



## **Dutiable Value of a Partnership Acquisition**

This Commissioner's practice sets out how consideration provided for a partnership acquisition will be allocated to the dutiable property held by the partnership.

### **Background**

Section 10 of the *Duties Act 2008* (Duties Act) imposes duty on dutiable transactions. Section 11 provides that a dutiable transaction includes a partnership acquisition.

Further provisions relating to the imposition of transfer duty on partnership acquisitions are contained in Chapter 2 Part 5 Division 4 of the Duties Act.

Section 70 of the Duties Act provides that, for the purposes of Chapter 2 Division 4 (other than section 78), dutiable property means each of the following:

- (a) land in Western Australia
- (b) a chattel in Western Australia
- (c) a fixed infrastructure control right
- (d) a fixed infrastructure access right
- (e) a fixed infrastructure statutory licence or
- (f) a derivative mining right.

Section 72 of the Duties Act provides that a reference to a partnership acquisition is to a person acquiring a partnership interest in a partnership that holds:

- (a) land in Western Australia or
- (b) a fixed infrastructure control right or
- (c) a fixed infrastructure access right or
- (d) a derivative mining right or
- (e) an indirect interest in property referred to in this paragraph.

Under section 75 of the Duties Act, a person acquires a partnership interest if a partnership is formed or the person's partnership interest increases.

Section 76 of the Duties Act provides that the dutiable value of a partnership acquisition is the consideration for the acquisition so far as it relates to the dutiable property held directly or indirectly by the partnership, or the unencumbered value of the partnership interest if:

- (a) there is no consideration
- (b) the consideration is unascertainable when liability for duty on the transaction arises or
- (c) the value of the partnership interest is greater than the consideration.

In accordance with section 205X of the Duties Act, a reference to a residential partnership acquisition is to a foreign person acquiring a partnership interest in a partnership that holds residential property or an indirect interest in residential property.

## Commissioner's Practice

1. If the consideration for a partnership acquisition does not specify the amount allocated to the dutiable property of the partnership, the Commissioner will allocate to dutiable property the same percentage of the consideration that is the percentage the dutiable property bears to the whole of the partnership's property.

For example, the dutiable property of a partnership comprises 75 per cent of the whole of the property of a partnership. A person pays consideration of \$100,000 for an acquisition in that partnership. In the absence of any allocation of the consideration between dutiable and non-dutiable property, the Commissioner would allocate \$75,000 to the dutiable property. Duty will be charged on that sum or the unencumbered value of the partnership interest if it is greater than \$75,000.

2. If a foreign person acquires an interest in a partnership that holds residential property or an indirect interest in residential property, foreign transfer duty will be applied to the greater of the apportioned consideration or the unencumbered value of the residential property.

For example, if 50 per cent of the dutiable property in the example above is residential property, foreign transfer duty will be calculated on \$37,500 or the unencumbered value of the residential dutiable property if it is greater than \$37,500.

## Date of Effect

This Commissioner's practice takes effect from 17 June 2019.

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COMMISSIONER OF STATE REVENUE

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## Document History

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