

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

Introduction

This guide note explains how stamp duty is calculated on a conveyance of land where the life tenant surrenders their life estate to the remainder person for a consideration.

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](#).

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 surrender of a life estate for a consideration.

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

A conveyance that constitutes a surrender of a life estate in land to the remainder person is deemed **suitable** for self-stamping under this document heading where:

- there is a consideration passing between the parties.

What stamp duty is payable on this document?

The stamp duty is calculated using the *ad valorem* voluntary conveyance rate of stamp duty on either the **consideration** or **value of the life 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).

A valuation from an Actuary will be accepted as evidence of the market value of the surrendered life estate. If no Actuarial valuation exists, then the following steps must be taken to calculate the value of the life 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 conveyed to calculate the value of the life estate.

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

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

Example 1 – Surrendering a Life Estate to the Remainder Person

The Certificate of Title states “Pam as an estate of freehold for her life and Bob as an estate in fee simple in remainder expectant upon the determination of the life estate of Pam”.

Pam has decided to sell her life estate in this land to Bob for a consideration of \$50,000.

The market value of the land is \$185,000.

At the date of transfer Pam (the life tenant) is aged 76 years and 7 months.

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 $\$185,000 \times 0.38603 = \$71,415$.

The stamp duty is calculated on either the **consideration** or **value of the life estate**, **WHICHEVER IS THE GREATER**. In this example, the stamp duty is calculated on the value of the life estate (\$71,415) as this is **greater** than the consideration (\$50,000) therefore, \$1,832.50 stamp duty applies.

What section of the SD Act applies?

Section 60