

## Loan security duty and capitalisation of interest

### Revenue Ruling DA.006 Replaces SD.065

#### Preamble

Duty is charged under Chapter 7 of the *Duties Act 2000* (the Act) on instruments that fall within the definition of mortgages. Section 149 of the Act defines a mortgage. Section 154 of the Act details the amount of ad valorem duty to be charged in respect of advances made under a mortgage. Section 150 in turn defines an advance. Part 4 of Chapter 7 of the Act sets out the exemptions available.

Where a further advance is made under a mortgage that results in the amount owing exceeding the amount that the mortgage is stamped to secure, additional duty is required to be paid pursuant to section 152(2) of the Act.

In some circumstances, such as where interest payments are outstanding, the lender may agree to provide a facility whereby the interest is capitalised.

The question arises as to whether the provisions contained in section 152(2) of the Act require the mortgage to be stamped with additional duty to include the amount of interest which is capitalised.

The purpose of this ruling is to explain the operation of the Act in these circumstances.

#### Ruling

Where an express agreement exists between the parties, which provides that the interest payable under the mortgage can be converted to capital by a book entry, the capitalisation of this interest constitutes an further advance under section 150 of the Act. If the capitalisation of the interest causes the total amount of the loan to exceed the amount for which duty has been paid on the mortgage, further duty is payable on the amount which exceeds the amount that the mortgage is stamped to secure.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

Commissioner of State Revenue  
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