

Document Class: MORTGAGES
Document Name: Prime Mortgage
Document Description: Other
Document Code: M

Introduction

This guide note explains how stamp duty is calculated on a prime mortgage where the liability secured exceeds \$400 and the security for the mortgage is property other than real property.

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.

A cross collateral mortgage is a document which is stamped as a prime security and a collateral security as part of a group of mortgage documents.

The cross collateral mortgage to the extent of the collateral security would be stamped under the document heading:

- [Mortgages – Collateral \(COL\)](#)

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

If the liability secured by the mortgage exceeds \$400 and the mortgage secures real property, it must be stamped under the document heading:

- [Mortgages – Prime Mortgage – Land \(MP\)](#)

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

- [Mortgages – Consumer Mortgage \(M\)](#)

If the mortgage is a South Australian Real Property Act mortgage that is **not** for home acquisition or improvement purposes and forms part of a package with interstate securities between the same parties and is to be stamped on a proportional basis, refer to the document heading:

- [Mortgages – Prime Mortgage – SA Land \(Proportional\) \(M\)](#)

If the liability secured by the prime mortgage does **not** exceed \$400 the document must be stamped under the document heading:

- [Exemptions - Mortgage – Security < or = \\$400 \(EX\)](#)

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

- Bill of Sale
- Stock mortgage;
- Fruit/wool lien;
- Deed of Charge;
- Debenture; or
- any other document that is defined as a mortgage that secures property other than real property (except a consumer mortgage).

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

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

- the document creates a charge over property other than real property to secure the payment or repayment of a debt;
- all of the secured property is located in South Australia; and
- the liability secured exceeds \$400.

The mortgage can be stamped under this document heading where the above conditions apply or the mortgage is being stamped as a cross collateral for the extent of the prime liability.

What stamp duty is payable on this document?

Stamp duty is charged on the liability secured by the mortgage using the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act.

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

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.

Example 1 – Bill of Sale

Jenny wants to buy a car for \$30,000. The bank agree to loan her the \$30,000 provided she enters into a Bill of Sale using the car as security.

A Bill of Sale has been executed. The stamp duty is calculated on the liability secured by the document (\$30,000) using the mortgage rate of duty as prescribed in Schedule 2 of the SD Act (ie. \$46 stamp duty is payable).

Example 2 – Cross Collateral Securities

Ted borrows \$500,000 from XYZ Bank secured by a Fixed and Floating Charge over his company assets. The charge has been stamped with \$2,233 stamp duty. Alice borrows \$700,000 from XYZ Bank secured by a mortgage over shares. This mortgage has been stamped with \$1051 stamp duty. Both of these documents have been stamped under this document heading:

- [Mortgages – Prime Mortgage – Other \(M\)](#)

Ted and Alice each execute cross guarantees whereby they guarantee the payment of each others loan and give their property as collateral security for each others loan.

XYZ Bank now wants to stamp these documents cross collateral to each other. The charge over Ted's factory is stamped as a cross collateral to Alice's mortgage for \$700,000. The mortgage over Alice's warehouse is stamped as a cross collateral to Ted's charge for \$500,000. Both of these mortgages are stamped as cross collateral under the document heading:

- [Mortgages – Collateral \(COL\)](#)

Refer to [Stamp Duties Circular No 82](#) for more advice on cross collateral securities.

What section of the SD Act applies?

Sections 76 to 79 inclusive