

Document Class: CONVEYANCE - LAND
Document Name: For Consideration
Document Description: Conveyance of Land
Document Code: CL

Introduction

This guide note explains how stamp duty is calculated on a conveyance of land where there is a consideration passing between the parties. The term “conveyance” includes vesting, transfer, assignment and other like terms.

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 transactions cannot be stamped under this document heading:

Conveyances of land where **no consideration** is passing between the parties - refer to the document heading:

- [Conveyance of Land – For No Consideration – Conveyance of Land](#) (VC).

A conveyance of primary production property involving a “walk in walk out” sale pursuant to section 31A of the SD Act must be submitted for the Opinion of the Commissioner of State Taxation.

Conveyances creating or surrendering a life estate - refer to the appropriate document heading:

- [Conveyance of Land - For Consideration - Creation of Life Estate](#) (CL);
- [Conveyance of Land – For Consideration - Surrender of Life Estate](#) (CL);
- [Conveyance of Land - For No Consideration - Creation of Life Estate](#) (VC); or
- [Conveyance of Land – For No Consideration - Surrender of Life Estate](#) (VC).

If you believe that a particular conveyance of land may be exempt or subject to a stamp duty concession or rebate it cannot be stamped under this document heading and must be stamped under the appropriate document heading or submitted for the Opinion of the Commissioner of State Taxation.

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;
- a LTO Form RTC – Application to Deposit a Plan of Division;
- any other document that evidences the conveyance of land for a consideration.

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

A conveyance of land is deemed **suitable** for self-stamping under this document heading where:

- there is a consideration passing between the parties; and
- the instrument is **not** entitled to a stamp duty concession, exemption or rebate.

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

- the parties are related or unrelated;
- a full or fractional interest is being conveyed; or
- a portion of land is being conveyed (eg, RTC).

What stamp duty is payable on this document?

Stamp duty is charged using the *ad valorem* conveyance rate of stamp duty on either the **consideration** or **market value** of the interest being transferred as at the date of sale, **WHICHEVER IS THE GREATER**, assuming that the property is at that date free from encumbrances. (section 60A(1) of the SD Act).

If the transaction is a *bona fide* arms length transaction between unrelated parties then pursuant to section 60A(2) of the SD Act the consideration may be treated as the market value of the land.

Where a fractional interest is conveyed, the parties are related or the transaction is not at “arms length” you will need to obtain evidence of the market value of the land. For example:

- valuation from a suitably qualified valuer; or
- evidence of the current Valuer General’s value for the land (eg. a copy of the relevant Property Assist print-out). If you do not accept this value, submit the transfer for opinion with reasons and evidence to support the lower value.

Where land is being transferred pursuant to a contract for sale and purchase of land and the land has been improved since the contract was signed but prior to settlement, stamp duty is calculated on the value of the land including improvements, whether complete or partially complete, as at the date of the sale ie. the date of the conveyance of the property to the purchaser, which is usually the date of settlement. Refer to [Commissioner’s Circular No. 234](#) for an explanation for this type of transaction. Evidence of value of the improvements, preferably a written statement from the builder stating the value of the improvements as at the date of the sale, must be kept for audit purposes.

“Off the Plan” Sales of Property

In relation to real property developments, such as large multi-storey apartment developments, purchasers will enter into a contract to buy a unit in that development at a time when, what is to become "their property", does not exist but comes into existence at a subsequent time when the development is undertaken and individual titles are created. This is colloquially known as "off the plan sales of property". Once the development is finished, settlement of the contract which the purchaser entered into is effected and at the date of settlement a conveyance of the improved property takes place. The value of the improved property at settlement may be substantially higher than that value represented by the consideration paid when the purchaser originally entered into the contract.

In these circumstances, where the parties to the original contract were at arms length, the Commissioner of State Taxation will ordinarily accept, for the purposes of section 60A of the SD Act, that the consideration for the original contract represents the value of the property conveyed at the time of settlement.

Any persons/agents involved with these transactions are encouraged to discuss the appropriate assessment procedure with RevenueSA. Where the Commissioner of State Taxation is then satisfied, in terms of section 60A(2) of the SD Act, then a written confirmation will be provided that the consideration for the original contract will be accepted as the value of the property conveyed at the time of settlement.

This advice should be retained on file as a part of the record keeping requirements of RevNet and should be produced, on any subsequent compliance audit, to establish that the Commissioner of State Taxation had accepted that it was the appropriate value.

Section 67 of the SD Act

If the conveyance is a part of a series of transactions with other documents (as described in [section 67](#) of the SD Act), then stamp duty is calculated on the **total value** of the property in the series of transactions and apportioned to each document.

If the documents subject to [section 67](#) are being stamped at different times, they must be submitted for Opinion of the Commissioner of State Taxation with the details of the other documents in the series of transactions.

GST

If an transaction includes and amount payable for GST, duty is payable on the GST inclusive amount pursuant to section 15A of the SD Act. The GST must be included in the consideration expressed in the transfer pursuant to section 11 of the *Taxation Administration Act 1996*. For example, a sale of land for \$100,000 plus GST of \$10,000. The consideration panel in the transfer can recite either:

- \$100,000 plus GST of \$10,000; or
- \$110,000.

If a transfer is pursuant to the GST Margin Scheme, the GST Margin is calculated on the difference between the consideration (excluding GST) and the market value as at 1 July 2000 – the GST is 10% on this difference in value.

Note: If the value of the land as at 1 July 2000, is greater than the consideration paid then no GST applies to the transaction.

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;
- a copy of the contract for sale and purchase of the land (if applicable);
- a copy of the letter of agency (if applicable);
- a copy of the stamped Assignment of Interest in the Contract (if applicable);
- a copy of the Certificate of Incorporation (where there is a nominee contract and a company is to be registered on the Certificate of Title);
- evidence of the market value of the land as at the date of conveyance (if the parties are related or a fractional interest is being conveyed); and
- evidence of the market value of the land as at the 1 July 2000 (if the GST Margin Scheme applies).

Example 1 – Conveyance of Land – Full Interest – Arms Length

Jim sells land to Ann for \$150,000. The vendor (Jim) is unrelated to the purchaser (Ann) and the contract has been negotiated at arms length through a land agent. This is a *bona fide* arms length transaction, therefore, pursuant to section 60A(2) of the SD Act, the consideration is accepted as the market value of the land. The stamp duty is calculated on \$150,000 (ie \$4,830 stamp duty).

Example 2 – Conveyance of Land – Fractional Interest – Related Parties

Bob and Helen (vendors) sell a half interest in land to Kate and Tim (purchasers) for \$35,000. The vendors are related to the purchasers. The market value of the interest being transferred is \$50,000. As the market value is **greater** than the consideration, stamp duty is calculated on the market value of \$50,000 of the interest being transferred (ie \$1,080 stamp duty).

Example 3 – Conveyance of Land subject to GST Margin Scheme

Lisa contracts to sell land to Bill for \$200,000 plus GST. They agree to use the GST Margin Scheme for this transaction. The value of the land as at 1 July 2000 is \$180,000, therefore, the difference subject to GST is \$200,000 - \$180,000 = \$20,000. The amount of GST payable on this transaction is 10% of \$20,000 ie. \$2,000. Therefore, the purchase price is \$200,000 + \$2,000 = \$202,000. The stamp duty is calculated on \$202,000 (ie. \$6,915 stamp duty).

Example 4 – Conveyance of Land pursuant to a Nominee Contract

When a person or company authorises another person or company to act on their behalf to negotiate the purchase of land, the authority must be given **prior** to the contract being entered into. The Letter of Agency to confirm the arrangement must be dated **on or prior** to the date of the contract.

Any letter of agency or authority given **after** the date of the contract is not accepted as creating an agency for the purpose of the purchase and an assignment of interest in the contract must be executed. The assignment of interest in the contract must be stamped under the appropriate document heading:

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

If a company nominates an individual to execute a contract, a copy of the Certificate of Incorporation of the company must be retained for audit purposes. The Certificate of Incorporation of the company must be **dated on or before** the date of the letter of agency – to ensure the company was incorporated prior to the signing of the contract.

Example 5 – Conveyance of Land pursuant to an Assignment of Interest in a Contract

In some situations a husband or wife can contract on behalf of each other without the requirement for a letter of agency or an assignment – refer to the table below:

Contract Purchaser	True Purchaser	Requirement
Husband	Husband and wife	No letter of agency or assignment required.
Husband	Wife	No letter of agency or assignment required.
Husband and or nominee	Husband and wife; or Husband; or Wife	No letter of agency or assignment required.
Wife	Husband and wife	No letter of agency or assignment required.
Wife	Husband	No letter of agency or assignment required.
Wife and or nominee	Husband and wife; or Husband; or Wife	No letter of agency or assignment required.
Husband and wife	Husband	Assignment of wife's interest required.
Husband and wife	Wife	Assignment of husband's interest required.
Husband and wife and or nominee	Husband	Assignment of wife's interest required.
Husband and wife and or nominee	Wife	Assignment of husband's interest required.

Husband and wife and or nominee	Nominee	Letter of Agency required.
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More than one assignment can arise out of a contract, or the same interest can be assigned more than once. For example, Ann contracts to sell 10 separately titled allotments to Bob. Bob then assigns each allotment to 10 separate unrelated purchasers.

Stamp duty is payable on **each** assignment and on **each** Memorandum of Transfer of Land. The total of the considerations on the 10 transfers should be equal to the contract consideration. [Section 67](#) of the SD Act would **not** be applied to these documents if the Commissioner can be satisfied that each allotment will be used separately and independently of the others refer to section 67(2)(a) of the SD Act.

Example 6 - Promoter Company

“Promoters” means the initial subscribers or office bearers of the newly formed company.

A contract may be entered into between a vendor and a promoter of a company and the subsequent transfer is between the vendor and the newly incorporated company.

An assignment of interest is **not** required if the purchasers named in the contract are the promoters of the company, which at the time of the contract is entered into is in the process of incorporation, and that company subsequently takes title.

Example 7 - Purchase Price Amendment

A contract may include as a special condition the right for the parties to amend the purchase price in certain circumstances, for example, early settlement or land subject to survey. The stamp duty is calculated on the amended consideration. If the purchaser agrees to pay the agents sale commission, this is added to the consideration for stamp duty purpose.

Example 8 - Land sold with other property (Section 67)

A contract may also include the sale of other property, eg. furniture, chattels, water licence, plant and equipment. If the consideration in the contract splits the total consideration between the land and the other property, the land transfer should recite the land consideration.

In this instance, [section 67](#) of the SD Act will apply. The land transfer will be stamped under this document heading and the document evidencing the conveyance of the other property must be stamped under the document heading:

- [Conveyance - Other - For Consideration – Property \(not land/shares/units\)](#) (C).

Sam contracts to sell land to Jo for \$180,000 and the contract includes the sale of furniture for \$10,000 (ie total consideration \$190,000). This is a *bona fide* arms length transaction between unrelated parties therefore, pursuant to section 60A(2) of the SD Act, the consideration is accepted as the market value of the land.

The land transfer and contract together form one series of transactions and are stamped pursuant to [section 67](#) of the SD Act.

The stamp duty is calculated on the total consideration (\$190,000) and apportioned between both documents pursuant to section 67 of the SD Act (ie. Total stamp duty on \$190,000 is \$6,430).

The stamp duty on the Agreement is calculated using the consideration of \$10,000 (ie \$338 stamp duty) and the document is stamped under the document heading:

- [Conveyance – Other – For Consideration – Property \(not land/shares/units\)](#) (C).

The stamp duty on the Memorandum of Transfer of Land is calculated using the consideration of \$180,000 under this document heading (ie \$6,092 stamp duty).

When stamping these documents on RevNet, the section 67 field will need to be highlighted and the stamp duty will be apportioned for you.

When stamping these documents on the Periodic Return Arrangement, you will need to apportion the stamp duty between the documents manually.

Example 9 – Conveyance of Land – Full Interest – Arms Length- Partially completed improvements

Fred contracts to sell vacant land to Wilma for \$140,000. After signing this contract, Wilma enters into a building contract and her builder commences building a house on the land. At the time of settlement, the house is partially complete and the builder provides a certificate stating that the value of the improvements on that day is \$95,000. Pursuant to 60A(1) of the SD Act, duty is payable on the value as at the date of sale, ie. \$140,000 plus \$95,000. The stamp duty is calculated on \$235,000 (ie. \$8,317.50 stamp duty).

What section of the SD Act applies?

Section 60
Section 60A(2)
Section 67