

Document Class:	CONCESSIONS
Document Name:	Superannuation Funds pursuant to Sec 71DA
Document Code:	VCS

Introduction

This guide note explains how stamp duty is calculated on a conveyance of property pursuant to section 71DA of the SD Act. This section of the SD Act, limits the stamp duty to a maximum of \$200 on the conveyance of property between superannuation funds in the following situations:

1. Where there is a conveyance of property, or an agreement to convey property, **between superannuation funds** and the following three criteria apply:
 - the trustees of the superannuation funds are of the opinion that the funds will be complying superannuation funds for the year in which the conveyance occurs; and
 - the conveyance is in connection with a person ceasing to be a member, or ceasing to be entitled to benefits, in respect of one superannuation fund; and
 - that person becoming a member, or becoming entitled to benefits, of the other superannuation fund.
2. Where there is a conveyance of property, or an agreement to convey property, for the purposes of complying with the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth (“SIS Act”), **from a superannuation fund to a pooled superannuation trust**, in exchange for the right to share in the income and assets of the pooled superannuation trust. This may be in the form of units issued by the pooled superannuation trust or some other form.
3. When there is a conveyance of property, or an agreement to convey property from a pooled superannuation trust to:
 - a superannuation fund; or
 - another pooled superannuation trust at the direction of the superannuation fund

where the only consideration passing is the surrender of the whole or part of the first mentioned superannuation fund’s right to share in the income and assets of the Pooled Superannuation Trust.

Refer to section 71DA(5) of the SD Act for the definitions of “complying superannuation fund” and “pooled superannuation trust” and the “SIS Act”.

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

The document can be in the form of:

- a LTO Form T1 - Memorandum of Transfer of Land;
- an Agreement that conveys property between superannuation funds pursuant to section 71DA of the SD Act;
- a Deed that conveys property between superannuation funds pursuant to section 71DA of the SD Act;
- any other document that conveys property between superannuation funds pursuant to section 71DA of the SD Act.

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

A conveyance of property between superannuation funds is deemed **suitable** for self-stamping under this document heading where:

- the provisions of section 71DA of the SD Act are satisfied; and
- there is no consideration expressed in the document.

What stamp duty is payable on this document?

The lesser of either:

- \$200; or
- *ad valorem* voluntary conveyance rate on the **market value** of the interest transferred.

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
- evidence that the fund(s) are complying superannuation funds (where applicable); and/or
- evidence that the fund(s) are pooled superannuation trusts (where applicable).

Example 1 – Conveyance between complying superannuation funds

Max is a member of the ABC Superannuation Fund (“ABC”).

He wishes to terminate his membership with ABC and become a member of the DEF Superannuation Fund (“DEF”).

Both are complying funds.

Instead of taking cash benefits from ABC to DEF, he wishes to transfer property representing that cash value from ABC to DEF. Both trustees agree to this form of change of membership.

The maximum stamp duty on the transfer of the property from ABC to DEF is \$200.

Example 2 – Conveyance from a small superannuation fund to a pooled superannuation trust

PQR is a small superannuation fund. Its size prohibits it from getting investment advice to comply with the provisions of the SIS Act.

It decides to merge with a pooled superannuation fund, STU, which because of its size follows the investment standards prescribed by the SIS Act.

Consequently, PQR transfer all its property to STU and in consideration, STU issues PQR new units (of STU) of equal value.

The maximum stamp duty on the transfer of property from PQR to STU is \$200.

Example 3 – Conveyance from a pooled superannuation trust to another pooled superannuation trust

A pooled superannuation fund LHN exists and one of the unit holders is another superannuation fund JKL.

JKL wishes to terminate its interest in LHN and wishes to be a unit holder of another superannuation fund PST. Instead of taking cash benefits across from LHN to PST, JKL wishes to take across property representing that value from LHN to PST.

The maximum stamp duty on the conveyance of property from LHN to PST is \$200.

What section of the SD Act applies?

Section 71DA