

Document Class: CONVEYANCE - LAND
Document Name: Surrender of Lease – Lessor Pays
Document Code: C

Introduction

This guide note explains how stamp duty is calculated on a surrender of lease of land where the lessor pays a consideration.

A lease of land may be surrendered before its expiry term. Where the lease is surrendered for a consideration which is **paid by the lessor to the lessee** the document is chargeable with *ad valorem* conveyance duty. It is irrelevant whether the lease is registered or unregistered.

This document is charged as a conveyance because it effects a conveyance of the remaining term of the lease (a form of property known as the “reversionary interest”) for consideration from the lessor to the lessee.

The document will state a consideration, however, it may not state that the lessor pays the consideration, or it may be silent as to who pays the consideration. It is preferable that the consideration panel of the document states “\$X paid by the lessor” or “\$X paid by the Lessee”.

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

A surrender of lease of land where the **lessee pays** the consideration - refer to the document heading:

- [Conveyance – Land – Surrender of Lease – Lessee Pays](#) (EX).

A surrender of lease of land for **no consideration** - refer to the document heading:

- [Conveyance – Land – Surrender of Lease – No Consideration](#) (EX).

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

The document can be in the form of:

- a Deed or Agreement which surrenders an interest in a lease; or
- a LTO Form S1 – Surrender of Lease.

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

A surrender of lease of land is deemed **suitable** for self-stamping under this document heading where:

- the LESSOR pays a consideration to the Lessee;
- the consideration is stated in the document; and
- the document is a LTO Form S1 – Surrender of Lease; or
- the document is in Agreement or Deed form and there is no LTO Form S1 – Surrender of Lease evidencing the surrender.

What stamp duty is payable on this document?

The document is chargeable with *ad valorem* conveyance stamp duty.

If there is an LTO form S1- Surrender of Lease **and** an Agreement evidencing the surrender of lease, then *ad valorem* conveyance stamp duty is charged on the LTO form S1 – Surrender of Lease and the document is stamped under this document heading and the Agreement is stamped under the document heading:

- [Others – Agreement](#) (A); or

If there is an LTO form S1- Surrender of Lease **and** a Deed evidencing the surrender of lease, then *ad valorem* conveyance stamp duty is charged on the LTO form S1- Surrender of Lease and the document stamped under this document heading and the Deed is stamped under the document heading:

- [Others – Deed](#) (EX).

If the Surrender of Lease is in Deed form (and there is no LTO form S1 – Surrender of Lease) the document is chargeable with *ad valorem* conveyance stamp duty and the document is stamped under this document heading. Note: where the consideration is less than \$1,000 the document must be stamped under the document heading:

- [Others – Deed](#) (EX).

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 copy of any related documents.

Example 1 – Surrender of Lease where Lessor pays Consideration

The Landlord (lessor) leases land to the Tenant (lessee).

The Landlord (lessor) plans to demolish the building and wants the tenant to move out. The lease runs for another five years and the parties agree that Landlord (lessor) will pay the Tenant (lessee) \$50,000 to surrender the lease.

An LTO Form S1 - Surrender of Lease, stating a consideration of \$50,000, is the only document executed. This document is stamped under this document heading on a consideration of \$50,000.

What section of the SD Act applies?

Section 60