



## Can I transfer property to someone as a gift?

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The short answer is yes you can.

The issue is generally stamp duty and capital gains tax implications.

If you are a couple, either de-facto or married, and you transfer property as a gift and it is your primary place of residence then you are generally not subject to stamp duty or capital gains tax.

However, if you transfer property to someone other than a spouse or de-facto (or if you are a couple/de-facto and the property is not the primary place of residence; for example it is an investment property) then the transfer of the property will attract stamp duty pursuant the *Stamp Duties Act 1923 (SA)*. The person receiving the gift of the property will have to pay this stamp duty.

The stamp duty payable on the transfer will be charged *ad valorem*, which means that it will be charged based on the market value of the interest transferred. So the amount of the stamp duty payable will depend on the value of the property.

Capital gains tax may be an issue for the person 'gifting' the property.

In our opinion an agreement should be drawn up regarding the transfer of property for no consideration (that is, no payment).

The Andersons Commercial team can assist both with the Transfer of Title of property and any agreement that needs to be prepared between parties.

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