

Revenue Rulings

Loan security duty and capitalisation of interest

Revenue Ruling SD.065

CEASED 30 June 2001

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Preamble

Section 137D of the *Stamps Act 1958* ('the Act') defines a mortgage. Heading XXII of the Third Schedule to the Act details the amount of *ad valorem* duty to be charged in respect of advances made, and 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 pursuant to section 137F(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 137F(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

Additional duty on the mortgage is payable where an express agreement exists between the parties, which provides that the interest payable under a mortgage be converted to capital by a book entry, and therefore, constitutes an advance.

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 Ruling No. GEN.01

Denzil Griffiths

Commissioner of State Revenue

30 June 1996

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