

This Commissioner's practice outlines the circumstances in which the Commissioner will obtain a valuation for the purpose of making a duties assessment of residential land, commercial land or pastoral leasehold land.

Information regarding valuation of mining tenements is detailed in Commissioner's Practice [DA 42 'Certain Transactions Involving Mining Tenements'](#).

This Commissioner's practice does not apply where the taxpayer is required to provide completed duties valuation forms under Commissioner's Practices [TAA 13 'Valuation of Life Interests and Remainder Interests for Duties and Stamp Duty Purposes'](#) or [DA 22 'Easements'](#).

Under section 3A of the *Duties Act 2008* (Duties Act), *land* includes an estate or interest in land, a pastoral lease, and an interest of a pastoral lessee under a pastoral lease. It also includes anything fixed to land,<sup>1</sup> or an estate or interest in a thing fixed to land, whether or not the thing:<sup>2</sup>

- constitutes a fixture at law or

- is owned separately from the land or



Section 36(5) of the Duties Act provides that when determining the unencumbered value of property that is land:

Commissioner's Practice [DA 28 'Reduction in Consideration'](#) includes the valuation requirements when an assessment or reassessment is required on an agreement to transfer dutiable property for which the consideration was reduced to remove an amount attributed to GST.

1. For the purposes of this practice, parties that are related or not otherwise dealing at arm's length include:
  - 1.1 parties related by blood or marriage
  - 1.2 parties related by prior business relationship
  - 1.3 related companies, as defined in the *Corporations Act 2001*
  - 1.4 partners in a partnership
  - 1.5 participants in the same joint venture
  - 1.6 trustees of trusts which have common beneficiaries
  - 1.7 joint owners of property or
  - 1.8 entities with other significant business relationships.
  
2. In *Spencer's Case*,<sup>9</sup> the Court held that the value of property is required to be determined by reference to the price at which a willing but not anxious vendor would sell the property to a willing but not anxious purchaser on the assumption that both parties have all relevant information pertaining to the property.
  
3. The Commissioner considers the purchase price will usually provide the best evidence of the value of property where the parties to a transaction or an acquisition are dealing at arm's length and the other tests in *Spencer's Case* are satisfied.
  
4. In *Commissioner of State Revenue v Hazel Holdings Pty Ltd*,<sup>10</sup> the Court of Appeal confirmed that to determine the dutiable value of land under section 36(4) of the Duties Act, the ordinary principles of valuation set out in *Spencer's Case* apply and that this price is to be assessed having regard to the highest and best use of the land.

6.

12. A valuation made by a qualified valuer will usually be accepted for the purposes of paragraph 10 if:
  - 12.1 the valuation was made within three months of the date of the transaction, irrespective of the date the valuation report is issued
  - 12.2 the valuer has carried out a physical inspection of the property and
  - 12.3 the Commissioner receives written advice from the taxpayer confirming that no improvements have been made to the land since the valuation was conducted.
13. A written valuation provided by the taxpayer will be referred to a qualified valuer if the Commissioner considers for any reason that the valuation requires independent review. If the qualified valuer increases the value of the property, the Commissioner will determine if further action is appropriate.
14. Pastoral leasehold land may be valued on the basis of:
  - 14.1 'walk in walk out', which includes the pastoral leases, improvements, livestock, plant and equipment, and chattels held or used in connection with the farming business or
  - 14.2 the value of the lease and improvements only.

*When a valuation is required*

15. Form FDA33 ['Duties Valuation – Pastoral Land'](#) must be used to provide the Commissioner with relevant information for valuation purposes.
16. Circumstances in which the valuation form and any other evidence to support the value of the pastoral leasehold land must be provided for a transaction include where:
  - 16.1 the parties are related or not otherwise dealing at arm's length or
  - 16.2 there is no consideration paid for the property, or the consideration appears to be inadequate or is unascertainable.
17. The Commissioner will refer the valuation form or electronic request, and any supporting evidence provided under this practice to a qualified valuer for the residential land, commercial land or pastoral leasehold land to be valued.

This Commissioner's practice takes effect from 11 November 2024.

Chris McMahon  
COMMISSIONER OF STATE REVENUE

11 November 2024

TAA 8.8	14 February 2014	14 February 2014	13 March 2015
TAA 9.2	14 February 2014	14 February 2014	13 March 2015
TAA 10.2	14 February 2014	14 February 2014	13 March 2015
TAA 30.0	13 March 2015	13 March 2015	29 February 2016
TAA 30.1	1 March 2016	1 March 2016	25 May 2017