

Introduction

Section 71E sets out transactions that are dutiable in certain circumstances if there is no dutiable document. In these circumstances, the provision requires that a [Section 71E Statement](#) and [Section 71E Statutory Declaration](#) be completed. The [Section 71E Statement](#) becomes the dutiable document.

If there is a receipt that evidences the payment for the transaction then pursuant to Section 31(3) the receipt is liable for stamp duty in the absence of any other instrument evidencing the transaction (i.e. a [Section 71E Statement](#) and [Section 71E Statutory Declaration](#) are not required to be completed).

What types of transactions are involved?

The transactions that are liable pursuant to Section 71E are those that result in the change of ownership (both legal and equitable) in the following properties:

- land;
- an interest in a land owning partnership.

Prior to 18 June 2015, transactions that are liable pursuant to Section 71E are those that result in the change of ownership (both legal and equitable) in the following properties:

- business in South Australia; and
- part of a business situated in South Australia.

These also include the goodwill of a business.

What transactions does Section 71E deem *not* to be liable?

Section 71E does not apply to a number of transactions that occur due to the operation of other legislation. These are:

- the appointment of a receiver or trustee in bankruptcy;
- the appointment of a liquidator;
- a compromise or arrangement under part 5.1 of the Corporation Law; or
- any other transaction of a prescribed class (the Regulations prescribe one situation where property is transferred to a Co-operative.

What document type applies?

If the [Section 71E Statement](#) refers to a conveyance of land it must be self-determined under the appropriate document type:

[Conveyance of Land | Residential Land/Primary Production Land](#)

[Conveyance of Land | Qualifying Land](#)

If the [Section 71E Statement](#) refers to a conveyance of a business (pre 18/06/2015) for a consideration where all assets are located in South Australia it must be self-determined under the document type:

[Conveyance of Business | SA Business \(Pre 18/06/2015\)](#)

If the [Section 71E Statement](#) refers to a conveyance of:

- a multi-jurisdictional land owning partnership (for consideration or for no consideration);
- a fractional interest of a land owning partnership (for consideration or for no consideration);
- an interest in a land owning partnership (for consideration or for no consideration); or
- a business or partnership for no consideration where all assets are located in South Australia;

It must be submitted for the assessment of the Commissioner advising:

- the CT reference/s
- property address/s
- current market value of each property.

If the [Section 71E Statement](#) refers to a conveyance of a business (pre 18/06/2015), the following must accompany a document submitted for the assessment of the Commissioner:

- a schedule listing the location and values of the various assets subject to the sale agreement;
- a schedule of the businesses total sales for the last three years;
- the percentage of the business total sales which are attributable to South Australia; and

- the latest Balance Sheet and last three years Profit and Loss Accounts for the business/partnership (where the conveyance is for a fractional interest or between related parties or for no consideration).

EXAMPLE:

Charles agrees to sell his hairdressing business to Minnie for \$155 000. This is a *bona fide* arm's length transaction between unrelated parties. The transfer occurs on 1 January 2014.

There is no document evidencing this transaction so Charles and Minnie complete [Section 71E Statutory Declaration](#) and a [Section 71E Statement](#).

As the transaction is a *bona fide* arm's length transaction between unrelated parties then pursuant to Section 60A(2) the consideration is treated as the market value of the hairdressing business.

Stamp duty is charged on the [Section 71E Statement](#) using the *ad valorem* conveyance rate of stamp duty on the consideration of \$155 000 (i.e. \$5030 stamp duty).

For business transaction post 15 June 2015 stamp duty is no longer chargeable. For details see the [Stamp Duty Document Guide \(Self Determined\)](#).

Version History

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