

Document Class: MORTGAGES
Document Name: Increase
Document Description: SA Land (Proportional)
Document Code: MIO

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 stamp duty is calculated on a prime mortgage where the:

- liability secured exceeds \$400;
- liability secured by the mortgage exceeds that amount to which the mortgage was previously stamped;
- the purpose of the loan is **not** for home acquisition or improvement purposes;
- document is a South Australian Real Property Act mortgage that forms part of a package with interstate securities between the same parties; and
- mortgage is to be stamped on a proportional basis.

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.

If a mortgagor borrows further monies against an existing mortgage and the liability secured by the mortgage now exceeds that amount to which the mortgage was previously stamped, the mortgage must be stamped with further duty to secure the additional liability of the mortgage (based on the increase to the South Australian proportion).

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

Where the mortgage increase is for home acquisition or improvement purposes, or, for home acquisition or improvement purposes **and** other purposes it cannot be stamped under this document heading. Refer to the document heading:

- [Mortgages – Increase – Mortgage \(MI\)](#)

What documents can I stamp under this document heading?

- A LTO Form M1 - Memorandum of 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; and
- the mortgage is being used to secure further monies;
- the document is South Australian Real Property Act mortgage that forms part of a package with interstate securities between the same parties and is to be stamped on a proportional basis;
- the purpose of the increase is **not** for home acquisition or improvement purposes.

What stamp duty is payable on this document?

Stamp duty is charged on the liability secured (ie. South Australian proportion) by the mortgage using the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act.

The stamp duty (on the increase in South Australian proportion) is calculated by subtracting the duty previously paid* from the duty payable on the new South Australian proportion.

* 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.

Where the mortgage secures land in South Australia only and it 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, then a two step process is involved to calculate the stamp duty:

Firstly, calculate the new South Australian proportion as follows:

$$\frac{\text{value of South Australian assets secured by the mortgage}}{\text{total value of property secured by the mortgages}} \times \text{total liability secured}$$

= South Australian proportion

Secondly to calculate the stamp duty payable on the increase:

Calculate the stamp duty on the new South Australian proportion using the mortgage rate of stamp duty.

Then, subtract the South Australian stamp duty previously paid* on the document from the stamp duty payable on the new South Australian proportion.

* Remember: 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.

When stamping this document via RevNet you will need to enter the re-calculated South Australian proportion in the “New SA Proportion” field and enter the previous South Australian proportion in the “Prev SA Proportion” field.

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 statutory declaration stating the:
 - total value of the property secured by the mortgages between the same parties;
 - value of the South Australian property secured; and
 - total of the secured liability

Example 1 – South Australian RPA mortgage stamped on a proportional basis – Increase

Fred and Wilma purchased land in South Australia, New South Wales and Queensland. The land in each jurisdiction is secured by a mortgage over the land in the respective jurisdiction. The total amount borrowed was \$1,500,000 from Friendly Bank Ltd.

A statutory declaration states that the:

- SA Property was valued at \$500,000
- Total Property secured by all three mortgages between the same parties was \$2,000,000
- Total liability (loan) secured was \$1,500,000
- SA Proportion is \$375,000

Stamp duty paid on the South Australian proportion of \$375,000 was \$563.50.

Fred and Wilma have now purchased another investment property in South Australia for \$400,000 and borrowed a further \$400,000 from Friendly Bank Ltd to be secured by this property.

A statutory declaration states that the:

- SA Property is valued at \$900,000
- Total Property secured by all three mortgages between the same parties is \$2,400,000

- Total liability (loan) secured is \$1,900,000

To calculate the amount of stamp duty payable on the South Australian mortgage you need to determine the value of the South Australian proportion, the formula to calculate this is:

$$\frac{\text{value of South Australian property secured by the mortgage}}{\text{total value of property secured by the mortgages}} \times \text{total liability secured}$$

= South Australian proportion

Therefore,

$$\frac{\$900,000}{\$2,400,000} \times \$1,900,000$$

= \$712,500 South Australian proportion

Calculate the stamp duty on \$712,500 using the mortgage rates of stamp duty (ie \$1069.75 stamp duty is payable).

\$1069.75 - \$563.50 = \$506.25 stamp duty payable on the increase in the South Australian proportion.

What section of the SD Act applies?

Section 79 (2) (b)