

Document Type:	Conveyance of Land
Document Name:	Surrender of Life 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 life tenant surrenders their life estate to the remainder person.

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 life estate on residential land or primary production land.

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

A conveyance that constitutes a surrender of a life estate in residential land or primary production land to the remainder person is deemed **suitable** for self-determination under this document type where there is a 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;
- a copy of the Actuarial valuation (if applicable); and/or
- a copy of the contract for sale and purchase (if applicable).

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

- Section 60
- Section 71(1)

What stamp duty is payable on this document?

For Consideration

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.

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

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 [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 conveyed to calculate the value of the life estate.

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

Examples

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 residential 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 [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 $\$185\,000 \times 0.41814 = \$77\,355.90$.

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 (\$77 355.90) as this is **greater** than the consideration (\$50 000) therefore, \$2039 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