

Document Class: CONVEYANCE - OTHER
Document Name: For Consideration
Document Description: Property (not land/shares/units)
Document Code: C

Introduction

This guide note explains how stamp duty is calculated on a conveyance of property (not land, marketable securities or units) where there is a consideration passing between the parties.

Section 2 of the SD Act defines “property” as real or personal property and includes:

- intellectual property (except know-how and confidential information); and
- an interest in property.

Any document that conveys property, or a fractional interest in property, for a consideration is liable to *ad valorem* conveyance stamp duty **unless** one of the specific exclusions or exemptions provided under the SD Act applies. Refer to the appropriate document heading in this Stamp Duty Document Guide.

If the property, comprising goods, wares and merchandise, is sold in the ordinary course of business, the SD Act provides an exemption from stamp duty. An example of this would be major department store selling an item (eg. an electrical appliance) to a customer. These transactions are exempt under section 31 of the SD Act and do not need to be stamped.

Examples of property that could be stamped under this document heading are:

- assignment of interest in a contract for sale and purchase of a business;
- personal property (eg. furniture, white goods etc);
- goods or chattels not sold in the ordinary course of business;
- an option to purchase property and
- a transportable home in a park (eg, caravan park, retirement village).

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

Conveyances of the types of property listed below must be submitted for the Opinion of the Commissioner of State Taxation:

- an aquaculture licence;
- a fishing licence;
- a taxi plate licence;

- a water licence; or
- a transfer of a beneficial interest to another beneficiary/object of that trust (except a renunciation to a continuing beneficiary/object).

If the property is conveyed for **no consideration** - refer to the document heading:

- [Conveyance – Other – For No Consideration – Property \(not land/shares/units\)](#) (VC).

If the document conveys **land** – refer to the document heading:

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

If the document conveys **unlisted marketable securities** or units it must be submitted for the Opinion of the Commissioner of State Taxation together with the latest Balance Sheet and the last three (3) years Profit and Loss Accounts.

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

The document can be in the form of:

- an Agreement evidencing the conveyance of property for a consideration;
- a Deed evidencing the conveyance of property for a consideration; or
- any other document evidencing the conveyance of property for a consideration.

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

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

- there is a consideration passing between the parties;
- the document does not convey land, marketable securities, units, a taxi licence, a water licence, a fishing licence or an aquaculture licence; or
- the property is not conveyed in the ordinary course of business.

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

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

What stamp duty is payable on this document?

The stamp duty is charged using the *ad valorem* conveyance rate of stamp duty on either the **consideration** or **market value** of the interest transferred, WHICHEVER IS THE GREATER.

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

Where the consideration or any part of the consideration for a conveyance of property consists of any real or personal property other than money, the market value of the real or personal property at the date of the sale shall be taken as the amount of the consideration or part of the consideration (refer section 65 of the SD Act and example 2).

Where the consideration is be paid in instalments, the SD Act allows the Commissioner to charge stamp duty on the total consideration (refer section 66 of the SD Act and example 4).

Where a fractional interest is conveyed or the parties are related, or the transaction is not at “arms length” evidence of the market value of the property conveyed should be obtained eg. valuation from a suitably qualified valuer, balance sheet, depreciation schedule etc.

SECTION 67 OF THE SD ACT

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

If the documents subject to section 67 are being stamped in different batches, they must be submitted for Opinion of the Commissioner of State Taxation with the details of the other documents in the series of transactions.

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
- evidence of the market value of the property eg. valuation from a suitably qualified valuer, balance sheet, depreciation schedule etc. (where the parties are related or a fractional interest is conveyed).

Example 1 – Conveyance of property for cash (not sold in the ordinary course of business)

Ann agrees to sell excess plant and equipment to Bill for \$5,000. Ann is not in the business of selling this property. Ann and Bill are not related.

Ann and Bill execute an agreement for sale and purchase of the plant and equipment. This is a bona fide arms length transaction between unrelated parties.

Pursuant to section 60A(2) of the SD Act the consideration will be treated as the market value of the land. The agreement is liable for *ad valorem* conveyance duty on the consideration of \$5,000 (ie. \$50 stamp duty).

Example 2 – Exchange of Property

John is the owner of a transportable home valued at \$90,000, his son Matthew owns a motor home valued at \$85,000. John and Matthew enter into an agreement whereby John agrees to transfer the transportable home to Matthew in exchange for Matthew transferring the motor home to John (ie. exchange of property). No further consideration is being paid for equality.

As the parties are related, the property (motor home and transportable home) would need to be valued by a qualified valuer. A suitably qualified valuer has confirmed the values of \$90,000 for the transportable home and \$85,000 for the motor home.

The conveying document (in this case the agreement) **must be stamped twice** under this document heading:

- firstly, on the conveyance of the transportable home from John to Matthew – *ad valorem* conveyance stamp duty is charged on the value of \$90,000 (ie. \$2,480); and
- secondly, on the conveyance of the motor home from Matthew to John – *ad valorem* conveyance duty is charged on \$90,000 (ie. \$2,480).

Example 3 – Goods or chattels not sold in the ordinary course of business

The local deli owners decide to close their business and have not had any success selling the business. After the business is closed, the owners sell the shelving and equipment to the owner of the fish and chip shop next door.

The deli owners and the fish and chip shop owner enter into an agreement for sale and purchase of the shelving and equipment for a consideration of \$2,000. This is a *bona fide* arms length transaction between unrelated parties.

Pursuant to section 60A(2) of the SD Act the consideration will be treated as the market value of the land. This agreement is liable to *ad valorem* conveyance stamp duty on the consideration of \$2,000 (ie. \$20 stamp duty).

Example 4 – Consideration paid in instalments

There may be situations when the property is sold and the payment is made in instalments over a period of time. Stamp duty is payable on the total of the instalment payments.

Max and Minnie are purchasing a holiday cabin from their friends Fred and Beryl. Fred and Beryl want to pay for the holiday cabin in instalments instead of one lump sum of \$60,000.

An Agreement is drawn up which states that Max and Minnie will pay \$15,000 each year over a four year period for the holiday cabin. Max, Minnie, Fred and Beryl execute the Agreement. The consideration represents the market value of the property.

The Agreement for sale and purchase of the holiday cabin is liable to stamp duty on the total consideration of \$60,000 (ie. \$1,430 stamp duty).

Example 5 – Sale of Land and Goods (Subject to Section 67 of the SD Act)

Bob and Sally have sold their house to Fred and Kate. The contract for sale and purchase includes \$255,000 for the land and \$20,000 for furniture (ie. a total purchase price of \$275,000).

The parties are not related and the consideration represents the market value of all the property.

The stamp duty is charged on the total consideration (\$275,000) and apportioned between both documents (the Act considers each transfer to be a separate document) pursuant to section 67 of the SD Act.

The Memorandum of Transfer of Land should recite in the consideration panel the consideration for the land of \$255,000 (ie. \$9,405 stamp duty). The Memorandum of Transfer of Land is stamped under the document heading:

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

The contract for sale and purchase is stamped under this document heading on the consideration of \$20,000 (ie. \$737.50 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 6 – Premium on a Lease

ABC Pty Ltd has entered into a lease to rent a shop located in a busy shopping centre. In addition to the annual rental specified in the lease, ABC Pty Ltd have been asked to pay a premium of \$100,000.

Where the lease includes a separate consideration (eg. premium) other than the rent reserved this consideration is chargeable with *ad valorem* stamp duty. Two stamps will apply to the document, the first, must be entered as a lease under the appropriate lease document heading.

The second stamp must be entered under this document heading.

The premium is liable to stamp duty on the total consideration of \$100,000 (ie. \$2,830 stamp duty).

Example 7 – Option to purchase land

PMQ Pty Ltd has entered into an option agreement with the owner of land to have the first option to purchase that land during the next 5 years. PMQ Pty Ltd has paid an option fee of \$10,000 for this.

The option agreement is liable to stamp duty based on the consideration of \$10,000 (ie \$100 stamp duty)

What sections of the SD Act apply?

Section 31
Section 60
Section 60A
Section 65
Section 66
Section 67
Schedule 2, Conveyance on Sale