

## INTRODUCTION

This guide has been prepared to assist in calculating the stamp duty payable on the documents that must be submitted for the assessment of the Commissioner of State Taxation. It does not replace nor override the legislative requirements of the *Stamp Duties Act 1923*.

In this Guide:

- all references made to sections relate to the [Stamp Duties Act 1923](#), unless otherwise specified;
- a reference to the Commissioner is a reference to the Commissioner of State Taxation; and
- the term 'document' is used in place of the word 'instrument', to facilitate easy reading.

While the Stamp Duty Document Guide (Opinion) 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.

A considerable number of document classes are not required to be submitted for an assessment of duty. Taxpayers/agents can self-determine duty, generate a Certificate of Stamp Duty (print, if required) and pay the duty on the instruments on [RevenueSA Online](#).

Documents that are able to be processed via RevenueSA Online should be self-determined 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. These documents are listed in the [Stamp Duty Document Guide \(Self-Determined\)](#).

If a document is not included in the list of approved documents for processing on RevenueSA Online in the Stamp Duty Document Guide (Self-Determined), it must be submitted for the assessment of duty by the Commissioner.

If GST is included as part of consideration, stamp duty is payable on the GST inclusive amount (Section 15A).

If a conveyance is part of a series with other conveyance documents (i.e. the conveyances arise from a single contract of sale or together form or arise from one transaction or a series of transactions), all documents must be determined

concurrently and Section 67 applied. If documents subject to the provisions of Section 67 are being determined separately they must be submitted for the assessment of the Commissioner together with details of the other transactions in the series.

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

If you have any enquiries relating to the content of this guide or require advice on documents lodged for the assessment of the Commissioner, please contact RevSupport Helpline on (08) 8207 2333 or via email at [revsupport@sa.gov.au](mailto:revsupport@sa.gov.au).

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## AGREEMENTS

### Agreement for the dissolution of a land owning partnership

To be submitted for assessment of duty together with:

- a partnership valuation as at the date of the dissolution (if available);
- the balance sheet of the partnership as at the date of dissolution together with evidence of current market value of assets; and
- land Transfer or [Section 71E Statement](#) (together with a [Section 71E Statutory Declaration](#)).

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

**Note:** If the partnership does not own land then there is no stamp duty liability.

### Agreement for the transfer of a part interest in a land owning 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; and
- land Transfer or [Section 71E Statement](#) (together with a [Section 71E Statutory Declaration](#)).

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

**Note:** If the partnership does not own land then there is no stamp duty liability

## **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.

## **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.

## **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.

## CONVEYANCES

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

If it is considered that Section 67 does apply, the transfers can be self-determined using RevenueSA Online.

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

In circumstances where Section 67 may apply but it is considered 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 and they are being determined 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.

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

A conveyance of an exploration tenement must be submitted for assessment of duty. Exploration tenement means:

- an exploration licence granted under the *Mining Act 1971*;
- an exploration licence granted under the *Petroleum & Geothermal Energy Act 2000*;
- an exploration permit for petroleum granted under the *Petroleum (Submerged Lands) Act 1982*; or
- an exploration licence granted under the *Offshore Minerals Act 2000*.

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

## Transactions effected without creating a dutiable instrument (Section 71E)

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

- land; or
- an interest in a land owning 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:

- a multi-jurisdictional land owning partnership (for consideration or no consideration); or
- an interest in a land owning 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
- the latest balance sheet and the profit and loss statements of the partnership for the last three years

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

## CONVEYANCE OF LAND

### Conveyance of land in order to correct an error (Section 107)

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.

### Conveyance of land where the value of 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.

### Conveyance of land pursuant to Section 67

If it is considered that Section 67 applies to a series of transfers, the transfers can be self-determined using RevenueSA Online.

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

In circumstances where Section 67 may apply but it is considered 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 and are being determined 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.



## Conveyance of land pursuant to a Deed of Family Arrangement

To be submitted for assessment of duty together with:

- a Deed of Family Arrangement (or copy);
- a copy of the will of the deceased person; and
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document).

## Conveyance of land from a trustee to a beneficiary

To be submitted for assessment of duty together with:

- the document effecting or acknowledging, evidencing or recording the trust arrangement; or
- if there is no trust document, evidence of the trust arrangement, e.g. letters or correspondence between the parties; and
- evidence of payment of the purchase funds by the beneficiary; and
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document).

## Conveyance of property from a trustee to a trustee

To be submitted for assessment if the transfer relates to a split trust or sub trust arrangement with:

- details of why you consider that Section 71(5)(d) should apply.

Refer to the Stamp Duty Document Guide (Self-Determined)

[Conveyance of Land | Exemptions | Trustee to Trustee](#)

for commentary on these transfers.

## Conveyance of land involving adverse possession

To be submitted for assessment of duty together with:

- evidence of the value of the land.

## Conveyance of land from a Custodian to an SMSF Trustee

This conveyance is exempt from duty pursuant to Section 71(7a).

To be submitted for assessment of duty together with:

- a copy of the custodian deed.

## Conveyance of land pursuant to Section 71CA

This conveyance is exempt from stamp duty if the land being transferred relates to a marriage that has been dissolved or annulled or the Commissioner is satisfied that a marriage or de facto relationship has broken down irretrievably. The conveyance must be pursuant to a Family Law agreement or a Family Law order which provides for the disposition of the property between the parties to the marriage or former marriage or former de facto relationship and no other person, other than a trustee of a superannuation fund (if relevant) takes or is entitled to take an interest in the property in pursuance of the document.

Pursuant to Section 71CA, a transfer of land from a company or trust to a spouse of the marriage or former de facto partner pursuant to a Family Law agreement or Family Law order may be exempt from stamp duty. The transfer must be submitted for assessment together with a copy of:

- the Family Law Order;
- the Family Law agreement; or
- a copy of the trust deed.

Your submission must also advise:

- the character of the property involved;
- the extent that the parties to the marriage own and/or control the company or trust involved (the extent to which the company itself could be said to be an asset of the marriage);
- the identity and role of any other owners or beneficiaries of the company or trust; and

- the relationship between any other persons associated with the transfer and the parties to the marriage.

Refer to the [Information Circular No. 30](#).

## Conveyance of land pursuant to Section 71CB

This conveyance is exempt from stamp duty if the land being transferred between spouses or former spouses or domestic partners of former domestic partners is an interest in the shared residence or former shared residence 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.

## Conveyance of vacant land - Qualifying Land

A conveyance of qualifying land as defined in Section 71DC which is vacant land may be eligible for the stamp duty reduction.

To be submitted for assessment of duty together with:

- a copy of a SAILIS report including details of the Zone/Policy/Precinct.

## Conveyance of land - Corporate Reconstruction

If the transfer of land satisfies the criteria of Division 4 Part 4AA then the transfer of land is exempt from duty.

To be submitted for assessment of duty together with:

- a submission detailing the Corporate Reconstruction and addressing the criteria of Division 4 Part 4AA .

## Conveyance of land where the land use code does not support Qualifying Land

For a conveyance of land which you consider to be Qualifying Land but does not have a Land Use Code under the headings:

- Commercial;
- Industrial;
- Institutions;
- Public Utilities;
- Recreation; and
- Mining and Quarrying,

the conveying document must be submitted for the assessment of the Commissioner advising the Land Use Code, the actual use of the land as at the date of the conveyance and any other details to evidence that the land should be regarded as Qualifying Land. Examples of such land include:

- Hotels;
- Motels;
- Serviced apartments;
- Short term unit accommodation; and
- Vacant land for commercial use.

For a more detailed explanation refer to Stamp Duty Document Guide (Self-Determined):

[Conveyance of Land | Qualifying Land](#)

## DECLARATION OF TRUST OVER LAND

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.

This document is commonly known as a Declaration of Trust or Acknowledgement of Trust.

Where a document transferring land has been determined 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 (i.e. the Declaration of Trust or Acknowledgement of Trust), then that further document can be self-determined using RevenueSA Online – refer to the [Stamp Duty Document Guide \(Self-Determined\)](#).

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

- evidence of payment of the purchase funds by the beneficiary, e.g. financial records evidencing the payment of the purchase funds;
- evidence that the trust arrangement was in place at or prior to the acquisition of the property by the trustee.

## 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 (and a transfer of land pursuant to a Deed of Family Arrangement);
- 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 RevenueSA Online, refer to the [Stamp Duty Document Guide \(Self-Determined\)](#).

**Note:** A Deed formerly chargeable with stamp duty of \$10 has been exempt from duty from 1 July 2006. Where a deed that is exempt from duty is required to be relied upon as being 'duly stamped' for other purposes under the Act (e.g. to obtain the benefit of the exemption provisions of Section 71(5)(e)), the relevant deed may be determined accordingly, however RevenueSA will not insist on an exempt deed being determined to be accepted as 'duly stamped'.

The reference to a Deed does not include a Declaration of Trust or Acknowledgement of Trust.

## LAND HOLDER

### Conveyance of an interest in a land holding entity from 1 July 2018

As from 1 July 2018 the land holder provisions only apply to acquisitions or increases of prescribed interests in entities that hold or notionally hold land that is used for [residential](#) or [primary production](#) purposes.

Further information regarding [Qualifying Land](#) (and the phased reduction of rates applicable to qualifying land from 7 December 2015 to 30 June 2018) is available in [Information Circular 86](#).

The \$1 million threshold test in Part 4 of the *Stamp Duties Act 1923* (specifically, Section 98), has been removed such that the land holder provisions apply to all interests in residential and primary production land only.

If the land holding entity only holds qualifying land, then from 1 July 2018 no documentation will need to be provided to RevenueSA for stamp duty purposes.

So only where there is an acquisition or an increase of a prescribed interest in residential or primary production land will a [Section 102B Return](#) be required to be submitted for assessment.

The land holder duty model ensures that if control of an entity changes and that entity holds land assets, conveyance rates of duty will apply to the interests in South Australian land transferred.

The land holder provisions apply to entities that are private companies, private unit trusts, listed companies and public unit trusts.

## TRANSFER OF UNITS

Duty has been abolished on the transfer of units in a land owning unit trust from 1 July 2018.

However, land holder duty may apply if the unit trust holds [residential land](#) or [primary production land](#) and an acquisition or an increase in a prescribed interest has occurred.

A Section 102B Return is required to be completed and submitted for assessment together with a valuation report of the particular land by a licensed valuer if one is in existence.

Refer to the [Stamp Duty Land Holder Guide to Legislation](#) for further information relating to the land holder provisions.

If the unit trust holds land other than residential or primary production land, no documentation is required to be submitted for assessment.

### Transfer of units in a land owning unit trust arising from a sale pre 1 July 2018

To be submitted for assessment of duty together with:

- a copy of any valuation of the units made in connection with the transfer;
- a certified Balance Sheet and detailed Profit and Loss statements for the previous three years; and
- advice of any debt and its outstanding amount associated with the land.

You must also advise:

- the CT reference, description of land and improvements and market value of South Australian land held by the trust and any subsidiaries as at the date of transfer;
- the names of the unit holders and the number of units owned before and after the transfer; and
- if any of the unit holders are associates pursuant to Section 91(8).

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.



## Land Owning Unit Trust

Pursuant to Section 60A(3), the Commissioner can appoint a person to value land and may assess the duty payable by reference to that land value.

If a unit trust owns land, the land value may be reviewed to determine a value for the land as at the date of the unit transfer as part of the unit valuation process.

## Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019