



Valuation of Life Interests and Remainder Interests for Duties and Stamp Duty Purposes

This Commissioner's practice outlines how the Commissioner will ascertain the value of life and remainder interests in land for duties and stamp duty purposes.

Background

Taxation Administration Act

Under section 21 of the *Taxation Administration Act 2003* ('TAA'), the Commissioner may require a taxpayer to provide a written valuation by a *qualified valuer*¹ of any property, consideration or benefit, together with any documents or other records in the taxpayer's possession or control relevant to determining the value of the property, consideration or benefit.

Under section 21(2A) of the TAA, the Commissioner may require that a valuation, document or other record be provided in an electronic format, and that a valuation provided by the taxpayer include or be accompanied by copies of any models and details of any methods and assumptions that were relied upon in order to arrive at the valuation.

Section 22 of the TAA provides that, regardless of whether the Commissioner has required the taxpayer to provide a valuation or whether the taxpayer has complied with such a requirement, the Commissioner may:

- (a) have a valuation made of any property, consideration or benefit; or
- (b) adopt any available valuation of the property, consideration or benefit that the Commissioner considers appropriate.

Application of other practices

When the Commissioner obtains a valuation under this practice, the Commissioner will generally not require the taxpayer to also provide a written valuation by a qualified valuer.

Commissioner's Practice TAA 23 'Circumstances When a Taxpayer will be Required to Provide a Written Valuation' outlines the circumstances in which the Commissioner will require a taxpayer to provide a written valuation for transfer duty or landholder duty purposes.

¹ A *qualified valuer* is defined in the TAA as meaning a person licensed or registered under the *Land Valuers Licensing Act 1978* or a corresponding Act in another State or Territory, or a person who the Commissioner is satisfied is suitably qualified or experienced to provide a valuation.

Duties Act

Under the Duties Act, transfer duty is charged on, amongst other things, a *dutiable transaction* involving *dutiable property*, *new dutiable property* or *special dutiable property*. *Dutiable transaction* is defined in section 11 of the Duties Act to include:

- (a) a transfer of, or agreement for the transfer of, *dutiable property*;
- (b) an acquisition of *new dutiable property*, on its creation, grant or issue;
- (c) a surrender of *special dutiable property*.

Dutiable property and *new dutiable property* are defined respectively in sections 15 and 17 of the Duties Act to include land in Western Australia. *Special dutiable property* is defined in section 18 of the Duties Act to include a life interest in land and a remainder interest in land.

Land is defined in section 3 of the Duties Act to include any estate or interest in land.

A person may hold a personal non-assignable right to reside for life, or some other period, on a property which includes a residence. A right to reside is not an interest in land, a life interest or a right for the purposes of the Duties Act. As such, the grant or surrender of a right to reside is not a dutiable transaction under the Duties Act.

Commissioner's Practice

1. Duties Information Requirement 'Valuation of Life and Remainder Interests' sets out the information a taxpayer must provide for valuation purposes.
2. The appropriate duties land valuation form and the information referred to in paragraph 1 must be provided for a transaction that involves a life or remainder interest in land.
3. The Commissioner will refer the valuation form and supporting evidence to the Valuer General for the land to be valued. Alternatively, the Commissioner may elect to refer the matter to another qualified valuer for valuation.
4. The values of life and remainder interests will generally be determined by applying the Australian Life Tables² to the value of the land. In certain circumstances, for example where evidence is provided to support a claim that the holder of a life interest is in poor health, the Valuer General may be requested to value the interest directly.

Copies of relevant forms and publications are available on the website at wa.gov.au

² The Australian Life Tables are available on the Australian Government Actuary website at www.aga.gov.au

Date of Effect

This Commissioner's practice takes effect from 14 February 2014.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

14 February 2014

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
TAA 13.1	25 November 2005	25 November 2005	30 June 2008
TAA 13.2	1 July 2008	1 July 2008	13 February 2014
TAA 13.3	14 February 2014	14 February 2014	23 June 2022

SUPERSEDED