

Document Class:	CONVEYANCE - LAND
Document Name:	For Consideration
Document Description:	Creation of Life Estate
Document Code:	CL

Introduction

This guide note explains how stamp duty is calculated on a conveyance of land that is subject to the reservation of a life estate on it to the transferor, for a consideration. The transferee obtains absolute title to the land, which is subject to the transferor's life, this is called a remainder estate.

You will need to indicate whether the land is used as **residential** or **non-residential**. For further advice on this refer to the [Stamp Duty Guide Glossary](#).

The following similar transactions cannot be stamped under this document heading:

If the transferees are purchasing the land (or a fractional interest in the land) from a **third** party and creating the life estate in the transfer - refer to the document heading:

- [Conveyance of Land – For Consideration – Conveyance of Land](#) (CL).

What documents can I stamp under this document heading?

The document can be in the form of:

- a LTO Form T1 - Memorandum of Transfer of Land; or
- any other document that evidences the creation of a life estate for a consideration.

What types of transactions can I stamp under this document heading?

A conveyance of land with a reservation of a life estate on the transferor and which creates a remainder estate on the transferee is deemed **suitable** for self-stamping under this document heading where:

- there is a consideration passing between the parties;
- the person becoming the life tenant is a registered proprietor of the land immediately prior to this transfer.

What stamp duty is payable on this document?

The stamp duty is charged using the *ad valorem* voluntary conveyance rate of stamp duty on either the **consideration** or **value of the remainder estate** WHICHEVER IS THE GREATER. You will need to obtain evidence of the market value of the land. For example:

- valuation from a suitably qualified valuer; or
- evidence of the current Valuer General's value for the land (eg. a copy of the relevant Property Assist print-out).

If the transfer conveys a fractional interest in the land then the same rule applies based on the market value of the fractional interest.

A valuation from an Actuary will be accepted as the evidence of the market value of the remainder estate. If no Actuarial valuation exists, the following steps should be taken to calculate the value of the remainder estate:

1. Refer to Commissioner's [Circular Number 224](#) to obtain the "life tenant factor" of the life tenant. You will need to know the date of birth of the life tenant to determine their age as at the date of the transfer. The age, in years, must be rounded to the nearest birthday. For example, a person aged 75 years and 7 months would be regarded as 76 years of age, whereas a person aged 75 years and 3 months would be regarded as 75 years of age.

Where there is more than one life tenant, the "life tenant factor" used will be that of the youngest life tenant.

2. Multiply the life tenant factor by the market value of the land on which the subject life estate is being created, to calculate the value of the life estate.

Note: a different life tenant factor applies to males and females.

3. Subtract this figure from the market value of the land to calculate the value of the remainder estate.

Note: the life estate plus the remainder estate must equal the total market value of the land being transferred.

What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation:

- a copy of the stamped document;
- evidence of the date of birth of the life tenant;
- evidence of the market value of the land as at the date of conveyance;
- a copy of the Actuarial valuation (if applicable); and

- a copy of the contract for sale and purchase (if applicable).

Example 1 – Reserving a Life Estate and Creating a Remainder Estate

Pam, aged 76 and 7 months, is the sole registered proprietor of land valued at \$185,000. Pam has decided to transfer this land to her son, Fred for a consideration of \$80,000, subject to a reservation of life estate on it for her.

Referring to Commissioner's [Circular No. 224](#) - Pam's life tenant factor is calculated as a female aged 77 years ie. her life tenant factor is 0.38603.

The value of the life estate is $\$185,000 \times 0.38603 = \$71,415$.

Therefore, the value of the remainder estate is $\$185,000 - \$71,415 = \$113,585$.

The stamp duty is charged on either the **consideration** or **value of the remainder estate**, WHICHEVER IS THE GREATER. The stamp duty is charged on the value of the remainder estate (\$113,585) as this is **greater** than the consideration (\$80,000), therefore, \$3,374 stamp duty applies.

What section of the SD Act applies?

Section 60