



Partnership Acquisitions

Sections 70 – 78 of the *Duties Act 2008*

As at 1 July 2008

Introduction

The *Duties Act 2008* ('Duties Act') imposes transfer duty on dutiable transactions. A dutiable transaction includes a partnership acquisition. A partnership acquisition occurs when a person acquires an interest in a partnership that either owns land in Western Australia or has an indirect interest in land in Western Australia. If the partnership does not own land, then a partnership acquisition in that partnership will not be subject to transfer duty.

Specific provisions have been included in the Duties Act to determine the dutiable value of a partnership acquisition. However, when calculating the dutiable value, the dutiable property of a partnership is restricted to the land and chattels owned either directly or indirectly by the partnership. If the partnership owns other property, such as business assets, the value of this property is not included in the dutiable value of the dutiable transaction.

Acquiring a partnership interest

A person acquires a partnership interest either if a partnership is formed (which may be the creation of the partnership or a change in the membership of the partnership), or the person's partnership interest increases.

Dutiable value of a partnership acquisition

The dutiable value of a partnership acquisition is the greater of the consideration paid for the acquisition so far as it relates to the dutiable property of the partnership, and the value of the partnership interest.

As noted above, for the purposes of a partnership acquisition, the dutiable property of a partnership is only the land and chattels held by the partnership.

Partnership interest

A partner's partnership interest is expressed as a percentage and is the greater of the percentage of the capital of the partnership that the partner has contributed and the percentage of the losses of the partnership that the partner is required to bear.

For example, if a partner had contributed capital of \$20,000 out of a total partnership capital of \$40,000, that partner's partnership interest is 50%.

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Value of a partnership interest

The value of a partnership interest is an amount determined by applying the partner's partnership interest to the total unencumbered value of the land and chattels owned directly and indirectly by the partnership.

For example, if a partnership owned land and chattels valued at \$1.5 million and business assets valued at \$500,000, and a person had a partnership interest of 50%, the value of their partnership interest would be \$750,000 (being 50% of the value of the land and chattels of the partnership with no regard being had to the value of the business assets of the partnership).

Calculation of Duty

New Partnership

The dutiable value of a partnership acquisition on the creation of a partnership is the greater of the consideration for the transaction or the value of the partner's interest in the partnership. However, the value of any land or chattels contributed by a partner is disregarded in calculating the value of their interest.

Change in Membership of a Partnership

When a new partnership is formed due to the change in membership of an old partnership, the dutiable value of the partnership acquisition by any new partner is the greater of the consideration for the transaction and the value of their partnership interest (not including the value of any land or chattels contributed by that partner on joining). The dutiable value of any increase in a continuing partner's interest is the greater of the consideration for the transaction and the value of the increase in their interest.

Change in Interest in a Partnership

Where the same partners are continuing in partnership, but their interest is changing, the dutiable value of the partnership acquisition will be the greater of the consideration for the transaction and the value of the increase in the partner's interest.

Transfer to Retiring Member

Where dutiable property is transferred to a member of a partnership on their retirement from, or on dissolution of, that partnership, the dutiable value of that transfer is reduced by an amount calculated by applying the percentage of that partner's partnership interest to the unencumbered value of the dutiable property immediately prior to their retirement. If the retirement of the partner results in an increase in any remaining partner's partnership interest, then duty will be charged on the greater of the consideration for the transaction and the value of the increase in the partner's interest.

Examples of duty calculation

New Partnership

A and B enter into a partnership agreement. A contributes land worth \$500,000, while B contributes \$500,000 in cash. No duty is charged on A's partnership acquisition, as the value of their contribution of land is disregarded in calculating their interest.

The dutiable value of B's partnership acquisition is calculated as follows:

- B holds a 50% interest in the partnership (contributed 50% of the capital to the partnership)
- The value of land and chattels held by the partnership is \$500,000
- The value of B's interest is therefore 50% of \$500,000, being \$250,000
- B's partnership acquisition will be charged with duty on a dutiable value of \$250,000

Change in Membership of a Partnership

A and B are partners in a partnership with land and chattels valued at \$1 million. Each has a 50% interest in the partnership. B sells their interest in the partnership to A and C, such that A has a 60% interest in the partnership and C has a 40% interest. A pays consideration of \$100,000 and C pays consideration of \$400,000.

The dutiable value of C's partnership acquisition is calculated as follows:

- C holds a 40% partnership interest
- The value of land and chattels held by the partnership is \$1 million
- The value of C's interest is therefore 40% of \$1 million, being \$400,000
- The value of C's interest is the same as the consideration paid for the transaction
- C's partnership acquisition will be charged with duty on a dutiable value of \$400,000

The dutiable value of A's partnership acquisition is calculated as follows:

- A's partnership interest has increased from 50% to 60%
- The value of land and chattels held by the partnership is \$1 million
- The value of A's interest is 10% (the increase in A's interest) of \$1 million, being \$100,000
- The value of A's interest is the same as the consideration paid for the transaction
- A's partnership acquisition will be charged with duty on a dutiable value of \$100,000

Transfer to retiring member

A, B and C are in partnership in equal shares. The partnership owns a parcel of land valued at \$600,000, and another parcel of land valued at \$1.2 million. C retires from the partnership. On retirement, A and B transfer the land valued at \$600,000 from the partnership to C. The dutiable value of the transfer is calculated as follows:

- Immediately prior to retiring, C held a one third interest in the partnership
- The value of the land transferred is \$600,000
- The dutiable value of the transfer is reduced by one third of \$600,000, being \$200,000
- The transfer to C will be charged with duty on a dutiable value of \$400,000

As a result of C retiring from the partnership, the partnership interest of A and B has increased to 50% each. The dutiable value of A's partnership acquisition is calculated as follows:

- A's partnership interest has increased from one third to 50%
- The value of land and chattels held by the partnership is \$1.2 million
- The value of A's interest is 16.67% (the increase in A's interest) of \$1.2 million, being \$200,000
- A's partnership acquisition will be charged with duty on a dutiable value of \$200,000

The dutiable value of B's partnership acquisition will be calculated in the same manner.

Partnerships that own farming land

There is an exemption available for certain partnership acquisitions that are between family members. For further information, please refer to the [Duties Fact Sheet 'Exempt Family Farm Transactions –Transfer Duty'](#).

Lodging Requirements

Any person making a partnership acquisition must lodge the instrument that effects or evidences the acquisition (usually the partnership agreement) or a transfer duty statement with the Office of State Revenue within two (2) months of the acquisition.

Contact the Office of State Revenue

Office	200 St Georges Terrace PERTH WA 6000	Telephone	(08) 9262 1100 1300 368 364 (WA country STD callers only – local call charge)
Postal	Office of State Revenue GPO Box T1600 PERTH WA 6845	Web Enquiry Website	www.osr.wa.gov.au/DutiesEnquiry www.osr.wa.gov.au

Note: The information contained in this DUTIES FACT SHEET is issued for guidance purposes only. It is not an exhaustive explanation of the provisions of the *Duties Act 2008* and reference should be made to the Act for complete details.