

SOUTH AUSTRALIA



RevenueSA

Stamp Duties

Circular No. 243

(Replaces Circular No. 179)

**DOCUMENTS TO BE SUBMITTED FOR
OPINION ASSESSMENT**

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Background

Circular 179 was issued in December 1998. It listed the supporting information usually required by RevenueSA in relation to the classes of instruments that must be submitted for assessment of duty by the Commissioner of State Taxation.

A considerable number of instrument classes are not required to be submitted for an assessment of duty.

With the introduction of RevNet, taxpayers/agents can now self determine duty, stamp and pay the duty on the instruments in their own office.

The information formerly contained in Circular 179 has been reviewed and redrafted to remove references to classes of instruments that are no longer to be submitted for an assessment of duty.

Instruments that are able to be processed via RevNet should be stamped according to the approval given to authorised users and should not be forwarded to RevenueSA for the purpose of having the Commissioner make an assessment.

This Circular

This Circular updates and replaces the information formerly contained in Circular 179. It also contains a listing of those instruments where a taxpayer/agent should self determine the duty and stamp the document using RevNet.

The *Taxation Administration Act 1996* (Section 11) requires that when you submit an instrument for the assessment of duty, you must produce all information necessary for a proper assessment of the duty payable. This information should be set out in the Application For Opinion form lodged with the instrument and should be accompanied by any corroborating evidence required by this Circular.

Where it is necessary for you to submit a document for assessment of duty by the Commissioner, the provision of the information set out in this Circular will assist in avoiding delays in the assessment of duty.

Please make sure that your name is always marked clearly on all documents that are lodged with RevenueSA.

In this Circular, a reference to a section is a reference to a section of the *Stamp Duties Act 1923* unless otherwise indicated. Similarly, a reference to a Circular is a reference to a Commissioner's Circular unless otherwise indicated. Circulars can be obtained from the RevenueSA Internet site. You can arrange to be notified by e-mail when a new Circular is available or alternatively, RevenueSA can provide hard copies via paid subscription service.

While this is a comprehensive list it is not possible to anticipate and describe every document that will be required to be submitted for assessment of duty by the Commissioner. If a document is not included in the list of approved

documents for processing on RevNet, it must be submitted for the assessment of duty by the Commissioner.

If you have any further queries, please contact RevenueSA on (08) 8226 3750 or visit the website at www.revenuesa.sa.gov.au.

Historical Use Only

DOCUMENTS THAT MUST BE SUBMITTED FOR ASSESSMENT OF DUTY

1 Agreements

1.1 Agreement for the dissolution of a partnership

To be submitted for assessment of duty together with:

- a partnership valuation as at the date of the dissolution (if available); and
- the balance sheet of the partnership as at the date of dissolution together with evidence of current market value of assets.

1.2 Agreement for the transfer of a part interest in a partnership (including retirement of a partner, introduction of a partner)

To be submitted for assessment of duty together with:

- a valuation of the partnership as at the date of the conveyance (if available);
- the profit and loss statements for the last three years of the partnership;
- the balance sheet of the partnership showing assets immediately before and after the admission/retirement/change of interest in the partnership; and
- a copy of the partnership agreement.

1.3 Agreement for the transfer of a business or a part interest in a business for no consideration

To be submitted for assessment of duty together with:

- a valuation of the business (if available);
- a stock certificate for the business (if applicable);
- the latest balance sheet and profit and loss statements for the business for the last three years; and
- other evidence of the value of the business if available.

1.4 Agreement for the conveyance of a multi jurisdictional business (ie a business that operates inside SA and outside SA)

If the business includes intangible property eg a trademark, goodwill or intellectual property, located both inside and outside of SA, duty is calculated as if the instrument related only to property situated in SA. The calculation is based on the consideration or value of the proportion of intangible property applicable to SA, whichever is the greater (Refer Division 3 of the Act). To determine this, the document should be submitted for assessment of duty providing details of:

- the turnover of the business for the last three years;
- the relative extent of income generated by the business in each jurisdiction in which the business is carried on during the last three years;
- the relative extent of the work carried on in each of the relevant jurisdictions; and
- any other relevant factors.

If the parties are related, or the business is transferred for less than market value, a valuation of the business, if available must be produced. If not, the profit and loss statements and balance sheets for the business for the last 3 years or other evidence of value must be produced.

1.5 Agreement for the transfer of a gaming machine business or a part interest in a gaming machine business

To be submitted for assessment of duty together with:

- the conveying instrument together with a completed Section 71EI Return; and
- a Stock Certificate for the business (if applicable). If a Stock Certificate is not available when the Agreement is submitted, an estimated stock value must be provided.

1.6 Agreement for the sale of a business which includes the transfer of a motor vehicle

To be submitted for assessment of duty together with:

- the completed Application for Transfer of Registration of a Motor Vehicle form; and
- a copy of the stamped Sale of Business Agreement.

1.7 Agreement for the transfer of a business where the final purchase price is not immediately known

This may occur where, for example, the final purchase price is subject to future trading results. If a maximum purchase price is specified, the document can be self determined using RevNet on that basis and a refund sought if it turns out that stamp duty has been overpaid.

If the final purchase price is not specified, the document must be submitted for assessment of duty and an assessment will be issued based on the interim consideration/value. The Commissioner must be advised of the final purchase price when it is known, and a reassessment will be issued.

The Commissioner will retain the document until the final purchase price is advised and all stamp duty paid.

1.8 Application for amendment of a deposited community plan where the amendment effects a conveyance of land

To be submitted for assessment of duty advising the effect of the amendment:

- If the amendment effects a conveyance of land, a copy of the original Community Plan and the new Community Plan must be produced.

1.9 Application for the deposit of a strata plan (existing scheme)

If the registered proprietors for the units listed in the Mode of Issue are different persons for each unit the Application must be submitted for assessment of duty.

1.10 Application for the amendment of a strata plan

To be submitted for assessment of duty advising the effect of the amendment:

- If the amendment effects a conveyance of land, a copy of the original Strata Plan and the new Strata Plan must be produced.

2 Conveyances

2.1 Conveyance of a fishing licence

All conveyances of fishing licences must be submitted for assessment of duty. Where the consideration is zero or less than market value, evidence of the value must be produced. A fishing licence can include:

- an abalone licence;
- an aquaculture licence;

- a blue crab licence;
- a Lakes and Coorong licence;
- a marine scale fishing licence;
- a prawn licence;
- a rock lobster licence; or
- a shark licence

A transfer of a fishing boat either by itself or in conjunction with a fishing licence must be submitted for assessment of duty.

2.2 Conveyance of a taxi plate

To be submitted for assessment of duty:

- where the consideration is zero or less than market value, evidence of value must be produced; and
- if the transaction includes the transfer of a motor vehicle, the Application to Transfer the Registration of a Motor Vehicle form should also be submitted together with the conveyance of the Taxi Plate.

2.3 Conveyance of a water licence

To be submitted for assessment of duty:

- where the consideration is zero or less than market value, evidence of value must be produced; and
- if the transaction includes a transfer of land, the transfer must be submitted together with the conveyance of the water licence.

2.4 Conveyance of property from a trustee to a beneficiary

To be submitted for assessment of duty together with:

- the stamped document effecting or acknowledging, evidencing or recording the trust arrangement; or
- if there is no trust document, evidence of the trust arrangement, eg letters or correspondence between the parties; and
- evidence of payment of the purchase funds by the beneficiary.

2.5 Conveyance of an interest in a land rich entity

Refer to Part 4 of the Act for full particulars regarding the application of this section of the Act.

A Section 98 Return Acquisition Statement of Interests in a Land Rich Entity is to be submitted for assessment of duty.

2.6 Conveyance arising from or forming one transaction or one series of transactions (Section 67)

If it is believed that Section 67 of the Act does apply, the transfers can be stamped using RevNet. For a more detailed explanation of the operation of Section 67 refer to the RevNet Website Stamp Duty Document Guide.

In circumstances where Section 67 may apply but it is believed that it should not to the particular transaction then the document must be submitted for assessment of duty, with a detailed submission stating why Section 67 is not applicable.

If conveyances are subject to Section 67 of the Act and they are being stamped separately or at different times, they must be submitted for assessment of duty together with details of any previous assessments that are part of the Section 67 series.

2.7 Conveyance of an interest in an exploration tenement pursuant to Section 71D

Refer to Section 71D of the Act for full particulars regarding the application of this section and the criteria required for this concession.

2.8 Transactions effected without creating a dutiable instrument (Section 71E) (refer Circular No. 67)

This section applies to a transaction effected without creating a dutiable interest which results in a change in the ownership of a legal or equitable interest in three types of property. These are:

1. land;
2. a business, or part of a business, situated in the State; or
3. an interest in a partnership.

In this type of situation the parties are liable to complete a statement which becomes the dutiable instrument. Stamp duty is payable on the statement as if it were a conveyance effecting the transaction to which it relates.

Where the Section 71E statement relates to a conveyance of:

1. a multi-jurisdictional business or partnership (for consideration or no consideration); or

2. a business or partnership and all assets are located in South Australia (for no consideration); or
3. an interest in a partnership (for consideration or no consideration);

it must be submitted for the assessment of duty by the Commissioner accompanied by:

- a schedule listing the location and values of the various assets subject to the sale agreement (for 1 above);
- a schedule showing the total sales of the business for the last three years (for 1 above);
- the percentage of the total sales of the business which are attributable to South Australia (for 1 above);
- the latest balance sheet and the profit and loss statements of the business/partnership for the last three years (where the conveyance is for a fractional interest or between related parties, or for no consideration) (for 2 and 3 above).

NOTE

Where the property being transferred by the statement is land, it must be stamped using RevNet. For a more detailed explanation of Section 71E of the Act refer to the RevNet Website Stamp Duty Document Guide.

3 Conveyances Of Land

3.1 Conveyance of land involving a “walk in walk out” sale (Section 31A of the Act)

This section of the Act refers to a sale of primary production land as a going concern including plant and/or equipment and/or livestock and/or stock and/or other property.

To be submitted for assessment of duty together with:

- the transfer and contract for sale and purchase of the property and any other instruments relevant to the transaction; and
- a schedule listing other property and the consideration payable.

3.2 Conveyance of land in order to correct an error

To be submitted for assessment of duty together with:

- a submission that includes details of how the error occurred.

Depending on the circumstances, a statement or statutory declarations may be required from the parties detailing the history of the transaction and how the error occurred. Refer to Commissioner's Circulars No. 19 and 216 for more details.

3.3 Conveyance of land where the value of the land is disputed

If land is being transferred, either by way of sale or gift, and you consider the value of the land is less than the Valuer General's value, you should submit the transfer for assessment of duty together with your evidence of value of the subject land.

3.4 Conveyance of land pursuant to Section 67 of the Act

If it is believed that Section 67 of the Act applies to a series of transfers, the transfers can be stamped using RevNet. For a more detailed explanation of the operation of Section 67 refer to the RevNet Website Stamp Duty Document Guide.

In circumstances where Section 67 may apply but it is believed that it should not to the particular transaction then the document must be submitted for assessment of duty, with a detailed submission stating why Section 67 is not applicable.

If conveyances of land are subject to Section 67 of the Act and are being stamped separately or at different times, they must be submitted for assessment of duty together with details of any previous assessments that are part of the Section 67 series.

3.5 Conveyance of land pursuant to a deed of family arrangement

To be submitted for assessment of duty together with:

- a stamped Deed of Family Arrangement (or copy).

3.6 Conveyance of land involving the inner city rebate (Circular No 197)

To be submitted for assessment of duty together with:

- a completed Inner City Rebate form; and
- the contract for the sale and purchase of the land.

3.7 Conveyance of land from a trustee to a beneficiary

To be submitted for assessment of duty together with:

- the stamped document effecting or acknowledging, evidencing or recording the trust arrangement; or

- if there is no trust document, evidence of the trust arrangement, eg letters or correspondence between the parties; and
- evidence of payment of the purchase funds by the beneficiary.

3.8 Conveyance of land where the contract is dated on or before 11 July 2002

To be submitted for assessment of duty with:

- the contract for sale and purchase of the property.

A transfer of property pursuant to a contract dated on or before 11 July 2002 will be stamped at the rates applicable at that time.

3.9 Conveyance of land involving adverse possession

To be submitted for assessment of duty together with:

- evidence of the value of the land.

3.10 Conveyance of land pursuant to Section 71CB of the Act

This conveyance is exempt from stamp duty if the land being transferred between spouses or former spouses is an interest in the matrimonial home or former matrimonial home and the property does not form part of industrial or commercial premises or land used for primary production. If it does, then the instrument must be submitted for assessment of duty together with a completed Section 71CB Statutory Declaration with advice of the value for:

- the house and curtilage area; and
- the remaining area.

4 Declarations Of Trust

This document can be in the form of:

- an Agreement that effects or acknowledges, evidences or records the creation of a trust arrangement;
- a Deed that effects acknowledges, evidences or records the creation of a trust arrangement; or
- any other document that effects or acknowledges, evidences or records the creation of a trust arrangement.

These documents are commonly known as Declarations of Trust or Acknowledgements of Trust.

Where a document transferring property including land, marketable securities or units has been stamped with *ad valorem* stamp duty and there is a further document that evidences or records the fact that the transferee took the property or interest in the property as trustee (ie the Declaration of Trust or Acknowledgement of Trust), then that further document can be stamped using RevNet – refer to the appropriate RevNet Stamp Duty Document Guide.

If a Declaration of Trust does not fit these criteria, it must be submitted for assessment of duty.

5 Deeds

The scope of deeds is so wide it is not possible to list all types here, but some common examples that must be submitted for assessment of duty are:

- Deed of Family Arrangement dealing with a deceased estate;
- Deed of Dissolution of Partnership – see under Agreements;
- Deed of Variation of a Trust which adds new beneficiaries to the trust or results in a resettlement of the trust;
- Deed of Gift; and
- Deed that effects or acknowledges, or evidences or records the creation of a trust arrangement, subject to the criteria listed under Declarations of Trust.

For examples of deeds that must be processed using RevNet, refer to the RevNet Website Stamp Duty Document Guide.

6 First Home Concessions

6.1 Concessional Rates Of Stamp Duty On The Purchase Of A First Home (Section 71C) (refer Circular No.'s 24, 122, 139, 145)

To be submitted for assessment of duty if:

- Section 67 of the Act applies, or
- the land is purchased pursuant to the SAHT Progressive Purchase Scheme;
or

- the land is used for both residential and primary production purposes. Refer Circular No. 236.

Values must be declared for both the house and curtilage area, and the remaining area.

7 Leases Of Land

7.1 Lease of Land To An Exempt Authority

A lease of land to an Exempt Authority is exempt from stamp duty and can be stamped using RevNet. If there is any doubt whether the Authority is exempt from stamp duty, the document must be submitted for assessment of duty with details of the Authority's exemption status.

Refer to the RevNet Stamp Duty Document Guide for more details on this document type.

7.2 Lease of land where the rental is zero, nominal or unknown

If a lease does not specify rent or the rent is less than the current market rent and the first year's rent, the average annual rental or the current market rent for the lease cannot be ascertained or estimated, then the document must be submitted for assessment of duty. RevenueSA will make a valuation of the rental and charge the parties with the cost of the valuation. Refer to Circular Number 233 for more detail on leases.

8 Mortgages

Mortgage where the Commissioner has the discretion to permit the document to be stamped for an amount for less than the full liability (Section 79(5) of the Act).

If the liability to be secured by the mortgage is not immediately known then the mortgage must be submitted for assessment of duty requesting the Commissioner's discretion pursuant to Section 79(5) of the Act be exercised. Refer to Circular No.118 for further details.

9 Transfer Of Shares

9.1 Transfer of shares for consideration

To be submitted for assessment of duty together with:

- a copy of any valuation of shares made in connection with the transfer. Refer to Circular No. 166; and
- a certified Balance Sheet and detailed Profit Loss statements for the previous three years.

If differing classes of shares have been issued, the rights of each such class must be fully stated and a copy of the Constitution must be produced.

9.2 Transfer of shares for no consideration (includes gift)

To be submitted for assessment of duty together with:

- a copy of any valuation of shares made in connection with the transfer. Refer to Circular No. 166; and
- a certified Balance Sheet and detailed Profit and Loss statements for the previous three years.

If differing classes of shares have been issued, the rights of each such class must be fully stated and a copy of the Constitution must be produced.

9.3 Transfer of shares pursuant to a Deed of Family Arrangement

To be submitted for assessment of duty together with:

- a certified copy of the Will of the deceased; and
- a stamped copy of the Deed of Family Arrangement.

9.4 Transfer of shares from a trustee to a beneficiary

To be submitted for assessment of duty together with:

- a stamped copy of the document effecting or acknowledging, evidencing or recording the trust arrangement.

10 Transfer Of Units

10.1 Transfer of units arising from a sale

To be submitted for assessment of duty together with:

- a copy of any valuation of the units made in connection with the transfer. Refer to Circular No. 166; and
- a certified Balance Sheet and detailed Profit and Loss statements for the previous three years.

If differing classes of units have been issued, the rights of each such class must be fully stated and a copy of the Trust Deed must be produced.

10.2 Transfer of units for no consideration (includes gifts and an issue or redemption of units on a non pro-rata basis)

To be submitted for assessment of duty together with:

- a copy of any valuation of the units made in connection with the transfer. Refer to Circular No. 166; and
- a certified Balance Sheet, and detailed Profit and Loss statements for the previous three years.

If differing classes of units have been issued, the rights of each must be fully stated and a copy of the Trust Deed must be produced.

10.3 Transfer of units from a trustee to a beneficiary

To be submitted for assessment of duty together with:

- a stamped copy of the document effecting or acknowledging, evidencing or recording the trust arrangement.

Historical Use Only

DOCUMENTS THAT MUST BE PROCESSED USING REVNET

This list includes all document types that can be processed on RevNet. A more detailed description of each document is provided in the RevNet area of the RevenueSA website.

Adjudged

Declaration of trust

- Land - Duty already paid
- Marketable Securities - Duty already paid
- Property - Duty already paid
- Units - Duty already paid

Transfer of lease

- Pursuant to Conveyance of Business
- Pursuant to Conveyance of Land

Concessions

Ex-service

- Conveyance of Land
- Mortgage

First home concession

- Conveyance of Land

Other

- Superannuation Funds pursuant to Section 71DA

Conveyances Of Business

For consideration

- SA Business

Conveyances Of Land

For consideration

- Conveyance of Land
- Creation of Life Interest
- Easement
- Road Closure
- Surrender of a Remainder Interest
- Surrender of Life Interest
- Transfer of Lease

For no consideration

- Conveyance of Land
- Creation of Life Interest
- Easement
- Road Closure
- Surrender of a Remainder Interest
- Surrender of Life Interest
- Transfer of Lease

Other

- By way of partition
- Change in tenancy, no change in ownership share
- *In Specie* Distribution

- Pursuant to a Will
- Surrender of Lease, Lessee pays
- Surrender of Lease, Lessor pays
- Surrender of Lease for no consideration
- To Religious/Charitable Body (Section 71(5)(j))
- Trustee to Trustee

Conveyances - Other

For consideration

- Assignment of Insurance Policy
- Assignment of Interest in a Land Contract
- Property (not Land, Shares, Units)

For no consideration

- Assignment of Insurance Policy
- Assignment of Interest in a Land Contract
- Property (not Land, Shares, Units)

Other

- Disclaimer Deceased Estate
- *In Specie* Distribution
- Re-conveyance of Insurance Policy
- Surrender of Interest in a Trust by a Family Member
- Trustee to Trustee

Exemptions

Conveyance of land

- Bankrupts pursuant to Section 71CD
- Pursuant to Section 71 CA
- Pursuant to Section 71 CB
- To Exempt Authority

Conveyance of other

- Bankrupts pursuant to Section 71 CD
- Property (not land) to Exempt Authority
- Pursuant to Section 71 CA

Family farm

- Pursuant to Section 71 CC
- Stock/ Implements/Chattels Section 71 CC

Lease

- Annual Rent \leq \$50,000
- To Exempt Authority
- To Natural Person - Principal Place of Residence

Marketable securities

- Pursuant to a Will
- Quoted Marketable Securities

Mortgage

- Security \leq \$400
- To Exempt Authority
- Under the *Enforcement of Judgments Act 1991*

Not chargeable

- Amendment of a Strata Plan
- Amendment of Deposited Community Plan
- Deposit of a Strata Plan (same parties)
- Deposit Plan of Community Division
- Easement, same parties, no consideration
- Road Closure, same parties, no consideration
- RTC with no transactions

Transfer of motor vehicle

- Pursuant to Section 71 CB

Other

- Transfer of Mortgage

Leases

- Extension of 1 day
- Lease
- Lease made subsequently

Marketable Securities

- *In Specie* Distribution
- Trustee to Trustee (no other doc)
- Trustee to Trustee with stamped deed

Mortgages

- Caveat (NOTE. Caveats will also be accepted at the front counter for on-the-spot assessment regardless of whether or not a person is an authorised RevNet user).
- Collateral
- Consumer Mortgage
- Discharge of Mortgage/Encumbrance
- Encumbrance
- Increase – Home
- Increase – Non Home
- Multi-jurisdictional Proportional Stamping
- Multi-jurisdictional Proportional Stamping Increase
- New Prime
- Prime Mortgage – Land (Home)
- Prime Mortgage – Land (Non Home)
- Prime Mortgage – Other
- Refinancing – Primary Producers Loan (Section 81D)
- Refinancing – Rural Bank Closure (Section 81E) – Home
- Refinancing – Rural Bank Closure (Section 81E) – Non Home
- Security outside SA (Section 81B(4))
- Substitute
- Substitute Increase – Home
- Substitute Increase – Non Home

Others

- Agreement

- Extension of mortgage
- Appointment of new Trustee
- Deed
- Power of Attorney
- Transfer of Motor Vehicle pursuant to a Will

Units

- Further Issue - Pro rata
- *In Specie* Distribution
- Pursuant to a Will
- Redemption - Pro rata
- Trustee to Trustee

FURTHER INFORMATION

Location

RevenueSA
State Administration Centre
200 Victoria Square East
ADELAIDE SA 5000

Postal

Commissioner of State Taxation
RevenueSA
Box 1353 GPO
ADELAIDE SA 5001

Telephone

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Website

<http://www.revenuesa.sa.gov.au>