

Document Class:	EXEMPTIONS
Document Name:	Conveyance - Land
Document Description:	Liquidator In Specie Distribution
Document Code:	EX

Introduction

This guide note refers to a conveyance of land pursuant to section 71(5)(b) of the SD Act.

Transfers *in specie* of land, owned by a company in liquidation, made by the liquidator to a shareholder of the company, that is in liquidation, are deemed by section 71(5)(b) of the SD Act not to be transfers operating as a voluntary disposition *inter vivos*.

The land can be transferred to any one or more shareholders of the company that is in liquidation regardless of how many shares, or class of shares, that are held by the shareholders.

The consideration panel of the transfer may recite “by way of *in specie* distribution” or similar and there should be **no consideration** stated in the document.

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](#).

A transfer of land to a shareholder of a company that is in liquidation, who takes the property as a trustee of a trust is not precluded from this exemption by section 71(6) of the SD Act as the shareholder does not have a beneficial interest in the property prior to the transfer. Further, the liquidator is acting as an agent of the company and not as a trustee.

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

For a conveyance of property (other than land, shares or units) by way of *in specie* distribution refer to the document heading:

- [Conveyance - Other – Liquidator In Specie Distribution](#) (EX).

For a conveyance of marketable securities in an unlisted company by way of *in specie* distribution refer to the document heading:

- [Marketable Securities – Liquidator In Specie Distribution](#) (EX).

For a conveyance of units in a unit trust by way of *in specie* distribution refer to the document heading:

- [Units – Liquidator In Specie Distribution](#) (EX).

The document must be submitted for the Opinion of the Commissioner of State Taxation and the value of the land declared in the document where:

- the land is transferred to a shareholder and another party; or
- the land is transferred in consideration of amounts owing by the company that is in liquidation to that shareholder (ie. in lieu of repayment of a debt).

A transfer of land from a trustee to a beneficiary must be 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; or
- any document that conveys land by way of *in specie* distribution.

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

A transfer *in specie* of land owned by a company in liquidation made by a liquidator to a shareholder of the company that is in liquidation is deemed **suitable** for self-stamping under this document heading where:

- the transferor is the company in liquidation;
- the transferee is a shareholder of the company; and
- the conveyance is by way of *in specie* distribution and **not** for any consideration.

What stamp duty is payable on this document?

Exempt.

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
- a statement or statutory declaration from the liquidator stating:
 - the name of the liquidator;
 - that the land conveyed is an asset of the company;
 - that provision has been made for payment of all debts of the company;
 - the names of all of the shareholders of the company; and

- that the transaction is **not** by way of sale.

Example 1 – Conveyance of Land by way of *in specie* distribution”

Cooke-Page Pty Ltd owns land at Mt Gambier. Cooke-Page Pty Ltd has five shareholders, Ann, Bob, Carol, Dave and Elen. The company has gone into voluntary liquidation and Tim has been appointed liquidator.

Tim, as liquidator executes a transfer of land to Ann and Bob as an *in specie* distribution.

As the requirements of section 71(5)(b) of the SD Act have been satisfied, the Memorandum of Transfer of Land is stamped Exempt

What section of the SD Act applies?

Section 71(5)(b)
Schedule 2, General Exemption 29