

Document Type:	Conveyance of Land
Document Name:	Creation of Life Estate

## Introduction

This Document Guide Note explains how stamp duty is calculated on a conveyance of [residential land](#) or [primary production land](#) that is subject to the reservation of a life estate to the transferor. The new transferee is noted on the title to the land, which is subject to the transferor's life estate, and this interest is referred to as 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

[Document Guide](#) Page.

The following similar transactions cannot be self-determined under this document type:

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 type:

[Conveyance of Land | Residential Land/Primary Production Land](#)

## Foreign Ownership Surcharge (FOS)

Foreign persons who acquire an interest in **residential** property in South Australia are required to pay a [Foreign Ownership Surcharge](#) of 7% on the value of the **residential land**.

## What documents can I self-determine under this document type?

The document can be in the form of:

- a LTO Form T1 - Transfer; or
- any other document that evidences the creation of a life estate on residential land or primary production land.

## What types of transactions can I self-determine under this document type?

A conveyance of residential land or primary production land with a reservation of a life estate of the transferor and which creates a remainder estate is deemed **suitable** for self-determination under this document type where:

- the person acquiring the life estate is the registered proprietor of the land immediately prior to the transfer.

A conveyance of qualifying land that is subject to the reservation of a life estate on it to the transferor, must be **submitted to the Commissioner for assessment**.

## What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- a copy of the documents;
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or 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).

## What Section(s) of the *Stamp Duties Act 1923* applies?

- Section 60

## 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.

If the transfer is for no consideration, stamp duty is calculated on the **value of the remainder estate**.

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 (e.g. a copy of the relevant SAILIS 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 [Revenue Ruling SDA011](#) 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 three 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.

## Example

### Reserving a Life Estate and Creating a Remainder Estate

Pam, aged 76 and 7 months, is the sole registered proprietor of residential 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 a life estate to her.

Referring to [Revenue Ruling SDA011](#) - Pam's life tenant factor is calculated as a female aged 77 years i.e. her life tenant factor is 0.41814.

The value of the life estate is  $\$185\,000 \times 0.41814 = \$77\,355.90$ .

Therefore, the value of the remainder estate is  $\$185\,000 - \$77\,355.90 = \$107\,644.10$ .

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 (\$107 644.10) as this is greater than the consideration (\$80 000), therefore, \$3138 stamp duty applies.

## Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019
4	April - 2022 added text related to Foreign Ownership Surcharge.  Hyperlinks updated - April 2022

