



## RELATED PARTY TRANSFERS INFORMATION SHEET

Related Party Transfers (RPT) are Transfers of Land where the present owner (Transferor) is related to the new owner (Transferee). The categories of relationship are very wide and include: parent and child; brother and sister and essentially any other family relation, whether biological or by marriage.

Our office is able to act for both the present owner and the new owner but is required to obtain from each party an acknowledgement that we are acting for both parties. We will render an account to the present owner for that part of the transaction that relates to work performed on behalf of the present owner and a separate account to the new owner for work performed on behalf of the new owner.

The State Revenue Office (SRO) takes a particular interest in RPTs as duty is payable on the value of the property transferred, irrespective of any amount that may be paid between the parties, and the SRO is concerned to ensure that the full value of the property is declared for the purpose of assessment of duty, which is usually many thousands of dollars, depending upon value.

### **Simple Transfer – no Discharge and no new Mortgage**

In its simplest form a RPT only needs a Transfer of Land to be signed by the parties and evidence of value to be provided to the SRO by way of a letter from an estate agent. The Transfer is assessed for duty, the duty paid and the Transfer lodged at the Land Titles Office (LTO) for registration.

In this scenario the present owner needs to be able to produce the Certificate of Title and the new owner needs to be able to produce the funds necessary to pay the Stamp Duty. The present owner provides the Certificate of Title to our office and we take the stamped Transfer and the Title to the LTO, the change of ownership is registered and a new Title in the name of the new owner issues to our office. We provide a copy of the Title to the new owner and hold the Title on safekeeping.



Our costs are:                   \$660 payable by the present owner

  \$660 payable by the new owner

plus normal disbursements relating to searches and lodging fees.

However, RPTs are rarely as simple as this scenario, which presupposes that the present owner has a clear Title without any mortgage and that the new owner has sufficient funds to pay the Stamp Duty.

### **Property Subject to Mortgage**

Generally the present owner has a mortgage over the property and the transaction is complicated by the involvement of that lender. Any change in ownership of land subject to a mortgage generally requires the existing mortgage to be discharged and therefore the present owner must be sure that he/she is able to pay out the existing mortgage so as to gain access to the Title for the purposes of the Transfer. If so, we assist the present owner in arranging this discharge to facilitate the registration of the Transfer.

Our additional costs are:           \$660 payable by the present owner

### **Adding Another Owner**

If the Transfer is designed to ADD another owner to the Title, the existing lender might be prepared to allow the existing arrangements to stay in place, but will require the present owner and new owner to sign new mortgage documents. This will result in delay and additional expense and takes control of the transaction out of our hands and into the hands of the lender. We will still prepare the Transfer and have it assessed for Stamp Duty, but finalisation of the process will depend upon the lender.

Our additional costs are:           \$660 payable by the new owner



### **Transfer to New Owner with new Mortgage**

If the Transfer is designed to REPLACE the present owner with the new owner then any existing mortgage will definitely have to be discharged. We assist the present owner with arranging discharge and we also liaise with the new owner's lender to arrange for registration of the Transfer into the new owner's name.

However a complication will often arise as Stamp Duty (which may be many thousands of dollars) is assessed for payment before funds become available from the new lender and the new lender often refuses to advance the funds necessary to pay Stamp Duty at this stage. This can be resolved by the new owner having sufficient funds to pay the Duty, or the lender agreeing to accept the Stamp Duty assessment and pay the Duty from loan funds after settlement.

Our additional costs are:           **\$660 payable by the new owner**

Different lenders have different policies and regrettably, because these are unusual transactions, lenders often do not have staff available who understand the complications. This is also true in relation to mortgage brokers. Our experience is that brokers promise that these are "simple" transactions whereas they are very complicated.

In summary, if the transaction involves the present owner discharging an existing mortgage and the new owner entering into a new mortgage our costs will be:

**\$1,320 payable by the present owner; and**

**\$1,320 payable by the new owner**

Note: Stamp Duty and Land Titles Office fees are in addition to the above costs and depend upon the value of the land.

At the conclusion of the transaction we advise the Council and Water Authority of the change of ownership but the parties must arrange transfer of gas, electricity and telephone services personally.



## **Stamp Duty Concessions and First Home Owner Benefits**

There are various stamp duty concessions available to home buyers and the First Home Owners Grant is still available in respect of new homes. These concessions and grants are administered by the SRO, which takes the view that concessions and grants are only payable to new owners who have paid FULL VALUE for the property.

SRO requires any Related Party Purchaser to prove by production of bank statements that the full value of the property has been paid by the new owner to the present owner. As a result the transaction must be COMPLETED before these applications can be lodged with SRO and accordingly the new owner must be able to fund the stamp duty, either by loan or savings.

If the new owner in a RPT has not paid FULL value for the property then the new owner will not be eligible for any concessions or benefits.

Payment of full value may be achieved by the new owner entering into a LOAN AGREEMENT with the present owner for the difference between the full value and the amount paid by the new owner to the present owner. However it is still necessary to produce bank statements showing actual payment and the LOAN AGREEMENT simply records the debt due by the new owner to the present owner.

We can prepare these documents, if required, at an additional cost of \$660

It is not possible to obtain pre-approval of a Principal Place of Residence Concession, a First Home Buyer Stamp Duty Concession or First Home Owner Grant (new homes only) in relation to a RPT. The SRO requires production of the registered Transfer of Land as part of the Concession application and so the transaction must be completed before the application can be made.

We can prepare these documents, if required, at an additional cost of \$660