

**Document Class:** MORTGAGES  
**Document Name:** Collateral  
**Document Code:** COL

### Introduction

This guide note applies to a collateral mortgage and a cross-collateral mortgage.

A mortgage is defined at section 76 of the SD Act and includes a document creating, acknowledging, evidencing or recording a legal or equitable interest in, or charge over real or personal property as security for a liability.

A collateral mortgage provides further property as security for the liability secured by the prime mortgage.

A cross-collateral mortgage is a document which is stamped as a prime security and a collateral security as part of a group of mortgage documents.

The cross-collateral mortgage to the extent of the prime liability must be stamped under one of these appropriate document headings:

- [Mortgages – Prime Mortgage – Land](#) (MP)
- [Mortgages – Prime Mortgage – Other](#) (M)

The cross collateral mortgage to the extent of the collateral security would be stamped under this document heading.

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

The document can be in the form of:

- LTO Form M1 - Memorandum of Mortgage;
- a Stock mortgage;
- a Fruit/wool lien;
- a Bill of Sale;
- a Deed of Charge;
- a Debenture; or
- any other document that is defined as a mortgage.

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

A collateral mortgage is deemed **suitable** for self-stamping under this document heading where:

- the prime mortgage has been stamped in South Australia;

- a linking clause is included in the collateral mortgage that links the document to the prime mortgage (this can be in the document or attached by way of a Form F1);
- the liability secured covers the same debt and does not exceed the amount secured by the prime mortgage;
- the collateral mortgage is dated on or after the date of the prime mortgage;
- the prime mortgage has not been fully discharged;
- the mortgagee in the collateral mortgage and the prime mortgage are the same; and
- the borrower/s are the same.

The mortgage can be stamped under this document heading where the above conditions apply and the mortgage is being stamped as a cross collateral for the extent of the collateral security.

### **What stamp duty is payable on this document?**

No stamp duty is payable, the document is “Adjudged Duly Stamped”.

### **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 documents (both the prime mortgage and the collateral mortgage).

### **Example 1 – Collateral Mortgage**

Frank wants to borrow a \$100,000 from his financial institution to purchase an investment property. His financial institution requires further security for this loan. His sister, Sue has agreed to let Frank use her house as collateral security for this loan.

The loan for \$100,000 over the investment property has been stamped as the prime mortgage (ie. \$433 stamp duty is payable). The mortgage over Sue’s house is stamped as a collateral security for a secured liability of \$100,000 (being the same monies as secured by Frank’s prime mortgage).

### Example 2 – Cross Collateral Mortgages

Ted borrows \$500,000 from XYZ Bank secured by a mortgage over his factory. The mortgage has been stamped with \$2,233 stamp duty. Alice borrows \$700,000 from XYZ Bank secured by a mortgage over her warehouse. This mortgage has been stamped with \$3,133 stamp duty. Both of these mortgages have been stamped under the document heading:

- [Mortgages – Prime Mortgage – Land \(MP\)](#)

Ted and Alice each execute cross guarantees whereby they guarantee the payment of each others loan and give their property as collateral security for each others loan.

XYZ Bank now wants to stamp these mortgages cross collateral to each other. The mortgage over Ted's factory is stamped as a cross collateral to Alice's mortgage for \$700,000. The mortgage over Alice's warehouse is stamped as a cross collateral to Ted's mortgage for \$500,000. Both of these mortgages are stamped as cross collateral under this document heading:

- [Mortgages – Collateral \(COL\)](#)

Refer to [Stamp Duties Circular No 82](#) for more advice on cross collateral securities.

### What section of the SD Act applies?

Schedule 2, Mortgage Head of Duty, Exemption 1