



COMMISSIONER'S PRACTICE DA 7.0

DUTIES – DUTIABLE TRANSACTIONS RELATING TO SAND, STANDING TIMBER AND GROWING CROPS

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
DA 7.0	1 July 2008	1 July 2008	3 January 2016

This Commissioner's practice provides clarification on the transfer duty chargeable in respect of dutiable transactions relating to sand (*in situ*), standing timber or growing crops.

Background

The *Duties Act 2008* ("Duties Act") charges transfer duty on dutiable transactions that involve dutiable property. Section 15 of the Duties Act includes land in Western Australia as dutiable property. Section 3 of the Duties Act defines land as including any estate or interest in land, and anything that is part of land as a fixture.

Growing crops can be categorised as either *fructus naturales* (the fruit of nature) or *fructus industriales* (the fruit of industry).

- *Fructus naturales* are crops or produce of the soil, which are usually grown naturally. The term includes any perennial plant, (such as trees and including their fruit, if any), shrubs and grasses. Specific examples include standing timber trees, nut trees, cherry trees, grapevines, rose bushes, hops and meadow hay.
- *Fructus industriales* are crops or produce of the soil that are the result of labour in sowing the seed, planting or cultivation. They are crops produced "in the year by the labour of the year" in their sowing, planting, reaping and gathering. The main examples are generally cereal crops, such as wheat and corn, and potatoes.

Commissioner's Practice

Dutiable transactions relating to sand

1. Sand *in situ* (i.e. unsevered from the land) is considered to be an interest in land and a dutiable transaction relating to sand *in situ* is chargeable with transfer duty.
2. Where an agreement for transfer relating to land contains a covenant that sand is to be removed from the land prior to the land being transferred, and a specified sum is expressed as consideration for the sand, that part of the consideration that is allocated to the sand does not form part of the dutiable value of the transaction.

Dutiable transactions relating to standing timber

3. Standing timber (whether plantation, such as a pine plantation, or natural forest) is considered to be an interest in land and a dutiable transaction relating to standing timber is chargeable with transfer duty.
4. Where an agreement for transfer provides that standing timber is to be cut down and removed from the land prior to the land being transferred, and a specified sum is expressed as consideration for the timber, that part of the consideration that is allocated to the timber does not form part of the dutiable value of the transaction.

Dutiable transactions relating to growing crops

5. In determining whether a particular growing crop is an interest in land, the principles of *fructus naturales* or *fructus industriales* will generally be considered.
6. Where crops are categorised as *fructus naturales*, they are considered to be an interest in land and a dutiable transaction relating to such crops is chargeable with transfer duty.
7. Where crops are categorised as *fructus industriales*, they are not considered to be an interest in land and are not chargeable with duty.

Date of Effect

This Commissioner's practice takes effect from 1 July 2008.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

1 July 2008