

Document Type:	Conveyance of Land
Document Name:	Off the Plan Concession

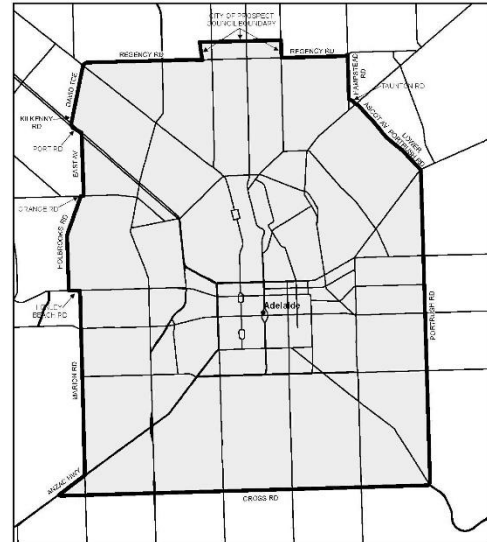
Introduction

This Document Guide Note explains how stamp duty is calculated on the transfer of land for which the following criteria for the Off-the-Plan Concession are satisfied:

- the contract for the purchase of the apartment is a qualifying Off-the-Plan contract entered into between 31 May 2012 and 27 October 2013;
- the apartment is located within the area of the Corporation of the City of Adelaide; or within the area known as the Bowden Village (as identified by the Treasurer by notice in the Gazette) or within the area known as 45 Park, Gilberton and comprised in CT 5114/927 or CT 5114/955 (OPC); and
- the apartment is a self-contained residence situated in a multi-storey residential development, not a townhouse;

OR

- the contract for the purchase of the apartment is a qualifying Off-the-Plan contract entered into between 28 October 2013 and 30 June 2018;
- the apartment is a self-contained residence situated in a multi storey residential development, not a townhouse; and
- the land is within, or contiguous to, the area represented by the map shown below (OPC).



OR

If the contract for the purchase of the apartment is a qualifying Off-the-Plan contract entered into between 20 June 2016 and 30 June 2018 and;

- the apartment is a self-contained residence situated in a multi storey residential development, not a townhouse; and
- the land is within South Australia, but outside the area referred to on the map shown above (OPO);
- then the Transfer is self-determined under this RevenueSA Online document type.

You will need to indicate as either OPO or OPC in the relevant tick box.

Foreign Ownership Surcharge (FOS)

Foreign persons who acquire an interest in residential property in South Australia are required to pay a surcharge of 7% on the value of the residential land.

RevenueSA Online will reflect the FOS value based on the data provided in the Commonwealth Reporting Portal Workspace. Where the FOS is applicable, the Workspace will need to reflect the fractional interest to be acquired by the foreigner. For example, if a foreign person is acquiring a 100% interest in the property then the Party Interest Transferred field will be completed as 1/1. If the interest is 50%, then enter ½. RevenueSA Online will then determine and display the FOS value.

For further information, including definitions of foreign persons, refer to [RevenueSA's Foreign Ownership Surcharge](#) page.

For information on visa descriptions refer to:

www.homeaffairs.gov.au/trav/visa

In the search field at the top of the page type in 'Visa xxx' and this will take you to the relevant visa description page. Read this, usually under the heading 'What you can do' to determine if the visa is a permanent visa (FOS **does not** apply) or a temporary visa (FOS **does** apply).

If the conveyance is for multiple titles comprising both land coded as Residential (liable to the FOS) and non-residential the conveying document(s) must be submitted for the opinion of the Commissioner with advice as to the

apportionment of the consideration for the land coded as Residential and the land coded as Non Residential.

For a contract entered into between 22 June 2017 and 30 June 2018, the concession does not apply to a purchase by a foreign purchaser.

Application for Stamp Duty Concession pursuant to a contract for sale and purchase of an apartment dated from 1 July 2017 must be submitted to RevenueSA for assessment.

A qualifying Off-the-Plan contract means a contract for the purchase of an apartment entered into between 31 May 2012 and 30 June 2018 (both dates inclusive) where, at the time the contract is entered into, the building in which the apartment is, or is to be, situated:

- is a new building that is yet to be constructed;
- is a new building for which construction has commenced and where the Commissioner is satisfied that the work has not been substantially completed: or
- is an existing building where the Commissioner is satisfied that the building is to be substantially refurbished and that refurbishment:
 - is yet to be commenced; or
 - has commenced but the Commissioner is satisfied that the work has not been substantially completed.

An apartment means a self-contained residence that is, or is to be, situated in a multi storey residential development, but does not include a townhouse.

A multi storey residential development means a building of 2 or more storeys containing 2 or more independent residential premises.

A townhouse means a dwelling consisting of 2 or more storeys where the building (which may be a building joined to another building or buildings) constituting the dwelling occupies a site that is held exclusively with that building.

Owners need not be natural persons or intend to live in the apartment. An apartment purchased as an investment is eligible for the concession.

One concession applies for each apartment sale. The concession is not based on the number of purchasers of an apartment.

The concession can apply in conjunction with the First Home Owner Grant and the Pre Construction Grant.

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

The document can be in the form of:

- LTO form T1 –Transfer

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 transaction satisfies the Off-the-Plan concession criteria.

The document can be self-determined under this document type if the parties are related or unrelated.

If the Transfer is for more than one apartment then this Transfer must be submitted to RevenueSA for opinion 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 apartment;
- a copy of the Assignment of Interest in the Contract (if applicable);
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document);
- evidence of the market value of the land if the parties are related; and
- the completed 'Application for Stamp Duty Concession on the Purchase of an Off-the-Plan Apartment' form.

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

- Section 71DB
- [Information Circular No: 48](#)
- [Information Circular No: 65](#)
- [Information Circular No: 68](#)
- [Information Circular No. 89](#)

What stamp duty is payable on this document?

Contracts entered into between 31 May 2012 and 30 June 2014

The stamp duty is calculated using the *ad valorem* conveyance rate of stamp duty on the greater of the consideration or market value. Section 71DB(4) provides that the relevant date for determining market value is the date of the contract. The market value should be entered into RevenueSA Online which will then calculate the duty payable.

No duty will be payable in respect of a qualifying contract for the purchase of an apartment with a market value of \$500 000 or less.

Where the qualifying contract is for the purchase of an apartment with a market value of more than \$500 000, the duty payable will be the duty that would otherwise be payable on the market value less \$21 330. See example below.

If the transaction is a *bona fide* arm's length transaction between unrelated parties then pursuant to Section 71DB(4) the consideration may be treated as the market value of the apartment.

If the parties are related or the transaction is not at arm's length, you will need to obtain evidence of market value of the land. For example:

- a valuation from a suitably qualified valuer; or
- evidence of the current Valuer General's value for the land (e.g. a copy of the relevant SAILIS print-out).

Example

A purchaser entered into an Off-the-Plan contract on 1 June 2012 to purchase an apartment in the area of the Corporation of the City of Adelaide for a purchase price of \$700 000. The parties are unrelated and are contracting at arm's length. A Transfer and an 'Application for Stamp Duty Concession on the Purchase of an Off-the-Plan Apartment' form has been executed by the parties.

The transaction satisfies the criteria for the Off-the-Plan concession. Stamp duty is calculated as follows:

Stamp duty payable on \$700 000	\$32 330
Less maximum off-the plan concession	<u>\$21 330</u>
Stamp duty payable	\$11 000

Note: LTO fees are calculated on the consideration recited in the Transfer of \$700 000.

Contracts entered into between 1 July 2014 and 30 June 2018

A partial stamp duty concession is available for an Off-the-Plan apartments purchased pursuant to qualifying Off-the-Plan contracts entered into between 1 July 2014 and 30 June 2018 (both dates inclusive) based on the stage of completion of the apartment.

You will need to indicate the stage completion on the 'Application for Stamp Duty Concession on the Purchase of an Off-the-Plan Apartment' form and select the appropriate stage on the RevenueSA Online screen, those stages being:

- | | |
|----------------|--|
| Stage 1 | No work has been commenced |
| Stage 2 | Apartment floor slab and external walls complete |
| Stage 3 | Apartment internal wall frames, first fix plumbing and electrical complete |
| Stage 4 | Apartment wall and ceiling linings complete |
| Stage 5 | Apartment joinery, tiling and second fix carpentry complete |
| Stage 6 | Practical completion of apartment ready for occupation |

Market Value \$500 000 or less

For qualifying Off-the-Plan contracts with a market value of \$500 000 or less, stamp duty will be payable on the dutiable value as defined. The dutiable value will vary depending on the stage of completion of the residential development.

The deemed unimproved land value of an apartment is set by the *Stamp Duties Act 1923* at 35% of the market value of the apartment, with the value of construction to reflect the nature of works already performed.

In these cases the duty will be calculated under the following formula:

- $DV = (MV \times 0.35) + (MV \times 0.65 \times C)$

Where:

DV = The dutiable value

MV = The market value

C = The percentage that represents the stage at which the construction or refurbishment of the multi-storey residential development in which the relevant apartment is (or is to be) situated has reached at the relevant contract date, expressed as a percentage of completion of the work, those stages being:

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
0%	20%	40%	60%	80%	100%

Example

Apartment purchased for \$450 000.

Construction of the multi-storey apartment is 40% complete.

$$\begin{aligned}
 DV &= (\$450\,000 \times 0.35) + (\$450\,000 \times 0.65 \times 0.4) \\
 &= (\$157\,500) + (\$117\,000) \\
 &= \$274\,500
 \end{aligned}$$

Stamp duty applicable is \$10 118.75

Market Value Over \$500 000

- Where the market value of the apartment exceeds \$500 000, the duty chargeable will be the normal *ad valorem* duty payable under the *Stamp Duties Act 1923* at the date of sale, reduced by an amount determined according to the stage at which the construction or refurbishment of the multi-storey residential development in which the relevant apartment is (or is to be) situated has reached at the relevant contract date.

- The amounts by which duty will be reduced at each stage are as follows:

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
\$15 500	\$12 800	\$9750	\$6500	\$3250	\$0

Example

Apartment purchased for \$600 000.

Construction of the multi-storey apartment is 20% complete at the date of contract.

Stamp duty on \$600 000 = \$26 830

Less duty reduction for stage 2 = \$12 800

Stamp duty payable is \$14 030

Version History

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