

Document Type:	Conveyance of Land
Document Name:	Surrender of Lease – Lessor Pays – Qualifying Land

Introduction

This Document Guide Note explains how stamp duty is calculated on a surrender of lease of land over Qualifying Land on or after 7 December 2015 where the lessor pays a consideration.

Qualifying Land means land that is being used for any purpose other than:

- land that is taken to be used for residential purposes; and
- land that is taken to be used for primary production.

A lease of land may be surrendered before its expiry term. Where the lease is surrendered for a consideration which is **paid by the lessor to the lessee** the document is chargeable with *ad valorem* conveyance duty. It is irrelevant whether the lease is registered or unregistered.

This document is charged as a conveyance because it effects a conveyance of the remaining leasehold interest.

The document will state a consideration, however, it may not state that the lessor pays the consideration, or it may be silent as to who pays the consideration. It is preferable that the consideration panel of the document states '\$X paid by the lessor' or '\$X paid by the Lessee'.

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

The document can be in the form of:

- Deed or Agreement which surrenders an interest in a lease; or
- LTO Form S1 – Surrender of Lease.

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

A surrender of lease of Qualifying Land is deemed **suitable** for self-determination under this document type where:

- the LESSOR pays a consideration to the Lessee;
- the consideration is stated in the document; and
- the document is a LTO Form S1 – Surrender of Lease; or

- the document is in Agreement or Deed form and there is no LTO Form S1 – Surrender of Lease evidencing the surrender.

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

A surrender of lease of land where the lessee pays the consideration, refer to the document type:

[Conveyance of Land | Not Chargeable | Surrender of Lease - Lessee Pays](#)

A surrender of lease of land for no consideration, refer to the document type:

[Conveyance of Land | Not Chargeable | Surrender of Lease - No Consideration](#)

If the surrender of lease relates to residential land or primary production land, refer to the document type:

[Conveyance of Land | Surrender of Lease – Lessor Pays](#)

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;
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document); and
- a copy of any related documents.

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

- Section 60

What stamp duty is payable on this document?

The document is chargeable with *ad valorem* conveyance stamp duty.

If there is an LTO form S1- Surrender of Lease **and** an Agreement evidencing the surrender of lease, then *ad valorem* conveyance stamp duty is charged on the LTO form S1 – Surrender of Lease and the document is self-determined under these document types and the Agreement is self-determined under the document type:

[Exemption | Agreement](#)

If there is an LTO form S1- Surrender of Lease **and** a Deed evidencing the surrender of lease, then *ad valorem* conveyance stamp duty is charged on the

LTO form S1- Surrender of Lease and the document self-determined under these document types and the Deed is self-determined under the document type:

[Exemptions](#) | [Deed](#)

If the Surrender of Lease is in Deed form (and there is no LTO form S1 – Surrender of Lease) the document is chargeable with *ad valorem* conveyance stamp duty and the document is self-determined under these document types.

The relevant stamp duty reduction is applied:

Date contracted entered into	Stamp duty Reduction
on or before 6 December 2015	No reduction
Between 7 December 2015 and 30 June 2017	1/3 reduction
Between 1 July 2017 and 30 June 2018	2/3 reduction
From 1 July 2018	Full reduction

Application of the stamp duty reduction is based on the date of the Surrender document.

Example

Surrender of Lease where Lessor pays Consideration

The Landlord (lessor) leases Qualifying Land to the Tenant (lessee).

The Landlord (lessor) plans to demolish the building and wants the tenant to move out. The lease runs for another five years and the parties agree that Landlord (lessor) will pay the Tenant (lessee) \$50 000 to surrender the lease.

An LTO Form S1 - Surrender of Lease, stating a consideration of \$50 000 is the only document executed. This document is self-determined under this document type on a consideration of \$50 000 and the relevant stamp duty reduction applied.

Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019 Hyperlinks updated – April 2022