



## COMMISSIONER'S PRACTICE TAA 12.0

### STAMP DUTY - VALUATION OF PROPERTY FOR ASSESSMENT PURPOSES - SPECIALIST BUSINESSES

#### Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
TAA 12.0	29 October 2003	29 October 2003	Current

This Commissioner's practice addresses the valuation of specialist businesses, where the right to trade depends on the business owning specific licences. The valuation of real property and goodwill are the subject of separate Commissioner's practices.

#### Background

Section 21 of the *Taxation Administration Act 2003* ("TAA") gives the Commissioner the power to require taxpayers to provide information in their possession or control that is relevant for ascertaining the value of any property, consideration or benefit for the purposes of a taxation Act.

Section 22 of the TAA gives the Commissioner the power to have a valuation made or adopt any available appropriate valuation of any property, consideration or benefit for the purposes of a taxation Act.

Section 75(2) of the *Stamp Act 1921* ("Stamp Act") authorises the Commissioner to assess duty based on the unencumbered value of the property, where that value exceeds the consideration payable.

Some specialised businesses require a government licence to be able to trade and the value of the business will often depend on the number of licences the business owns, or the conditions attached to the licence. For example:

aged care facilities are licensed for the number of beds they may operate and the level of care provided to each bed;

hotels, restaurants and retail liquor outlets are licensed in respect to their opening hours and the conditions relating to the sale of liquor.

## Commissioner's Practice

### Circumstances when valuations are required

1. An appropriate stamp duty valuation form (city town and suburban land or country land) and other evidence (outlined below) is required in respect of a transaction where:
  - 1.1. the parties who are related or not otherwise dealing at 'arms length'. This includes but is not limited to;
    - 1.1.1 parties who are related by blood or marriage;
    - 1.1.2 companies associated through common ownership of a significant portion of voting capital or common director(s);
    - 1.1.3 partners in a partnership;
    - 1.1.4 joint venture participants;
    - 1.1.5 trusts with common beneficiaries; and
    - 1.1.6 entities with other significant business relationships;
  - 1.2. the consideration paid for the property does not appear to be adequate;
  - 1.3. the allocation of the consideration appears to be heavily weighted to non-dutiable items; or
  - 1.4. any other matter exists where the Commissioner considers a valuation would be appropriate.

### Additional information and documents required

2. The following information and documents will be required to assist in the valuation of the business:
  - 2.1. allocation of the total purchase consideration to the various assets purchased (i.e. goodwill, licence, realty, plant & equipment, stock etc.);
  - 2.2. the share or interest being sold;
  - 2.3. the type of property being sold, that is;
    - 2.3.1. freehold;
    - 2.3.2. freehold and business;
    - 2.3.3. leasehold or business only;

- 2.4. where the business is operated through a leasehold arrangement, details of the current actual rent payable by the tenant;
  - 2.5. complete financial accounts for the three years ending at the 30 June preceding the date of sale and details of any material changes to the assets or liabilities of the business between the 30 June preceding the sale and the date of sale;
  - 2.6. where the transaction relates to licensed premises, detailed, current trading accounts showing the sales of liquor and other products;
  - 2.7. details of any conditions attached to the licence, for example trading hours, service levels etc.
3. The request for completion of a valuation form and other evidence is to make specific reference to the information being required, in accordance with the provisions of section 21 of the TAA.
  4. The valuation form, the evidence, copies of the relevant documents and correspondence are to be referred to the Valuer General or other expert valuer for valuation. The Valuer General or other expert valuer is to b