



Office of State Revenue
NSW TREASURY

ISO 9001-Quality Certified

ABN: 77 456 270 638

Application for Exemption from Mortgage Duty: Refinancing of Loans

NOTE:

- This declaration must be completed by **one** of the following:
 - the borrower (or one of the borrowers)*
 - the solicitor for the borrower(s)
 - the solicitor for the new lender(s)
 - the new lender (or one of the new lenders)*

*in the case of a corporation, the declaration should be completed by an authorised officer of the corporation
- The required evidence that must be submitted with this form is listed below. **All evidence must be provided for your application to be considered. Failure to provide this evidence will result in your documents being returned unprocessed.**
- Please do **not** overpay duty. OSR will not process mortgage refinancing matters where the payment made is an overpayment requiring a refund. Documents and cheques will be returned, and agents who stamp by way of return will receive one consolidated refund cheque
- Under the *Taxation Administration Act 1996*, it is an offence to give false or misleading information. You may also be liable to interest and/or penalty tax
- Please read the notes below before completing the declaration
- If you need more room, complete your answers on a separate sheet and attach to this form
- Print clearly in the boxed spaces and tick the appropriate box

Required evidence

All of the following evidence must be lodged with this application:

- the **original** refinancing mortgage for assessment and stamping (or reassessment and restamping if applying for a refund)
- a copy of the original stamped earlier mortgage
- a copy of the discharge of the earlier mortgage or a letter from the mortgagee confirming discharge
- payment of duty as calculated on page 4
- a copy of the new and earlier loan or facility agreement(s) will be required if the total amount secured under the refinancing (new) mortgage exceeds \$400 000
- if evidence provided indicates that the borrower(s) may have changed, further evidence as to the identity of the borrower(s) may be sought
- Any evidence required that is specified in section 9 of this form.

Explanatory notes

- 1 A **refinancing mortgage** is a mortgage that secures the amount of the balance outstanding under an earlier mortgage, that is discharged or to be discharged as part of the arrangements for the new mortgage, created to secure an advance to the same borrower, over the same, or substantially the same, property or part of it.
- 2 Mortgages are created to secure an **advance to the same borrower** if, whether directly by the mortgages themselves, or indirectly through one or more collateral arrangements, the same person obtains the advances secured by them.
- 3 A refinancing mortgage is taken to have been stamped with ad valorem duty as a mortgage in respect of the 'duty-free refinancing amount'. The **duty-free refinancing amount** is the lesser of the following amounts:
 - (a) the maximum amount payable under or secured by the earlier mortgage (being an amount in relation to which mortgage duty has been paid or in relation to which an exemption from duty has been obtained), or
 - (b) \$1 000 000.
- 4 In the case of a refinancing mortgage over **land used for primary production** or **land used for aquaculture**, the duty-free refinancing amount is the maximum amount payable under or secured by the earlier mortgage (being an amount in relation to which mortgage duty has been paid or in relation to which an exemption from duty has been obtained).

- 5 Land used for primary production means land used primarily for:
- (a) the cultivation of the land for the purpose of selling the produce of the cultivation, or
 - (b) the maintenance of animals or poultry on the land for the purpose of selling them or their natural increase or bodily produce, or
 - (c) the keeping of bees on the land for the purpose of selling their honey, or
 - (d) a commercial plant nursery, but not including a nursery at which the principal cultivation is the maintenance of plants pending their sale to the general public, or
 - (e) the propagation for sale of mushrooms, orchids or flowers.
- Land used for aquaculture means land subject to an aquaculture permit within the meaning of the *Fisheries Management Act 1994*.
- 6 A borrower is the 'same borrower' if it is a 'related body corporate' of a borrower under an earlier mortgage. Evidence (such as company searches) is required.
- 7 If an original borrower dies, the remaining borrower(s) are taken to be the same borrower. A copy of the death certificate should be lodged.
- 8 If an original borrower is a party to a marriage that has been dissolved or annulled or has broken down irretrievably, or is party to a de facto relationship that has been terminated, the remaining borrower(s) are taken to be the same borrower. Evidence of termination of the relationship is required, such as a copy of the decree nisi, or statutory declaration to the effect that:
- the party intends to apply for a dissolution or an annulment of the marriage, or
 - the parties to the marriage have separated, and there is no reasonable likelihood of cohabitation being resumed, or
 - the de facto relationship has been terminated.

Declaration

I,
of (Address)

do solemnly and sincerely declare as follows:

- 1 I am:
- the borrower or one of the borrowers under the refinancing mortgage(s)
 - the solicitor for the borrower(s) under the refinancing mortgage(s)
 - the lender or one of the lenders under the refinancing mortgage(s)
 - the solicitor for the lender(s) under the refinancing mortgage(s)
 - an authorised officer of a borrower or lender under the refinancing mortgage(s)
- 2 Each refinancing mortgage secures the amount of the balance outstanding under the earlier mortgage or mortgages created to secure an advance or advances to the **same borrower(s)**
 ➤ See notes 6, 7 and 8 in the explanatory notes for the definition of same borrower
- 3 All the earlier mortgages will be discharged after entering into the refinancing mortgage
- 4 The refinancing mortgages are over land used for primary production or aquaculture
OR
 The refinancing mortgages are **not** over land used for primary production or aquaculture
 ➤ See note 5 in the explanatory notes for the definitions of land used for primary production and land used for aquaculture
- 5 The maximum amount payable under or secured by the refinancing mortgage(s) is: \$
- 6 The maximum amount payable under or secured by the earlier mortgage(s) was: \$

7 Details of the earlier mortgages are:

Earlier mortgage 1

Date of mortgage / /
Mortgagor(s)
Borrower(s)
Mortgage property* (Street address)
Title details

Calculation of duty

If the earlier mortgages secured an amount not exceeding \$1 million dollars, or were over land used for primary production:

A the maximum amount payable under or secured by the refinancing mortgage(s) is:	\$
B the maximum amount payable under or secured by the earlier mortgage(s) was:	\$
C the assessable amount (deduct item B from item A) is*:	\$
D duty payable (at \$4 per \$1000 or part of \$1000 of item C)	\$

If the earlier mortgages secured an amount exceeding \$1 million dollars, and were **not** over land used for primary production:

A the maximum amount payable under or secured by the refinancing mortgage(s) is:	\$
B the duty free refinancing amount is:	\$ 1 000 000
C the assessable amount (deduct item B from item A) is*:	\$
D duty payable (at \$4 per \$1000 or part of \$1000 of item C)	\$

* Where B is greater than A this amount is \$0.

NOTES: Please pay the amount at item D

Different calculations of duty may apply in the case of mortgages affecting property both in and outside New South Wales, or if there is more than one refinancing of the earlier loan

PRIVACY STATEMENT

The information in this form is required by the Office of State Revenue (OSR) to determine whether or not you are eligible for an exemption from duty. The information may be disclosed to third parties with your consent or as required or permitted by law.

You may review and update personal information held by the OSR by contacting the Office.

CONTACT DETAILS

Phone: 1300 139 814* (Monday – Friday, 8.30 am – 5.00 pm)

Website: www.osr.nsw.gov.au

Email: duties@osr.nsw.gov.au

OFFICES	(8.30 am – 4.30 pm)
Parramatta	Lang Centre, cnr Hunter & Marsden Streets GPO Box 4042, Sydney NSW 2001 DX 456 Sydney Fax (02) 9689 8280
Sydney	Level 3, 55 Hunter Street (not a postal address – counter services only)
Newcastle	Level 2, 97 Scott Street PO Box 511, Newcastle 2300 DX 7860 Newcastle Fax (02) 4925 5300
Wollongong	Level 6, 90 Crown Street PO Box 666, Wollongong 2520 DX 5245 Wollongong Fax (02) 4253 1066

* Interstate clients call (02) 9689 6200.

Help in community languages is available.

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Important note:

Abolition of NSW Mortgage Duty

Duty on mortgages for owner occupied housing will be abolished on 1 September 2007.

Owner occupied housing

From 1 September 2007, mortgage duty will not be chargeable if the mortgage secures an advance or advances made for the purpose of **owner occupied housing** and no other advances. Borrowers must be natural persons.

Where the mortgagor is also a natural person, the mortgage can be registered without having to be stamped by OSR. This process has been agreed to after discussions with the Department of Lands.

Investment housing

From 1 July 2008, mortgage duty is not chargeable if the mortgage secures an advance or advances made for the purpose of **investment housing** and no other advances. Borrowers must be natural persons.

No duty will be payable on any advances made on or after 1 July 2009.

For more information about mortgage duty,
visit OSR's website www.osr.nsw.gov.au
or call our general duties enquiries number 1800 139 814



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