

Document Class: MORTGAGES
Document Name: Multi-jurisdictional Proportional Stamping
Document Code: 81A

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 mortgage that secures property **both** inside and outside South Australia.

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 person property as security for a liability.

Section 81B of the SD Act provides a provision for the stamping of a mortgage that secures property located **both** inside and outside of South Australia.

Where a number of documents are grouped or packaged together to secure a loan to a group of borrowers, one document from that group or package can be used for stamping as the principal or prime document and the other documents in the group or package stamped as collateral to the principal or prime instrument. If the package or group of mortgages includes secured property inside and outside South Australia, stamp duty can be determined pursuant to the provisions of Section 77 and 81B of the *Stamp Duties Act 1923*.

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

If the mortgage secures property in South Australia **only** it may be stamped under the appropriate document heading:

- [Mortgages – Prime Mortgage – Land \(MP\)](#)
- [Mortgages – Prime Mortgage – Other \(M\)](#)
- [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 mortgage is a South Australian Real Property Act mortgage that is for home acquisition or improvement purposes, or for home acquisition or improvement and other purposes, and it 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 – Land \(MP\)](#)

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

The document can be in the form of:

- any document that is defined as a mortgage that secures property located **both** inside and outside of South Australia.

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

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

- the document secures property both inside and outside of South Australia.

What stamp duty is payable on this document?

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

The formula to calculate the South Australian proportion is:

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

= South Australian proportion

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 mortgage;
 - value of the South Australian property secured; and
 - total of the secured liability.

Example 1 – Multi-jurisdictional Mortgage

Calculation of stamp duty on a multi-jurisdictional mortgage on a proportional basis where the details are:

SA property	\$1,000,000
Total property	\$4,000,000
Total liability secured	\$2,500,000

$$\frac{\$1,000,000}{\$4,000,000} \times \$2,500,000 = \$625,000 \text{ South Australian proportion}$$

Stamp duty is charged using the mortgage rate of stamp duty on \$625,000 (ie. \$938.50 stamp duty is payable).

Example 2 – Multi-jurisdictional Mortgage

A Company Pty Ltd, B Company Pty Ltd and C Company Pty Ltd wish to borrow \$10,000,000 from Z Bank Pty Ltd.

A Company Pty Ltd has entered into a Debenture Charge which secures property valued at:

- \$4,000,000 in South Australia; and
- \$3,000,000 in New South Wales.

B Company Pty Ltd has entered into a Debenture Charge which secures property valued at:

- \$3,000,000 in South Australia; and
- \$5,000,000 in Victoria.

C Company Pty Ltd has entered into a mortgage which secures property valued at:

- \$2,000,000 in Queensland.

The Debenture Charge given by A Company Pty Ltd will be stamped as the principal or prime document. The calculation of stamp duty on a proportional basis where the details are:

SA property	\$7,000,000 (ie this is total value of South Australian property for all parties to the mortgage package)
Total property	\$17,000,000 (ie this is the total value of Australian property for all parties to the mortgage package)
Total liability secured	\$10,000,000

Calculate the value of the South Australian proportion based on the total property values:

$$\frac{\$7,000,000}{\$17,000,000} \times \$10,000,000 = \$4,117,647.05 \text{ (rounded to } \$4,117,700)$$

Stamp Duty is charged using the mortgage rate of stamp duty on \$4,117,700 (ie \$6,177.55 stamp duty payable).

The other two mortgages are stamped collateral for the value of the South Australian proportion (ie \$4,117,700), under the document heading:

- [Mortgages – Collateral](#) (COL)

NB: If the principal or prime document is a South Australian Real Property Act mortgage this is **not** for home acquisition or improvement purposes and forms part of the group or package and is to be stamped on a proportional basis, refer to the document heading:

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

If the mortgage is a South Australian Real Property Act mortgage that is for home acquisition or improvement purposes, or for home acquisition or improvement and other purposes, and it 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 – Land](#) (MP)

What section of the SD Act applies?

Section 81B

Section 77

Schedule 2 – Mortgage Head of Duty