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Information Circular	Information Circular 103 Stamp Duty on Conveyances or Transfers of Non-residential, Non-primary Production Real Property (Qualifying Land)
Status	Current Updated 6 October 2026 to: - reflect amendments made by the <i>Stamp Duties (Residential Purposes and Residential Land) Amendment Act 2026</i> that came into operation on 15 September 2026, including clarification of residential purposes and qualifying land, prescribed exclusions from residential treatment, and the vacant land exemption and refund provisions Updated 10 May 2024 to: - amend incorrect section from section 71CD to section 105A Updated 21 November 2022 to: - include hotel & motel land use codes and to update terminology from 'Memorandum of Transfer' to 'Transfer'
Legislation	<i>Stamp Duties Act 1923</i> and <i>Stamp Duties Regulations 2013</i>
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Overview

In this Information Circular, the *Stamp Duties Act 1923* is referred to as the "Act" and the *Stamp Duties Regulations 2013* are referred to as the "Regulations".

No liability for stamp duty arises under section 105A of the Act on a conveyance or transfer of an interest in qualifying land pursuant to a contract entered into on or after 1 July 2018. Stamp duty remains applicable to conveyances or transfers of residential land and primary production land.

For this Information Circular, a conveyance or transfer of real property or land includes a notional acquisition of an interest in the underlying local land assets of a land

holding entity under Part 4 of the Act. The relevant date for determining whether land is qualifying land is the date of the conveyance or transfer.

This Information Circular addresses whether land is qualifying land for the purposes of section 105A.

What is qualifying land?

Qualifying land means land that is being used for any purpose other than:

- land that is taken to be used for residential purposes in accordance with section 2(1a) of the Act, or
- land that is taken to be used for primary production in accordance with section 2(1f) of the Act.

While the classification of land will depend on the circumstances of each case, the Commissioner of State Taxation (the "Commissioner") may take into account information provided by the Valuer-General, including the land use code ("LUC") assigned to the land. Subject to the land's actual characteristics and use, land within the following [LUC primary code headings](#) will generally be treated as qualifying land:

- commercial;
- industrial;
- institutions;
- public utilities;
- recreation;
- mining and quarrying.

Except where a classification is expressly prescribed by the Regulations, a land use code is relevant information but is not necessarily determinative of whether the land is qualifying land and therefore exempt from stamp duty.

Non-vacant land used for residential purposes

Under section 2(1a)(a) of the Act, land that is neither vacant nor vacant with only minor improvements is taken to be used for residential purposes if the Commissioner determines that the land is, or is capable of being, occupied as a residence or as accommodation, or will be capable of being so occupied after completion of building work that had commenced by the date of the relevant conveyance or transfer. This applies regardless of the term or possible term of occupation and regardless of any other purpose for which the land is, or is or will be capable of being, used.

In determining whether land is, or will be, capable of being occupied as a residence or as accommodation, the Commissioner may have regard to the characteristics prescribed by regulation 5A of the Regulations. These include an area designed for

overnight occupation, bathroom facilities, an area for food preparation and storage, laundry facilities or related plumbing, and any other characteristic the Commissioner considers indicative of such occupation.

For example, a display home will be taken to be used for residential purposes where its characteristics establish that it is capable of being occupied as a residence, notwithstanding its current commercial display use.

Vacant land with only minor improvements

Under section 2(1 a)(b) of the Act, land that is vacant or vacant with only minor improvements is taken to be used for residential purposes if the Commissioner determines that it is within a zone or subzone under the Planning and Design Code that allows the land to be used for a residence or other accommodation. This applies even if the zone or subzone also allows the land to be used for some other purpose.

Vacant land will not be taken to be used for residential purposes where its applicable zone or subzone does not allow the land to be used for a residence or other accommodation.

Refer to the [Zones Desired Outcome Table](#) for a description of each zone and whether stamp duty will initially apply unless sufficient evidence can be provided evidencing that a commercial development is approved and will be built within 3 years or whether that zone would allow for an exemption as qualifying land as at the date of the original conveyance or transfer.

Prescribed exclusions from residential treatment

Regulation 4A of the Regulations expressly excludes the following land from being taken to be used for residential purposes:

- purpose-built student accommodation;
- Hotel and Motel (LUC 1800);
- Hotel (LUC 1810);
- Motel (LUC 1820);
- Serviced apartments, including strata-titled hotel or motel units (LUC 1825);
- Hotel/Motel community (LUC 1831);
- Hotel/Motel other (LUC 1832);
- Short term accommodation – multiple units (LUC 1834); and
- Sanatoria, nursing home, convalescent and rest home and health centres (LUC 5830).

Purpose-built student accommodation means off-campus, fit-for-purpose accommodation with communal areas and facilities that is developed and managed exclusively for students enrolled to study at an educational institution.

Short stay accommodation

Land does not fall within one of the prescribed accommodation classifications merely because it is rented for short stay accommodation. A house or apartment does not become qualifying land solely because it is rented through a platform such as Airbnb or Stayz. Section 2(1e) of the Act confirms that land may remain residential, and dutiable, whether or not it is rented for short stay accommodation.

Primary production land

Under section 2(1f) of the Act, land is taken to be used for primary production if the Commissioner determines that:

- the land is being predominantly used for primary production purposes; or
- although the land is not being used at the relevant time, it should be taken to be used for primary production purposes because of a classification assigned by the Valuer-General.

Vacant land upfront exemption

Section 60E of the Act and regulation 10D of the Regulations provide scope for an upfront exemption from duty for a conveyance or transfer of land that the Commissioner determines is vacant or vacant with only minor improvements at the time of the conveyance or transfer. The exemption is potentially available in relation to a conveyance or transfer occurring on or after 15 September 2026.

An application for exemption must be made at or before the conveyance or transfer and in the manner and form determined by the Commissioner. The applicant must declare that the land will be developed within the relevant period for a predominant purpose that would result in it being qualifying land. The Commissioner must also be satisfied that this qualifying purpose will be the first new predominant purpose for which the land is developed following the conveyance or transfer.

An exemption under regulation 10D requires the Commissioner's approval and cannot be self-assessed through RevenueSA Online.

The relevant period is three years, or five years if the Commissioner approves an application for an extension of time. For an exemption, the relevant period generally runs from the original conveyance or transfer until the end of the prescribed period. If the whole of the land is conveyed or transferred to another person or persons before that period ends, the relevant period ends on that later conveyance or transfer.

Vacant land refund

Section 60D of the Act and regulation 10C of the Regulations provide scope for a refund where duty has been paid on a conveyance or transfer of land that the Commissioner determines was vacant or vacant with only minor improvements at the time of the conveyance or transfer. The refund is available in relation to a conveyance or transfer occurring on or after 15 September 2026.

A party who paid the duty must apply within the relevant period, in the manner and form determined by the Commissioner, and provide evidence that the land was developed within that period for a predominant purpose that would result in it being qualifying land. The development must have been completed within the relevant period, and the Commissioner must be satisfied that the qualifying purpose was the first new predominant purpose for which the land was developed following the conveyance or transfer. If those requirements are met, the Commissioner must refund the duty paid.

For a refund, the relevant period is three years after the conveyance or transfer, or five years if the Commissioner approves an application for the extended period. The qualifying development must be completed, and the refund application made, within that period.

The retrospective operation of the amended vacant land tests does not, of itself, create an entitlement to a refund of duty paid before 15 September 2026 or reopen an earlier assessment, decision or determination.

An exemption or refund relates only to stamp duty. It does not create an entitlement to a refund of fees paid under the *Real Property Act 1886*.

Evidence and application requirements

For both the exemption and refund, the concept of development does not include a change in the use of land or the division of land. Land is taken to have been developed for a qualifying purpose within the relevant period only if the development is completed within that period. Land containing only roads, street lighting and water infrastructure will not be regarded as a completed development.

Depending on the nature and stage of the proposed development, supporting evidence may include development approvals, approved plans, building contracts, project finance documentation, construction timetables and leasing arrangements. Any evidence may support the proposed purpose but will not, by itself, necessarily establish that qualifying development has occurred or will occur in the relevant period.

Revocation and compliance

An exemption is subject to the applicant advising the Commissioner in writing if they become aware that the land has not been, or will not be able to be, developed for a qualifying purpose within the relevant period; the qualifying purpose is not, or will not be, the first new predominant purpose; or false or misleading information was provided, or relevant information was not provided, in support of the application.

The Commissioner may revoke an exemption. If the exemption is revoked after the conveyance or transfer, duty becomes payable from the date of the original conveyance or transfer and the liability is assessed by reference to the circumstances applying at that date. Interest and penalty tax may apply.

RevenueSA may undertake compliance activity to verify that the conditions of an exemption have been satisfied, including whether the development was completed within the relevant period and whether the qualifying purpose was the first new predominant purpose for which the land was developed following the conveyance or transfer.

Transactions requiring Commissioner assessment

A conveyance or transfer must be lodged for assessment by the Commissioner where:

- an exemption is sought under regulation 10D;
- the land use code or other information provided by the Valuer-General appears inconsistent with the land's actual characteristics or use;
- it is unclear whether the land is taken to be used for residential purposes under section 2(1a);
- the land comprises purpose-built student accommodation;
- where qualifying land is being applied for, however the land does not have a primary LUC within the categories of commercial, industrial, institutions, public utilities, recreation, or mining and quarrying, or is prescribed in the Regulations;
- the land comprises both qualifying and non-qualifying land; or
- the conveyance or transfer forms part of a series of transactions to which section 67 applies and the instruments are being assessed at different times.

A conveyance or transfer requiring Commissioner assessment must be lodged via RevenueSA Online with sufficient information to establish the nature, characteristics and use of the land at the relevant date, and the basis on which the land is said to be qualifying land.

If land is said to be qualifying land but does not have a qualifying land LUC primary

code heading, the lodgement must also include submissions addressing:

- why the LUC heading may be incorrect;
- the actual use of the land at the date of the conveyance or transfer; and
- why the land should be regarded as qualifying land.

Section 67 and mixed qualifying/non-qualifying transactions

If a conveyance or transfer forms part of a series of transactions with other instruments for the purposes of section 67 of the Act, duty is calculated on the total value of the property in the series and apportioned to each instrument. If the instruments are assessed at different times, they must be lodged for assessment by the Commissioner with details of the other instruments in the series and cannot be self-assessed through RevenueSA Online.

A conveyance or transfer involving multiple titles comprising both qualifying and non-qualifying land must also be lodged for assessment by the Commissioner. The consideration or value attributable to the qualifying and non-qualifying land must be apportioned and supporting valuation information provided.

Document types with supporting guide notes (including further examples) are available via RevenueSA Online to allow for the assessment of a conveyance or transfer of qualifying land and a transfer of lease of qualifying land. If purchasers of land are in any doubt whether the land should be treated as qualifying land, they should contact RevenueSA before self-determining the conveyance or transfer of land on RevenueSA Online and/or lodging the conveying instrument for assessment by the Commissioner.

Julie Holmes
COMMISSIONER OF STATE TAXATION

6 October 2026

Further information

Further information can be obtained from RevenueSA.

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Email	stamps@sa.gov.au
Telephone	(08) 8372 7534