

Reduction in Consideration

This Commissioner's practice provides guidance on how the Commissioner will assess or reassess the duty payable on a transaction if the consideration was reduced after the agreement was entered into.

Background

If the consideration under an agreement to transfer dutiable property is reduced after the agreement is entered into but before the property is transferred, section 31(1) of the Duties Act 2008 (Duties Act) allows the Commissioner to assess or reassess duty on the reduced consideration if:

- (a) the reduced consideration is not less than the unencumbered value of the dutiable property when the consideration was reduced or
- (b) the consideration is reduced because the parties have agreed not to transfer some of the dutiable property previously agreed to be transferred and the reduced consideration is not less than the unencumbered value of the remaining dutiable property that is to be transferred.

Otherwise, section 31(1) provides for the Commissioner to have a valuation made of dutiable

- 1.3 the total unencumbered value of the dutiable property at the date the consideration was reduced does not exceed \$2 million and the taxpayer has a valuation from a qualified valuer as set out in Commissioner's Practice TAA 30 'Valuation of Land for Duties Purposes' .
2. A valuation is not required if Goods and Service Tax (GST) was included in the purchase price, but the parties have reduced the purchase price by an amount equal to the GST because :
 - 2.1 the transaction is a supply of a going concern
 - 2.2 the transaction relates to the purchase of existing residential property or
 - 2.3 an ATO ruling provides that GST does not apply to the transaction.

Examples – Valuation not required

Example 1

Example – Valuation required

Eve entered into a contract for sale on 1 December 20 23 to purchase a home from Khan for consideration of \$750,000. The terms of the contract specified settlement was to occur by 31 January 20 24, and was conditional upon Eve being approved for finance and accepting an offer for the sale of her home for consideration of \$500,000 by 15 January 20 24.

On 10 January 20 24, Eve accepted an offer for the sale of her home for \$485,000. As Eve was

Commissioner's Practice history

Commissioner's Practice	Issued	Dates of effect	
		From	To
DA 28.0	12 November 2010	12 November 2010	31 May 2012
DA 28.1	1 June 2012	1 June 2012	7 May 2015
DA 28.2	8 May 2015	8 May 2015	31 October 2016
DA 28.3	1 November 2016	1 November 2016	10 November 2024
DA 28.4	11 November 2024	11 November 2024	Current