



COMMISSIONER'S PRACTICE TAA 13.0

VALUATION OF LIFE INTERESTS, REMAINDER INTERESTS AND RIGHTS TO RESIDE FOR STAMP DUTY PURPOSES

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
TAA 13.0	23 December 2003	23 December 2003	24 November 2005

This Commissioner's practice outlines the assessment practice for ascertaining the value of life interests, remainder interests or rights to reside for stamp duty purposes.

Background

Section 21 of the *Taxation Administration Act 2003* ("TAA") gives the Commissioner the power to require the taxpayer to provide information in his or her possession or control that is relevant for ascertaining the value of any property, consideration or benefit for the purposes of a taxation Act.

Section 22 of the TAA gives the Commissioner the power to have a valuation made or adopt any available appropriate valuation of any property, consideration or benefit for the purposes of a taxation Act.

In general, the *Stamp Act 1921* ("Stamp Act") charges duty on every conveyance of property, right or interest in property. A conveyance chargeable with duty under the Stamp Act may involve the conveyance of property that is itself or is subject to:

- an interest for life ("life interest");
- an interest in remainder ("remainder interest"); or
- a personal non-assignable right to reside for life or some other period not amounting to a life interest in the freehold estate ("right to reside").

Superseded

Commissioner's Practice

1. In order to determine the value of the property or the lesser estate or interest being conveyed, the discount rate of 6% from the latest Australian Life Tables as published by the Australian Government Actuary is to be utilised.

Life and remainder interests

2. Where a life interest or a remainder interest in real property is conveyed, the Valuer General or other expert valuer will be requested to value both the realty, and the life or remainder interest in the realty.
3. The relevant valuer is to be provided with the date of birth, general health, occupation and normal place of residence of the person or persons in whom the interest resides and other details as set out in Stamp Duty Information Requirement 1.30 (if deemed necessary).
4. However, where a life interest or a remainder interest in real and other property is being conveyed, a valuation of the life or remainder interest is to be made by reference to the life tables after obtaining a valuation from the valuer for the realty.

Right to reside

5. Where realty being conveyed is subject to a right to reside, details of the right to reside should be referred to the valuer when requesting a valuation of the property.
6. A copy of the relevant instrument is to be forwarded to the valuer together with the information set out in Stamp Duty Information Requirement 1.30.
7. In instances where it is considered that a right to reside has been created for the purpose of reducing the value of the realty, the life tenancy shall be disregarded as provided for under section 33 of the Stamp Act.

Date of Effect

This Commissioner's practice takes effect from 23 December 2003.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

23 December 2003