

Document Class: MORTGAGES
Document Name: Refinancing
Document Code: MF

Introduction

This guide note explains how stamp duty is calculated on a refinancing mortgage.

The relief only extends to the balance that is outstanding under the previous mortgage and cannot exceed the amount of stamping of the previous mortgage.

This document class can be used to determine stamp duty on the stamping of a refinance mortgage where the transaction is for:

- refinancing to the amount of the outstanding debt;
- refinancing to the amount of the outstanding debt **plus** a further advance for home acquisition or improvement purposes;
- refinancing to the amount of the outstanding debt **plus** a further advance for other purposes; or
- refinancing to the amount of the outstanding debt **plus** a further advance for home acquisition or improvement purposes **and** other purposes.

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

- a LTO Form M1 – Memorandum of Mortgage; and
- any other document that is defined as a mortgage.

Owner Occupied Mortgages

A mortgage taken out for the purposes of securing a loan that has been or is to be applied for **home acquisition or improvement** is exempt from stamp duty.

A loan will be considered to be applied for **home acquisition or improvement** purposes to the extent that it is used for one or more of the following purposes:

- purchasing land on which residential premises have been, or are to be built, that the mortgagor (or, if there are two or more mortgagors, at least one of them) intends to occupy as his or her sole principal place of residence;
- building, or making additions or improvements to, residential premises that the mortgagor (or, if there are two or more mortgagors, at least one of them) occupies or intends to occupy as his or her sole or principal place of residence; or
- repaying a loan previously taken out for one or more of the above purposes; and
- the mortgagor/s are natural persons.

Mixed Purpose Loan

A mortgage securing a loan that has been, or is to be, applied in **part** for home acquisition or improvement purposes and in **part** for other purposes, is liable to duty as if it secured only so much of the loan as is to be applied for the other purposes.

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 new mortgage provides for the refinancing of a loan secured by a previous mortgage;
- the previous mortgage is being fully discharged;
- both the new mortgage and the previous mortgage apply to the same or at least some of the same property; and
- the borrower/s is/are the same as in the previous mortgage.

What stamp duty is payable on this document?

The document is exempt from stamp duty to the extent of the balance outstanding under the previous mortgage and cannot exceed the amount of stamping of the previous mortgage.

The document is exempt on a further advance if it is for home acquisition or improvement purposes.

If the transaction includes a further advance that is not for home acquisition or improvement purposes duty is charged on this liability as a new loan using the mortgage rate of stamp duty as prescribed in Schedule 2 of the SD Act.

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation:

- copies of the stamped documents (both the previous mortgage and the new mortgage);
- a copy of the Application for Refinancing Exemption form ; and
- a copy of the stamped Discharge of Mortgage.

Example 1 – Refinancing of Loan

Fred has a mortgage over his home securing \$500,000 with the Country Side Bank. He presently owes \$400,000 on the mortgage and wants to re-finance this mortgage with the Friendly Bank for the amount outstanding (ie. \$400,000).

Fred has completed an Application for Refinancing Exemption form, which states that:

- the new mortgage provides for the refinancing of a loan secured by a previous mortgage;
- the previous mortgage is being fully discharged;
- both the new mortgage and the previous mortgage apply to the same or at least some of the same property; and
- the borrower is the same as in the previous mortgage.

Fred executes a new Memorandum of Mortgage with Friendly Bank. This document is stamped “Exempt”, and is stamped to secure \$400,000.

Enter into RevNet the amount of:

- \$400,000 as the Balance Outstanding
- \$0.00 as the Further Security Home
- \$0.00 as the Further Security Non Home

Example 2 – Refinancing with Increase in Security

William has a mortgage over his home securing \$750,000 with the Country Side Bank. He now wishes to refinance this mortgage with the Friendly Bank and increase the total secured liability to \$1,000,000.

William has completed an Application for Refinancing Exemption form which states that:

- the new mortgage provides for the refinancing of a loan secured by a previous mortgage;
- the previous mortgage is being fully discharged;
- both the new mortgage and the previous mortgage apply to the same or at least some of the same property; and
- the borrower is the same as in the previous mortgage.

William executes a new Memorandum of Mortgage with Friendly Bank. This document is not chargeable to the extent of the balance that is outstanding under the mortgage with Country Side Bank, which is now \$700,000. Of the further advance of \$300,000:

- \$200,000 is for home acquisition or improvement purposes; and
- \$100,000 is for other purposes.

The further advance of \$200,000 for home acquisition or improvement purposes is exempt from duty. The further advance of \$100,000 for other purposes is liable to duty of \$433 (ie. on \$100,000) using the mortgage rate of duty as prescribed in Schedule 2 of the SD Act.

Enter into RevNet the amount of:

- \$700,000 as the Balance Outstanding
- \$200,000 as the Further Security Home
- \$100,000 as the Further Security Non Home

What section of the SD Act applies?

Section 79
Schedule 2, clause 11