,000.

[Section 67](#) of the SD Act does **not** apply to either the assignments or the transfers of land, **providing** the Commissioner is satisfied that there is no arrangement or understanding between the assignees/transferees to use any of the allotments together (ie. this is not considered to be substantially one transaction or one series of transactions).

Note: The value for each assignment is calculated as a proportion of the total deposit paid compared to the consideration paid for the particular allotment.

The amounts recited in the consideration panel of each of the 10 transfers must add up to the contract consideration.

Example 6 – Series of Assignments resulting from the same contract

Jo contracts to sell land to Fred and a deposit of \$10,000 is paid.

Fred assigns his interest in the contract to Dave for a consideration of \$20,000. As the consideration is **greater** than the value, stamp duty is charged on \$20,000 using the *ad valorem* conveyance rate of stamp duty (ie. \$280 stamp duty).

Dave then assigns his interest to Helen for a consideration of \$15,000, *ad valorem* conveyance stamp duty is charged on the consideration of \$15,000 (ie. \$180 stamp duty).

Example 7 Assignment secured by a deposit guarantee

Greg contracts to sell land to Mark for \$555,000 and agrees to a deposit of \$55,000. Mark secures this deposit by way of a deposit guarantee.

Mark assigns his interest in the contract to Tracy. This must be stamped under the document heading:

[Conveyance – Other – For No Consideration – Assignment of Interest in a Land Contract \(VC\)](#)

As no monetary deposit has been paid, the assignment is chargeable with \$1 stamp duty. Enter a nominal consideration of \$100 or less in RevNet (but not \$0). The contract is deemed to have a nominal value and cannot have a nil value.

NB: Deposit guarantee is also known as a bank guarantee or similar.

Example 8 – Assignment of a half interest in a contract

Lisa contracts to sell land to purchaser Pam for \$85,000 and a deposit of \$8,000 is paid.

Pam then assigns a half interest in the contract to Tom for \$2,000.

Stamp duty is calculated on the value of half of the deposit, (\$8,000). As this is greater than the consideration, *ad valorem* conveyance stamp duty is charged on \$4,000 (ie. \$40 stamp duty).

At settlement, Tom pays Lisa \$77,000 and the Memorandum of Transfer states \$85,000 in the consideration panel as per the contract. Stamp duty is charged on \$85,000 and the document is stamped under the document heading:

[Conveyance of Land – For Consideration – Conveyance of Land \(CL\)](#).

What section of the SD Act applies?

Section 60
Section 60A
Section 68(5)