

Document Type:	Conveyance of Land
Document Name:	Residential/Primary Production

Introduction

This Document Guide Note explains how stamp duty is calculated on a conveyance of land of [residential land](#) or [primary production land](#) and a conveyance of land with other property that is residential or primary production.

The term 'conveyance' includes vesting, transfer, assignment and other like terms. The term 'conveying document' includes a [Section 71E Statement](#) if there is no actual conveying document.

Refer to the [Stamp Duty Document Guide \(Section 71E\)](#) for further information.

You will need to indicate whether the land is used as **residential** or **non-residential**. For further advice on this refer to the [Document Guide](#) Page.

Foreign Ownership Surcharge (FOS)

Foreign persons who acquire an interest in **residential** property in South Australia are required to pay a [Foreign Ownership Surcharge](#) of 7% on the value of the **residential land**.

What documents can I self-determine under this document type?

The document can be in the form of:

- LTO Form T1 – Transfer;
- LTO Form RTC – Application to Deposit a Plan of Division;
- [Section 71E Statement](#); or
- any other document that evidences the conveyance of residential land or primary production land without any other property for a consideration.

Refer to the [Stamp Duty Document Guide \(Section 71E\)](#) for further information.

What types of transactions can I self-determine under this document type?

A conveyance of land is deemed **suitable** for self-determination under this document type where:

- the land has a LUC of residential or primary production (or any of the [four](#) specific types of vacant land) as at the date of the contract for sale and purchase of the land;

- the document is not entitled to a stamp duty concession, exemption, reduction or rebate; and

The document can be self-determined under this document type regardless of whether:

- the parties are related or unrelated;
- the conveyance is for consideration or no consideration;
- the conveyance is for consideration together with other property;
- a full or fractional interest is being conveyed; or
- a portion of land is being conveyed (e.g. RTC).

The following similar transactions cannot be self-determined under this document type:

For a conveyance of land with a LUC other than residential or primary production (or any of the [four](#) specific types of vacant land listed above), hereinafter referred to as 'qualifying land', refer to the appropriate document type:

[Conveyance of Land | Qualifying Land](#)

For a conveyance creating or surrendering a life estate, refer to the appropriate document type:

[Conveyance of Land | Creation of Life Estate](#)

[Conveyance of Land | Surrender of Life Estate](#)

If the conveyance is for multiple titles comprising both [residential land](#) or [primary production land](#) and [qualifying land](#), the conveying document(s) must be **submitted to the Commissioner for assessment** with advice as to the apportionment of the consideration for residential land or primary production land and for the qualifying land.

If you believe that a particular conveyance of land may be exempt or subject to a stamp duty concession, rebate or reduction, it cannot be self-determined under this document type and must be self-determined under the appropriate document type or **submitted to the Commissioner for assessment**.

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- a copy of the documents;
- a copy of the contract for sale and purchase of the land (if applicable);

- a copy of the contract for sale and purchase of the land together with the schedule showing the description and consideration for the items of other property (if applicable);
- a copy of the direction or nomination (if applicable);
- a copy of the Assignment of Interest in the Contract (if applicable);
- evidence of the market value of the land as at the date of conveyance (if the parties are related, the transaction is not at 'arm's length' or a fractional interest is being conveyed);
- a copy of the Certificate of Incorporation (where there is a nominee contract and the contract purchaser is a promoter of the purchaser company); and
- a copy of the written statement from the builder stating the value of the improvements as at the date of conveyance (if applicable); and
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document).

Land with other property

This section explains how stamp duty is calculated on a conveyance of land of residential or primary production together with a conveyance of other property where there is consideration passing between the parties for both the land and the other property.

The contract for the sale and purchase must include a reference that other property is included. Other property can include items listed in the contract for sale and purchase of the property such as:

- Chattels;
- Livestock;
- Plant & equipment;
- Stock;
- Water licence;
- Goodwill; and
- Intellectual property

The contract for sale and purchase of the property may or may not apportion the consideration to the land and to the other property.

Where the contract for sale and purchase of the property does apportion the consideration, refer to Valuer-General valuation and a determination is made on the greater of the land contract consideration or the Valuer-General Market Value valuation. If the Valuer- General Market Value valuation is higher than the

total contract consideration, the transfer must be **submitted to the Commissioner for assessment**.

Where the contract for sale and purchase of the property does not apportion the consideration, refer to the Valuer-General valuation and a determination can be made on the Valuer-General valuation. If the Valuer-General Market Value valuation is higher than the contract consideration, the transfer must be **submitted to the Commissioner for assessment**.

A transfer of a water licence includes the transfer of the whole or part of a water allocation of a water licence and is exempt from duty.

You will need to indicate whether the land is used as **residential** or **non-residential**. For further advice on this refer to the [Document Guide](#) Page.

You will need to include the total consideration for the other property in the specific field in RevenueSA Online.

The term 'conveyance' includes vesting, transfer, assignment and other like terms. The term 'conveying document' includes a [Section 71E Statement](#) if there is no actual conveying document.

Refer to the [Stamp Duty Document Guide \(Section 71E\)](#) for further information.

Examples

Conveyance of Land with other Property (Stock, Plant, Equipment)

Jerry contracts to sell Primary Production Land to Tom for \$450 000 which is described in the land sale contract as \$400 000 for the land and \$50 000 for the other property being \$20 000 for stock and \$30 000 for plant and equipment. The parties are unrelated and acting at arm's length. The consideration of \$400 000 is accepted as the market value of the land.

The stamp duty is calculated on \$400 000 (i.e. \$16 330 stamp duty). The conveyance of the other property is not required to be determined.

Note: The consideration panel of the Transfer or other conveying document should recite 'Four Hundred Thousand Dollars (\$400 000)' or 'Four Hundred Thousand Dollars (\$400 000) plus \$50 000 Dollars for the other property'. The Transfer or other conveying document must not recite 'Four Hundred and Fifty Thousand Dollars (\$450 000)' as duty will be applied to this consideration.

Conveyance of Land with other Property (Chattels)

Fred contracts to sell his home to Barney and they sign a contract to evidence this. The sale price for the land is \$500 000 with a further consideration of \$20 000 for some household chattels referred to in the contract.

The consideration panel in the Transfer or other conveying document recites 'Five Hundred Thousand Dollars (\$500 000)' and duty is liable on this consideration.

The contract evidencing the sale of the household chattels is not liable to duty and is not required to be determined.

Conveyance of Primary Production Land with Other Property (Plant, Equipment, Water licence)

Fred contracts to sell land used for primary production to Barney for \$1 650 000 which consideration includes land, plant, equipment and a water licence. The consideration is not apportioned between the land, plant, equipment and the water licence. Fred is unrelated to Barney and the contract which is dated 1 July has been negotiated at arm's length through the local land agent.

A Valuer-General Market Value search shows the value of the land is \$1 310 000 and the parties accept this value. The stamp duty is calculated on \$1 310 000 (i.e. \$65 880 stamp duty). The conveyance of the other property is not required to be determined.

Note: The consideration panel of the Transfer should recite 'Pursuant to contract dated dd/mm/yyyy'. The consideration panel in the Transfer must not recite 'One million Six Hundred and Fifty Thousand Dollars (\$1 650 000)' as duty will be applied to this consideration.

What Section(s) of the *Stamp Duties Act 1923* applies?

- Section 15A
- Section 60
- Section 60A
- Section 67
- Section 71(1)
- Section 71E

What stamp duty is payable on this document?

Stamp duty is charged using the *ad valorem* conveyance rate of stamp duty on either the **consideration** or **market value** of the interest being conveyed as at the date of conveyance, WHICHEVER IS THE GREATER, assuming that the property is at that date free from encumbrances (Section 60A(1)).

If the transfer is for no consideration, stamp duty is calculated on the **market value**.

If the transaction is a *bona fide* arm's length transaction between unrelated parties, then pursuant to Section 60A(2) the consideration may be treated as the market value of the land as at the date of the conveyance.

Where a fractional interest or portion of land is conveyed, the parties are related or the transaction is not at 'arm's length', you will need to obtain evidence of the market value of the land as at the date of conveyance. For example:

- valuation from a suitably qualified valuer (if the valuation is less than the Valuer-General valuation for the land, the conveying document must be **submitted to the Commissioner for assessment** together with a copy of the valuation); or
- evidence of the current Valuer-General's value for the land (e.g. a copy of the relevant SAILIS print-out). If you do not accept this value, submit the document for the to the Commissioner for assessment with reasons and evidence to support the lower value.

The consideration expressed as being payable, or the value declared if the transfer is for no consideration for the land must represent the actual value of the land and will be subject to verification by RevenueSA's Compliance Services Branch.

If the consideration appears lower than the value, the Commissioner may cause a valuation of the land to be made and calculate stamp duty on that value (refer [Information Circular No.102](#) for further information). The Commissioner may pass on the whole or part of the cost of making the valuation to the person(s) liable to pay the duty

Where land is being conveyed pursuant to a contract for sale and purchase of land and the land has been improved since the contract was signed but prior to settlement, stamp duty is calculated on the value of the land including improvements, whether complete or partially complete, as at the date of the conveyance of the property to the purchaser, which is usually the date of settlement. Refer to [Stamp Duty Document Guide \(Opinions\)](#) and [Revenue Ruling SDA008](#) for an explanation for this type of transaction. Evidence of value of the

improvements, preferably a written statement from the builder stating the value of the improvements as at the date of the conveyance, must be kept for audit purposes.

'Off the Plan' Sales of Property

In relation to real property developments, such as large multi-storey apartment developments, purchasers will enter into a contract to buy a unit in that development at a time when, what is to become 'their property', does not exist but comes into existence at a subsequent time when the development is undertaken and individual titles are created. This is colloquially known as an 'off the plan sales of property'. Once the development is finished, settlement of the contract which the purchaser entered into is effected and at the date of settlement a conveyance of the improved property takes place. The value of the improved property at settlement may be substantially higher than that value represented by the consideration paid when the purchaser originally entered into the contract.

In these circumstances, where the parties to the original contract were at arm's length, the Commissioner will ordinarily accept, for the purposes of Section 60A that the consideration for the original contract represents the value of the property conveyed at the date of conveyance.

Any persons/agents involved with these transactions are encouraged to discuss the appropriate assessment procedure with RevenueSA. Where the Commissioner is then satisfied as to value, in terms of Section 60A(2), then a written confirmation will be provided by the Commissioner that the consideration for the original contract will be accepted as the value of the property conveyed at the time of settlement.

This advice should be retained on file as a part of the record keeping requirements of RevenueSA Online and should be produced, during any subsequent compliance audit, to establish that the Commissioner had accepted that it was the appropriate value.

Section 67

If the conveyance is a part of a series of transactions with other documents (Section 67), then stamp duty is calculated on the **total value** of the property in the series of transactions and apportioned to each conveying document.

If the conveying documents subject to Section 67 are being determined at different times, they must **submitted to the Commissioner for assessment** with the details of the other conveying documents in the series of transactions.

Refer to the [Stamp Duty Document Guide \(Section 67\)](#) for further information.

GST

If a transaction includes an amount payable for GST, duty is payable on the GST inclusive amount pursuant to Section 15A. The GST must be included in the consideration expressed in the conveying document pursuant to Section 11 of the *Taxation Administration Act 1996*. For example, where the consideration for a sale of land is \$100 000 plus GST of \$10 000, the consideration panel in the conveying document can recite either:

- \$100 000 plus GST of \$10 000; or
- \$110 000.

Conveyance of Land pursuant to a Nominee Contract

Where a sale contract is executed 'and/or nominee', a Letter of Agency is not required.

Any direction to the vendor as to the true transferee at settlement should be recorded in writing and kept on the relevant RevenueSA Online file for audit purpose. Where this direction is provided by the purchaser under the sale contract, this is often referred to as a 'Nomination' or 'Letter of Nomination'.

Refer to [Revenue Ruling SDA009](#) for further information.

Promoter Company

'Promoters' means the initial subscribers or office bearers of the newly formed company.

A contract may be entered into between a vendor and a promoter of a company and the subsequent conveyance is between the vendor and the newly incorporated company.

An assignment of interest is **not** required if the purchasers named in the contract are the promoters of the company, which at the time that the contract is entered into is in the process of incorporation, and that company subsequently takes title.

Purchase Price Amendment

A contract may include as a special condition the right for the parties to amend the purchase price in certain circumstances, for example, early settlement or land subject to survey. The stamp duty is calculated on the amended consideration. If the purchaser agrees to pay the agents sale commission, this is added to the consideration for stamp duty purpose.

Conveyance of Land pursuant to an Assignment of Interest in a Contract

More than one assignment can arise out of a contract, or the same interest can be assigned more than once. For example, Ann contracts to sell 10 separately titled allotments to Bob. Bob then assigns each allotment to 10 separate unrelated purchasers.

Stamp duty is payable on **each** assignment and on **each** Transfer (or conveying document). The stamp duty payable on each assignment will be calculated on the greater of the consideration paid for the assignment or the full value of the interest assigned.

The total of the considerations on the 10 conveying documents should be equal to the contract consideration. Section 67 would **not** be applied to these documents if the Commissioner can be satisfied that each allotment will be used separately and independently of the others, refer to Section 67(2)(a) and the [Stamp Duty Document Guide \(Section 67\)](#) for further information.

Examples

Conveyance of Land – Full Interest – Arm’s Length

Jim sells land to Ann for \$150 000. Jim is unrelated to Ann and the contract has been negotiated at arm’s length through a land agent. This is a *bona fide* arm’s length transaction, therefore, pursuant to Section 60A(2), the consideration is accepted as the market value of the land. The stamp duty is calculated on \$150 000 (i.e. \$4830 stamp duty).

Conveyance of Land – Fractional Interest – Related Parties

Bob and Helen (vendors) sell a half interest in land to Kate and Tim (purchasers) for \$35 000. The vendors are related to the purchasers. A suitably qualified valuer has provided a written statement stating that the market value of the interest being conveyed is \$50 000. As the market value is **greater** than the consideration, stamp duty is calculated on the market value of \$50 000 (i.e. \$1080 stamp duty).

Conveyance of Land – Full Interest – Arm’s Length - Partially completed improvements

Fred contracts to sell vacant land to Wilma for \$140 000. After signing this contract, Wilma enters into a building contract and her builder commences

building a house on the land. At the time of settlement, the house is partially complete and the builder provides a written statement stating that the value of the improvements on that day is \$95 000. Pursuant to Section 60A(1), duty is payable on the value as at the date of conveyance (i.e. \$140 000) plus \$95 000. The stamp duty is calculated on \$235 000 (i.e. \$8317.50 stamp duty).

Conveyance of Land – Full Interest – Related Parties

Jim gifts land to his sister Ann with a value of \$150 000.

The parties have executed a Transfer. The stamp duty is calculated on the market value of \$150 000 (i.e. \$4830 stamp duty).

Conveyance of Land – Fractional Interest – Related Parties

Bob and Helen agree to convey a half interest in land to Kate and Tim for no consideration.

A suitably qualified valuer has advised that the market value of the interest being conveyed is \$50 000.

The parties have executed a Transfer. The stamp duty is calculated on the market value of \$50 000 (i.e. \$1080 stamp duty).

Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019
4	April – 2022 added text related to Foreign Ownership Surcharge. Hyperlinks updated – April 2022