

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Stamp Duties

Circular No. 112

STAMP DUTIES (CONCESSIONS) AMENDMENT ACT, 1994 DUTY PAYABLE WHEN REFINANCING A RURAL LOAN

Your attention is drawn to the above Act which was assented to on 30 May, 1994 and came into operation on that date.

The information set out below is of necessity brief and the precise nature and scope of the changes must be taken from the reading of the provisions as set out in the Amending Act in conjunction with the Stamp Duties Act, 1923.

REFINANCING OF RURAL LOANS TO RECEIVE RELIEF FROM DUTY

The new provisions, at Section 81d, provide for relief from stamp duty on a mortgage over rural land that replaces an earlier mortgage that is being discharged.

CRITERIA TO BE MET

To be eligible for relief from duty certain criteria need to be met. These are:

1. that the new mortgage must provide for the refinancing of a loan secured by a previous mortgage that is being discharged;
2. that both the previous and the new mortgage apply to the same, or substantially, the same land;
3. that the land is used wholly or mainly for the business of primary production and is not less than 0.8 hectares in area;
4. that the sole or principal business of the mortgagor is the business of primary production;
5. that the mortgagor under both mortgages is the same person and is not a public company or a subsidiary of a public company.

CALCULATION OF DUTY (IF ANY) PAYABLE

The new mortgage will receive the benefit of a credit for duty paid on the previous mortgage. Examples of the method of calculating duty are shown below.

Sample Case	New Mortgage Secures	Duty That Could be Charged on a new Mortgage (A)	Previous Mortgage Secured	Duty Paid on existing Mortgage (B)	Duty Payable (A - B)
1	\$70,000	\$235	\$100,000	\$340	nil
2	\$100,000	\$340	\$100,000	\$340	nil
3	\$150,000	\$515	\$100,000	\$340	\$175.00

Where the only amounts secured by the new mortgage are the balance of amounts outstanding under the previous mortgage no extra duty will be payable.

APPLICATION PROCEDURE

To receive the benefit of the concession a certification by the mortgagor and the new mortgagee outlining the facts of the case will be required.

An application form which covers the information required is available from the State Taxation Office.

A processing time of two business days should be allowed.

STAMPING BY RETURN

As the legislation requires that the Commissioner be satisfied that certain criteria are met this responsibility cannot be delegated to a financial institution or authorised person for stamping by return. Thus all applications for stamping pursuant to these provisions must be lodged with the Commissioner of Stamps for assessment of duty payable.

SUNSET DATE

This relief from duty when refinancing is only available for mortgages executed between 30 May, 1994 and 30 May, 1996.

Any enquiries should be directed to the State Taxation Office enquiry area on telephone (08) 226 3750.