Document Class: MORTGAGES
Document Name: Prime Mortgage
Document Description: SA Land (Proportional)
Document Code: M

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; and
- security for the mortgage is real property located in South Australia; and
- the purpose of the loan is **not** for home acquisition or improvement purposes.; and
- 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.

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

If the mortgage is for home acquisition or improvement purposes, or, for home acquisition or improvement **and** other purposes it may be stamped under the document heading:

- Mortgages – Prime Mortgage – Land (MP)

If the liability secured by the mortgage exceeds $400, the mortgage does not secure real property and is not a Consumer Mortgage it may be stamped under the document heading:

- Mortgages – Prime Mortgage - Other (M)

If the document is a consumer mortgage it may be stamped under the document heading:

- Mortgages – Consumer Mortgage (M)

If the liability secured by the mortgage exceeds $400 and the mortgage secures property **both** inside and outside South Australia it may be stamped under the document heading:

- Mortgages – Multi-jurisdictional Proportional Stamping (81A)

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

- 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 liability secured exceeds $400; and
- the mortgage is **not** for a home acquisition and improvement purposes as defined in the SD Act.

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.

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, then use the formula described below to calculate the South Australian proportion:

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

= South Australian proportion

Stamp duty is chargeable on the value of the "South Australian proportion". When stamping this document via RevNet you will need manually calculate the South Australian Proportion and enter this amount in the "SA Proportion" field.

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

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

Fred and Wilma have 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 is $1,500,000. from Friendly Bank Ltd.

A statutory declaration states that the:

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

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,

$$\frac{\$500,000}{\$2,000,000} \times \$1,500,000$$

= $375,000 South Australian proportion

Stamp duty is charged using the mortgage rate of stamp duty on $375,000 (ie. $563.50 stamp duty is payable).

What section of the SD Act applies?

Sections 76 to 80 inclusive