

Document Class:	CONCESSIONS
Document Name:	First Home Concession
Document Description:	Conveyance of Land
Document Code:	FHC

Introduction

This guide note explains how stamp duty is calculated on a first home concession pursuant to section 71C of the SD Act.

The first home concession is a stamp duty concession available to:

- natural person(s) purchasing vacant land who have entered into a contract to build a dwelling house ('residential home') and they intend to occupy that dwelling house as their principal place of residence within 12 months from the date of completion of construction; or
- natural person(s) who buy an existing dwelling house and intend to occupy that dwelling house as their principal place of residence within 12 months from the date of conveyance;

providing the market value of the property or the consideration, whichever is the higher, is \$250,000 or below, the contract to purchase the property was entered into on or after 27 May 2004 and prior to 5 June 2008 and all other eligibility criteria have been met.

If the contract to purchase the property was entered into prior to 27 May 2004, a concession is available up to \$130,000. When entering the document details into RevNet, you will be required to enter the contract date in the "contract date" field. RevNet will calculate the appropriate concession based on this date.

The first home concession has been replaced by the first home bonus grant and applies to first home buyers who have entered into a first home contract on or after 5 June 2008 and for owner builders who commence construction on or after 5 June 2008, subject to the applicants meeting the eligibility criteria for the First Home Owners grant.

If there is **no consideration** expressed in the transfer the document will not be eligible for the concession. The document **cannot** be stamped under this document heading. Refer to the document heading:

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

If the **parties purchase vacant land and do not enter into a building contract** at the time of purchasing the land, they would **not** be eligible for the concession at the time of stamping the conveying document. The document cannot be stamped under this document heading. Refer to the document heading:

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

These first homebuyers may still be eligible for the concession and could be entitled to a refund of the stamp duty paid (up to the amount of the concession). To be eligible for the refund they must build a house on that land and occupy it as their principal place of

residence within 24 months of the date of the **conveyance** while meeting all other eligibility criteria. All applications for refund are to be submitted, in writing, to RevenueSA.

The term “dwelling house” includes all residential premises **except** those premises that form part of industrial or commercial premises. The concession does **not** apply where the dwelling house will be used for rental or investment purposes.

The area of land or number of Certificates of Titles conveyed does **not** effect the eligibility for the first home concession. It is the **use** of the land that determines the eligibility for the first home concession. That is, if none of the land is used for industrial or commercial purposes the concession will apply providing all other eligibility criteria are satisfied.

Where the land is used for both residential and primary production purposes it is possible for the concession to still apply – refer [Commissioner's Circular No. 236](#) for more details. These documents must be submitted for the Opinion of the Commissioner of State Taxation.

Additionally, the following criteria also need to be satisfied for a first homebuyer (the “Applicant”) to be eligible for the concession.

- Applicant(s) must be natural person(s) (ie. the benefit is not available to a corporation etc.).
- Applicant(s) must have entered into a contract for the purchase of:
 - a relevant interest in land;or
 - shares in a company that confer a right of possession to the shareholder that enables them to occupy a home unit that is registered in the name of the company.
- Applicant(s) must be the sole purchaser of the land or shares. No other person can be a purchaser in the transaction apart from the first home buyer(s). If one of the transferees has previously had a relevant interest, all other transferees would be ineligible for the concession.
- No party to the application has previously owned and occupied a dwelling house, holiday house, flat or home unit (except as a minor) either in South Australia, Australia or elsewhere, (other than a concession granted pursuant to an agreement with the South Australian Housing Trust).
- No party to the application has previously received a First Home Buyers Stamp Duties Concession, (other than a concession granted pursuant to an agreement with the South Australian Housing Trust).
- If the applicant(s) meet the criteria, previous ownership of vacant, commercial, industrial or residential investment property does not preclude the applicant(s) from gaining a concession.

“RELEVANT INTEREST” IS DEFINED AT SECTION 71C(3) OF THE SD ACT AS:

“in relation to land or a dwellinghouse, means any estate or interest conferring a right to possession, including any such estate or interest arising under a perpetual lease but not including any other leasehold estate or interest.”

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](#).

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;
- any other document that conveys land where the first home concession eligibility criteria are met.

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

A first home concession is deemed **suitable** for self-stamping under this document heading where:

- there is a consideration passing between the parties;
- the parties intend to occupy that property as their principal place of residence within the period specified in section 71C of the SD Act;
- no part of the land is used for industrial or commercial premises;
- the applicant is the sole purchaser;
- a building contract has been entered into (if purchasing vacant land);
- a First Home Concession Application form has been completed by all applicants;
- the applicant(s) meet the criteria relating to the first home concession as detailed in section 71C of the SD Act;
- the contract for sale and purchase of the land is dated prior to 5 June 2008.

The document can be stamped under this heading regardless as to whether:

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

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

The documents must be submitted for the Opinion of the Commissioner of State Taxation if:

- [section 67](#) of the SD Act applies;

- the land is purchased pursuant to the SAHT Progressive Purchase Scheme;
- the land is used for both residential and primary production purposes; and/or
- the conveying document is a Standard Transfer Form (for shares which give the owner the right of possession to occupy a home unit).

What stamp duty is payable on this document?

The stamp duty is calculated using the *ad valorem* conveyance rate of stamp duty on either the **consideration** or **market value** of the interest transferred, WHICHEVER IS THE GREATER, minus the applicable amount of the first home concession.

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 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 eg. valuation from a suitably qualified valuer.

For example, if the consideration is \$129,000 the stamp duty would be calculated as follows:

\$3,990 (stamp duty on \$129,000) - \$1,995 (amount of concession) = \$1,995 (stamp duty payable).

The rates for the first home concession can be found in [Commissioner's Circular No. 246](#). RevNet will automatically calculate the concession and stamp duty payable for you.

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;
- the completed First Home Concession Application form;
- evidence of the market value of the land (where the parties are related or a fractional interest is conveyed);
- a copy of the contract for sale and purchase of the land (if applicable);
- a copy of the building contract (if purchasing vacant land);
- a copy of the Property Assist – Property Search in the name of each applicant.

Example 1 – Purchase of vacant land and applicant has entered into a building contract prior to settlement.

Sally entered into a contract on 30 May 2004 to purchase vacant land at Greenwith for \$65,000. Prior to settlement, Sally executes a contract to build a house on the land valued at \$110,000.

A Memorandum of Transfer of Land is executed in preparation for settlement.

Sally has previously resided in rental accommodation. This property will be Sally's first home and she will use it as her principal place of residence.

Sally has completed the First Home Concession Application form and meets all the eligibility criteria for the concession.

Stamp duty is calculated on the consideration paid for the land (\$65,000) less the amount of the concession. The document is "Exempt" from stamp duty.

Example 2 – Purchase of a Dwellinghouse.

Hugh and Megan have entered into a contract on 25 June 2004 to purchase an established house at Murray Bridge for \$189,000. They intend to reside in this property as their principal place of residence.

A Memorandum of Transfer of Land is executed and Hugh and Megan complete the First Home Concession Application form.

Neither Hugh nor Megan has previously had a relevant interest in property in which they have resided. However, Hugh owns land used for primary production purposes near Taillem Bend.

Stamp duty is calculated on the consideration paid for the property (\$189,000) less the amount of the concession. (ie. $\$6,390 - \$1,479 = \$4,911$ stamp duty payable).

Example 3 – Purchase of a dwelling house registered on a perpetual lease or torrens title.

Bill and Jane have entered into a contract on 15 June 2004 to purchase a house at Ardrossan for \$175,000. The ownership of the property is registered on a perpetual lease.

This property will be their principal place of residence, as neither Bill nor Jane has had a relevant interest in land.

They have signed a Memorandum of Transfer of Land and completed the First Home Concession Application form.

The transaction would be eligible for the first home concession because the property is registered on a perpetual lease. The concession also applies to properties registered on a torrens title.

Stamp duty is calculated on the consideration paid for the property (\$175,000) less the amount of the concession (ie. $\$5,830 - \$1,815 = \$4,015$ stamp duty payable).

Example 4 – Purchase of a first home where the applicant owns a shack registered on a miscellaneous lease or annual licence.

Hugh and Megan have entered into a contract dated 13 June 2004 to purchase an established house at Mt Barker for \$225,500. They intend to live in this property as their principal place of residence.

A Memorandum of Transfer of Land is executed and Hugh and Megan complete the First Home Concession Application form.

Megan is the registered lessee of a shack site on the Yorke Peninsula. This shack site is registered on a miscellaneous lease.

The transaction is eligible for the first home concession because the shack that Megan owns is registered on a miscellaneous lease. The concession would also apply if the shack tenure was registered as an annual licence.

Stamp duty is calculated on the consideration paid for the property (\$225,500) less the amount of the concession, rounded down to the nearest thousand, (ie. \$7,913.75 - \$615 = \$7,298.75 stamp duty).

Example 5 – Applicant purchases vacant land and a transportable home.

Jane entered into a contract dated 4 June 2004 to purchase vacant land at McLaren Vale for \$40,000. Prior to settlement Jane also entered into a contract to have a new transportable home constructed on the property.

This will be Jane's first home and she intends to reside in the property as her principal place of residence within 12 months from the date of completion of construction.

Jane has signed the Memorandum of Transfer of Land and has completed the First Home Concession Application form.

Stamp duty is calculated on the consideration paid for the property (\$40,000) less the amount of the concession. The document will be "Exempt" from stamp duty.

Example 6 – Purchase of a first home where there has been an assignment of interest in the contract.

A husband and wife contract to purchase a dwellinghouse. The wife has had a previous relevant interest in a dwellinghouse so the wife assigns her interest in the contract to her husband by way of assignment.

The effect of the assignment is to assign all her equitable interest in the contract to the husband.

To allow the concession, the Commissioner must be satisfied that the husband is the **sole purchaser** of the property. If, there then follows (in the series) a transfer of an interest in the property from the husband to the wife (which would be "Exempt" pursuant to section 71CB of the Act) the Commissioner would consider that both the husband and wife are **joint purchasers** on the original purchase. Consequently, the First Home Concession **cannot** be granted.

The Memorandum of Transfer of Land **cannot** be stamped under this document heading. Refer to the document heading:

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

The assignment of interest in the contract would 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 \(VC\)](#).

Example 7 – Applicant purchases a dwelling house as a principal place of residence where property is registered on two or more Titles.

Pam has contracted on 18 June 2004 to purchase a dwelling house at Balaklava for a consideration of \$145,000. The dwelling house is located on one Certificate of Title with four other Certificates of Title adjoining it. These four Certificates of Titles are used as part of the house property and are not used for any industrial or commercial purpose.

This is Pam's first home and she meets all of the eligibility criteria of the first home concession and has completed the First Home Concession Application Form.

The Memorandum of Transfer of Land conveys all five Certificates of Titles.

Stamp duty is calculated on the consideration paid for the property (\$145,000) less the amount of the concession. (ie. \$4,630 - \$2,315 = \$2,315 stamp duty).

What section of the SD Act applies?

Section 71C