

Document Type:	Conveyance of Land
Document Name:	Surrender of Remainder Estate

Introduction

This Document Guide Note explains how stamp duty is calculated on a conveyance of land of [residential land](#) or [primary production land](#) where the transferor surrenders a remainder estate to the life tenant.

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.

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:

- LTO Form T1 - Transfer; or
- any other document that evidences the surrender of a remainder estate on residential land or primary production land for **no** consideration.

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

A conveyance of residential land or primary production land that surrenders a remainder estate to the life tenant is deemed suitable for self-determination under this document type where there is consideration or no consideration passing between the parties.

A conveyance of qualifying land, that surrenders the life estate, 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; and
- a copy of the Actuarial valuation (if applicable).

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

- Section 60
- Section 71(3)(b)

What stamp duty is payable on this document?

The stamp duty is calculated on either the **consideration** or **value of the remainder estate**, WHICHEVER IS THE GREATER, using the *ad valorem* conveyance rate of stamp duty.

If the transfer is for no consideration, stamp duty is calculated on the **value of the remainder estate**. This value must be declared on the Transfer.

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 SALLIS print-out).

If you have a valuation from an Actuary the Commissioner will accept this value as evidence of the market value of the 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 [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 remainder estate is being conveyed 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

Surrendering a Remainder Estate to the Life Tenant

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*".

Bob has decided to sell his remainder estate in this residential land to Pam 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 [Revenue Ruling SDA011](#) - Pam's life tenant factor is calculated as a female aged 77 years i.e. her life tenant factor is 0.38603.

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 calculated on either the **consideration** or **value of the remainder estate**, WHICHEVER IS THE GREATER. In this example, the stamp duty is calculated on the value of the remainder estate (\$107 644.10) as this is **greater** than the consideration (i.e. \$3138 stamp duty).

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