

Document Class: MORTGAGES
Document Name: Increase
Document Description: Mortgage
Document Code: MI

Mortgage Duty

No stamp duty is payable on a mortgage executed on or after 1 July 2009. This guide note applies to a mortgage dated on or before 30 June 2009 and the funds are advanced on or before 30 June 2009. For a mortgage dated on or after 1 July 2009 or dated pre 1 July 2009 but the funds are advanced on or after 1 July 2009, refer to the document heading:

[Exemptions – Mortgage/Discharge of Mortgage or Encumbrance – Non Dutiable Mortgage / Discharge \(MEX\)](#)

Introduction

This guide note explains how to stamp a mortgage where the liability secured by the mortgage exceeds that amount to which the mortgage was previously stamped.

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.

This document class can be used to determine stamp duty on the further stamping of a mortgage where the loan is for:

- home acquisition or improvement purposes;
- home acquisition or improvement **and** for other purposes; or
- other purposes.

Owner Occupied Mortgages

A mortgage taken out for the purposes of securing a loan that has been or is to be applied for **home acquisition or improvement** is exempt from stamp duty.

A loan will be considered to be applied for **home acquisition or improvement** purposes to the extent that it is used for one or more of the following purposes:

- purchasing land on which residential premises have been, or are to be built, that the mortgagor (or, if there are two or more mortgagors, at least one of them) intends to occupy as his or her sole principal place of residence;
- building, or making additions or improvements to, residential premises that the mortgagor (or, if there are two or more mortgagors, at least one of them) occupies or intends to occupy as his or her sole or principal place of residence; or
- repaying a loan previously taken out for one or more of the above purposes; and

- the mortgagor/s are natural persons.

Mixed Purpose Loan

A mortgage securing a loan that has been, or is to be, applied in **part** for home acquisition or improvement purposes and in **part** for other purposes, is liable to duty as if it secured only so much of the loan as is to be applied for the other purposes.

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

If the mortgage is a South Australian Real Property Act mortgage, for a purpose other than home acquisition or improvement, that forms part of a package with interstate securities between the same parties and is to be stamped on a proportional basis and a further increase has occurred, refer to the document heading:

- [Mortgages – Increase – SA Land \(Proportional\) \(MIO\)](#)

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

- an LTO Form M1 - Memorandum of Mortgage; or
- any other document that is defined as a mortgage.

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

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

- the mortgage has not been fully discharged;
- the increase is stamped on either the prime document or a duplicate of the prime document;
- the mortgage is being used to secure further monies; and
- all of the secured property is located in South Australia.

What stamp duty is payable on this document?

The mortgage is exempt from duty to the extent that the loan is for home acquisition or improvement purposes.

The mortgage is chargeable with duty to the extent of the loan which is applied for other purposes. The rate is prescribed in Schedule 2 of the SD Act.

If the secured liability exceeds \$400 but does not exceed \$6,000 the minimum duty chargeable is \$10.

If the rate of duty payable on the mortgage has changed since it was previously stamped then the further duty is to be calculated as if the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act has always applied.

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 purpose of the advance.

Example 1 – Mortgage Increase - Home Acquisition Increase

Sue has a \$200,000 mortgage secured over her home with AB Credit Union. Sue now wishes to borrow an extra \$50,000. This increase will be noted on the original mortgage document making a total secured liability of \$250,000. The purpose of the loan is for home renovations on Sue's principal place of residence.

As the further advance is for home acquisition or improvement purposes, it is exempt from duty.

Example 2 – Mortgage Increase - Home Acquisition Increase and Non Home Purpose

Dave has a mortgage over his Springfield home with the Friendly Finance Bank that secures \$950,000. This document secures \$900,000 for home acquisition purposes and \$50,000 for non home purposes. Stamp duty paid on the document to date on the non home portion of \$50,000 is \$76.

On 2 September 2008, Dave borrows an extra

- \$500,000 to build extensions to his principal place of residence (this advance for home acquisition purposes is exempt); and
- \$70,000 for other purposes (this portion is dutiable).

ie. a total increase of \$570,000.

To calculate the stamp duty on this increase:

Stamp duty on the total non home amount (\$120,000 ie. \$181 stamp duty) minus stamp duty already paid on the document for the non home portion (\$50,000 ie. \$76 stamp duty).

$\$181 - \$76 = \$105$ stamp duty payable on the increase.

Example 3 – Mortgage Increase – Non Home purpose

Ben has a \$200,000 mortgage with AB Credit Union that was stamped on 1 July 2008 securing his home, being \$150,000 for home acquisition purposes and \$50,000 for other purposes. The mortgage has been stamped with duty on \$50,000 (ie \$76 stamp duty).

Ben now wishes to borrow an extra \$50,000 for non home acquisition or improvement purposes.

The stamp duty chargeable on the increase is:

Stamp duty on the total non home amount (\$100,000 ie. \$151 stamp duty) minus stamp duty already paid on the document for the non home portion (\$50,000 ie. \$76 stamp duty).

$\$151 - \$76 = \$75$ stamp duty payable on the increase.

Example 4 – Mortgage Increase – Home and Non Home purpose

Jack and Jill borrowed \$130,000 in 2008 to purchase their home. The stamp duty paid on the document was \$196.

On 2 July 2008, they borrowed a further \$50,000 being:

- \$30,000 for home acquisition or improvement purposes; and
- \$20,000 for other purposes.

The stamp duty chargeable on the increase is:

Stamp duty on the total non home amount (\$20,000 ie. \$31 stamp duty) minus stamp duty already paid on the document for the non home portion (\$0 stamp duty).

$\$31 - \$0 = \$31$ stamp duty payable on the increase.

Example 5 – Mortgage Increase – Home and Non Home purpose

Greg and Sarah borrowed \$150,000 in 1997 to purchase their home and a car. The stamp duty paid on the document was \$515.

On 2 July 2008, they borrowed a further \$60,000 being:

- \$40,000 for home acquisition or improvement purposes; and
- \$20,000 for other purposes.

To determine the stamp duty on the increase you will need to ascertain the breakdown of the previous advance of \$150,000 being:

- \$130,000 for home; and
- \$20,000 for the car.

The stamp duty chargeable on the increase is:

Stamp duty on the total non home amount (\$40,000 ie. \$61 stamp duty) minus stamp duty that would have been paid on the non home amount on the original loan using the current rate of stamp duty (ie \$20,000 would be \$31 stamp duty).

$\$61 - \$31 = \$30$ stamp duty payable on the increase.

Example 6 – Mortgage Increase – SA Land Proportional Stamping – Home Acquisition or Improvement Purposes only

James has investment properties in Victoria and New South Wales. He has purchased a home in Adelaide and has taken out a mortgage over this property. This mortgage was stamped on a proportional basis. Duty and security to which the mortgage was calculated and stamped is as follows:

	Property Value \$	Amount Secured \$
SA – Home	400,000	300,000
Vic	300,000	200,000
NSW	350,000	300,000
Total	1,050,000	800,000

To calculate the SA security:

$$\frac{\text{Total value SA property secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times \text{Total Amount Secured}$$

= South Australian proportion

$$\frac{\$400,000}{\$1,050,000} \times \$800,000 = \$304,761$$

The document is stamped exempt as all of the security is for home acquisition or improvement purposes.

James has now borrowed a further \$100,000 for home improvement purposes and the South Australian property value has increased to \$500,000. The stamp duty on the increase is calculated as follows:

	Property Value \$	Amount Secured \$
SA – Home	500,000	400,000
Vic	300,000	200,000
NSW	350,000	300,000
Total	1,150,000	900,000

To calculate the SA security:

$$\frac{\text{Total value SA property secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times \text{Total Amount Secured}$$

= South Australian proportion

$$\frac{\$500,000}{\$1,150,000} \times \$900,000 = \$391,304$$

Enter into RevNet the amount of:

- \$0.00 as the Total Sec Non Home
- \$0.00 as the Previous Sec Non Home
- \$391,304 as the Total Home Security.

As all of this security is for home acquisition or improvement purposes, it is exempt from stamp duty.

Example 7 – Mortgage Increase – SA Land Proportional Stamping - home acquisition or improvement purposes and other purposes

Tom has investment properties in Victoria and New South Wales. He has purchased a home in Adelaide and has taken out a mortgage over this property. The bank has stamped this mortgage on a proportional basis. The mortgage is for home acquisition or improvement purposes and other purposes. Duty and security to which the mortgage was calculated and stamped is as follows:

	Property Value \$	Amount Secured \$
SA – Home	200,000	100,000
SA - Other	250,000	150,000
Vic	300,000	200,000
NSW	350,000	300,000
Total	1,100,000	750,000

Step 1:

SA security was calculated on this basis:

$$\frac{\text{Total value SA property secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times \text{Total Amount Secured}$$

= South Australian proportion

$$\frac{\$450,000}{\$1,100,000} \times \$750,000 = \$306,818$$

Step 2:

To calculate the SA other proportion:

$$\frac{\text{Total value SA property secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times (\text{Total Amount Secured} - \text{SA Home Amount Secured})$$

= South Australian other proportion

$$\frac{\$450,000}{\$1,100,000} \times (\$750,000 - \$100,000)$$

$$\frac{\$450,000}{\$1,100,000} \times \$650,000 = \$265,909$$

Step 3:

SA Home portion was calculated on this basis:

$$\frac{\text{Value of South Australian assets secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times \text{SA Security (Home)}$$

= South Australian home proportion

$$\frac{\$450,000}{\$1,100,000} \times \$100,000 = \$40,909$$

Note: \$265,909 + \$40,909 = \$306,818 (ie. SA non home security + SA home security = total SA security).

The duty paid was \$400 (calculated on \$265,909).

Tom has now borrowed a further \$400,000 being:

- \$350,000 for home acquisition and improvement purposes; and
- \$50,000 for other purposes.

The South Australian property value has increased to \$850,000. The stamp duty on the increase is calculated as follows:

	Property Value \$	Amount Secured \$
SA – Home	550,000	450,000
SA - Other	300,000	200,000
Vic	300,000	200,000
NSW	350,000	300,000
Total	1,500,000	1,150,000

Step 1:

To calculate the SA security:

$$\frac{\text{Total value SA property secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times \text{Total Amount Secured}$$

= South Australian proportion

$$\frac{\$850,000}{\$1,500,000} \times \$1,150,000 = \$651,666$$

Step 2:

To calculate the SA other proportion:

$$\frac{\text{Total value SA property secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times (\text{Total Amount Secured} - \text{SA Home Amount Secured})$$

= South Australian other proportion

$$\frac{\$850,000}{\$1,500,000} \times (\$1,150,000 - \$450,000)$$

$$\frac{\$850,000}{\$1,500,000} \times \$700,000 = \$396,666$$

Step 3:

To calculate the SA Home portion:

$$\frac{\text{Value of South Australian assets secured by the mortgage}}{\text{Total value of property secured by the mortgage}} \times \text{SA Security (Home)}$$

= South Australian home proportion

$$\frac{\$850,000}{\$1,500,000} \times \$450,000 = \$255,000$$

Note: \$255,000 + \$396,666 = \$651,666 (ie. SA non home security + SA home security = total SA security).

Step 4:

To calculate the stamp duty payable on the increase:

Duty payable on the Total SA Other proportion (\$396,666 ie. \$596.05 stamp duty) **minus** the Duty paid on the previous SA Other proportion (\$265,909 ie. \$400 stamp duty).

$$\$596.05 - \$400 = \$196.05 \text{ stamp duty payable on the increase.}$$

To enable stamp duty determination on RevNet enter the amount of:

- \$396,666 as the Total Sec Non Home
- \$265,909 as the Previous Sec Non Home
- \$255,000 as the Total Home Security.

What section of the SD Act applies?

Section 79 (2) (b)