



COMMISSIONER'S PRACTICE TAA 13.2

VALUATION OF LIFE INTERESTS, REMAINDER INTERESTS AND RIGHTS TO RESIDE FOR STAMP DUTY AND DUTIES 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
TAA 13.1	25 November 2005	25 November 2005	30 June 2008
TAA 13.2	1 July 2008	1 July 2008	13 February 2014

This Commissioner's practice outlines the practice for ascertaining the value of life and remainder interests in land, and rights to reside, for stamp duty and duties purposes.

Stamp duty valuations will be made for all *Stamp Act 1921* liabilities that arise on or before 30 June 2008. Duties valuations will be made for all *Duties Act 2008* ("Duties Act") liabilities that arise on or after 1 July 2008.

Background

Taxation Administration Act

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 determining 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 of, or adopt any available appropriate valuation of, any property, consideration or benefit for the purposes of a taxation Act.

Duties Act

Pursuant to section 36 of the Duties Act, the unencumbered value of property is determined without regard to any scheme or arrangement that results in a reduction of the value of the property and for which a dominant purpose was, in the opinion of the Commissioner, the reduction of the value of the property.

Dutiable property, as defined in section 15 of the Duties Act, includes land in Western Australia and certain rights that are listed in section 16 of the Duties Act. Land includes any estate or interest in land. The dutiable transactions relating to dutiable property that are subject to transfer duty are set out in section 11 of the Duties Act.

Special dutiable property, as defined in section 18 of the Duties Act, includes life and remainder interests in land. A surrender of special dutiable property is a dutiable transaction, pursuant to section 11 of the Duties Act.

A person may hold a personal non-assignable right to reside on a property which includes a residence, for life or some other period. Such a right is neither an interest in land, a life interest nor a right for the purposes of section 16. However, the existence of the right may have the effect of reducing the value of the property.

Stamp 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.

Commissioner's Practice

Life and remainder interests

1. Where a life interest or a remainder interest in land is conveyed or the subject of a dutiable transaction, a valuation of the interest will be required.
2. Stamp Duty or Duties Valuation Forms (City, Town and Suburban Land, or Country Land) provide a means for information relating to land to be provided to the Commissioner for valuation purposes. These forms are available at www.osr.wa.gov.au.
3. The information set out in Stamp Duties Information Requirement 1.22 "Valuations of Life and Remainder Interests" for stamp duty matters or Duties Information Requirement 23 "Valuation of Life and Remainder Interests" for duties matters should also be provided.
4. The stamp duty or duties valuation form, together with any other information provided, will be referred to the Valuer General to enable valuation of the land. Alternatively, the Commissioner may elect to refer the matter to other expert valuers.

5. As a general rule, the values of life and remainder interests will be determined by utilising the Australian Life Tables published by the Australian Government Actuary applied to the value of the land. In certain circumstances, eg. where the holder of a life interest is in poor health, the Valuer General may be requested to value such interest directly.

Land subject to a right to reside

6. Where land being transferred is subject to a right to reside, full details of the right, including any documents relating to the establishment of the right, are to be provided. Subject to paragraph 7 below, the existence of the right to reside will be taken into consideration when determining the unencumbered value of the land.
7. Where, in the opinion of the Commissioner, the right to reside is a scheme or arrangement for which a dominant purpose was the reduction of the value of the land, the right will be disregarded when determining the unencumbered value of the land.

Date of Effect

This Commissioner's practice takes effect from 1 July 2008.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

1 July 2008