

Document Class: EXEMPTIONS
Document Name: Conveyance – Other
Document Description: Liquidator In Specie Distribution
Document Code: EX

Introduction

This guide note refers to a conveyance of property (other than land, marketable securities or units) pursuant to section 71(5)(b) of the SD Act.

Transfers *in specie* of property, 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 property 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, are held by the shareholders.

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

A transfer of property to a shareholder, of a company 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 did 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:

An “Application to Transfer the Registration of a Motor Vehicle” conveyed from a liquidator to a shareholder by way of *in specie* distribution is **not** exempt from *ad valorem* stamp duty. This is because this transfer effects the transfer of the registration of a vehicle, **not the property**. Transfer of Motor Vehicle Registration rates apply to these transfers (see Schedule 2 of the SD Act for the Motor Vehicle rates). The stamp duty can be paid to the Registrar of Motor Vehicles, Transport SA or to RevenueSA (in which case the document must be submitted for the Opinion of the Commissioner of State Taxation). After stamping, the Application to Transfer the Registration of a Motor Vehicle must be lodged with Transport SA.

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

- [Conveyance of Land – 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 – In Specie Distribution](#) (EX).

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

- the property is transferred to a shareholder and another party; or
- the property is transferred to a shareholder in lieu of repayment of a debt.

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

The document can be in the form of:

- any document that conveys any property except land, marketable securities (shares and units) or the “Application to Transfer the Registration of a Motor Vehicle”.

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

A transfer *in specie* of property, 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 document conveys any form of property except land, marketable securities (shares and units) or the “Application to Transfer the Registration of a Motor Vehicle”;
- the transferor is the liquidator of the company;
- 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 property 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 – *In Specie* Distribution of Property

Briggs Pty Ltd owns the equipment used in a fish and chip shop. Briggs 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 of the company executes a transfer of the equipment 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 transfer will be stamped Exempt.

What section of the SD Act applies?

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