

Document Class:	EXEMPTIONS
Document Name:	Conveyance of Land
Document Description:	Bankrupts pursuant to 71CD
Document Code:	EX

Introduction

This guide note applies to a conveyance of land pursuant to section 71CD of the SD Act.

Land which has vested to the Official Trustee in Bankruptcy or a registered trustee under the *Bankruptcy Act 1966* of the Commonwealth, is exempt from stamp duty pursuant to section 71CD(a) of the SD Act, when the land is transferred back to the bankrupt.

Section 71CD(b) of the SD Act provides that a conveyance of land from the Official Trustee in Bankruptcy or a registered trustee under the *Bankruptcy Act 1966* of the Commonwealth to **some other person**, will be chargeable as though the conveyance of land were from the bankrupt or former bankrupt to that person. However, this transfer may be exempt under another provision.

This may occur after the bankrupt's estate has been settled and the property is deemed by the Official Trustee or registered trustee as a surplus asset.

Note: The term "bankrupt" also includes a former bankrupt.

This exemption applies regardless of whether or not a consideration is paid.:

You will need to indicate whether the land is used as **residential** or **non-residential**. For further advice on this refer to the [Stamp Duty Guide Glossary](#).

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

If the property conveyed pursuant to section 71CD of the SD Act is **not** land – refer to the document heading:

- [Exemptions – Conveyance of Other – Property \(not land\) - Bankrupts pursuant to 71CD \(EX\)](#).

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

The document can be in the form of:

- a LTO Form T1 - Memorandum of Transfer of Land.

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

A conveyance of land pursuant to section 71CD of the SD Act is deemed **suitable** for self-stamping under this document heading where the transfer of land is from the Official Trustee or registered trustee:

- back to the bankrupt.

What stamp duty is payable on this document?

The document is “Exempt” from stamp duty.

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; and
- any other evidence to support the application of section 71CD(b) of the SD Act (if applicable).

Example 1 - Land transferred from Official Trustee (or some other registered trustee to Bankrupt or former Bankrupt)

Bill was the registered owner of a shopping centre at Unley. On 21 July 2000, Bill was declared bankrupt and the shopping centre was transferred to the Official Trustee. After 6 months negotiation and re-financing of Bill’s debts, the shopping centre is to be transferred back to Bill.

On 2 February 2001, a Memorandum of Transfer of Land is executed where the Official Trustee is the transferor and Bill is the transferee.

The Memorandum of Transfer of Land is “Exempt” from stamp duty pursuant to section 71CD(a) of the SD Act.

Example 2 – Land transferred from Official Trustee as part of a divorce settlement.

Fred and Wilma are married and own their home. Wilma has been declared bankrupt and her share of the property has been transferred to the Official Trustee.

Later the parties divorce and Fred remarries. The Official Trustee no longer requires the property and transfers its interest to Fred’s new wife. This transfer is exempt from duty pursuant to section 71CD (b) of the Act.

What section of the SD Act applies?

71CD