Government of **Western Australia**
Department of **Finance**
Office of State Revenue

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COMMISSIONER'S PRACTICE
TAA 22.0

VALUATION OF BUSINESS ASSETS FOR STAMP DUTY AND DUTIES PURPOSES

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
TAA 22.0	1 May 2009	1 July 2008	13 February 2014

This Commissioner's practice outlines the circumstances when business assets will be valued by the Commissioner for stamp duty and duties assessment purposes.

The Commissioner may have a valuation made for any *Stamp Act 1921* ("Stamp Act") liabilities that arose on or before 30 June 2008 and for any *Duties Act 2008* ("Duties Act") liabilities that arose on or after 1 July 2008.

Background

Taxation Administration Act

Section 21 of the *Taxation Administration Act 2003* ("TAA") gives the Commissioner the power to require a taxpayer to provide any information in his or her possession or control that is relevant to determining the value of any property, consideration or benefit.

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.

Duties Act

Section 15 of the Duties Act defines dutiable property to include a Western Australian business asset. Section 79 of the Duties Act defines a Western Australian business asset as a business asset of a Western Australian business. A Western Australian business is then defined to include one that, in the year preceding a transaction, has been carried on in or from Western Australia, or supplied commodities or provided services to customers in Western Australia. Section 79 of the Duties Act defines a business asset as including the goodwill of a business, a business identity and a business licence.

Sections 85 and 86 of the Duties Act each provide a formula for calculating the dutiable value of a dutiable transaction for a business asset, depending upon whether the head office or principal place of business of the Western Australian business is located in Western Australia or elsewhere.

Stamp Act

Section 74C of the Stamp Act applies if a business asset of a business is acquired and, at any time in the year preceding the acquisition, the business has been carried on in or from Western Australia or supplied commodities or provided services to customers in Western Australia. Where the section applies, the business asset is regarded as property and the acquisition is chargeable with stamp duty. Section 74C of the Stamp Act defines a business asset as including the goodwill of a business, a business identity and a business licence.

Subsections (8) and (9) of section 74C of the Stamp Act each provide a formula for calculating the dutiable amount, depending upon whether the head office or principal place of business of the business is located in Western Australia or elsewhere.

Commissioner's Practice

1. Business assets may be valued by the Commissioner in respect of a dutiable transaction or acquisition where:

   1.1 the parties are related or not otherwise dealing at 'arm's length'. This includes but is not limited to:

      1.1.1 parties related by blood or marriage;

      1.1.2 related companies, as defined in the *Corporations Act 2001*;

      1.1.3 partners in a partnership;

      1.1.4 participants in the same joint venture;

      1.1.5 trustees of trusts which have common beneficiaries;

      1.1.6 joint owners of property; and

      1.1.7 entities with other significant business relationships.

   1.2 there is no consideration for the business asset, or the consideration appears to be inadequate or is unascertainable; or

   1.3 any other circumstance where the Commissioner considers a valuation would be appropriate.

2. In all cases:

   2.1 relating to stamp duty matters, the information set out in Stamp Duty Information Requirements (1.1) “Sale of Business WA Operation Only”, (1.2) “Sale of Business (Operating in WA and Elsewhere)” or (1.13) “Statutory Licences” is to be provided; or

   2.2 relating to duties matters, the information set out in Duties Information Requirements (1) “Dutiable Transaction Involving a Business (WA Operation Only)”, (2) “Dutiable Transaction Involving a Business (Operating in WA and Elsewhere)” or (3) “Business Licences” is to be provided.

3. There are a number of methods that may be used to value business assets. The method chosen by the Commissioner will depend on the circumstances of the transaction or acquisition and will be guided by, but not limited to, common industry practice for valuing goodwill or other business assets for that type of business. For convenience, this Commissioner’s practice will refer to the sale of a business, however, as noted above, the Commissioner may value or revalue goodwill in a number of different circumstances.

   The methods are:

   3.1 *Arbitrary valuation of business assets*

   Where the Commissioner has accepted (or revalued) the consideration for the sale of a business, and accepted (or revalued) the value of the underlying tangible assets.

   The value of all intangible assets, including goodwill and other business assets, is the excess of the consideration paid over the value of the underlying tangible assets.

   3.2 *Super-profits method*

   The amount calculated represents the goodwill of the business. This method will commonly be used for trading businesses and is based on:

   - average profits of the business calculated over a three to five year period;
   - where proprietors’ salaries are not reflected in the accounts, an allowance is made based on current industry norms;
   - an allowance is made for the implicit interest charge on capital contributed by the proprietor/retained earnings at the current benchmark interest rate used by the Australian Taxation Office (www.ato.gov.au); and
   - the adjusted average profits for the business are multiplied by a factor to be determined by the Commissioner. The value of this multiple may be based on common industry practice for the sale

of similar businesses. Between one and three years adjusted average profits is the usual multiple, although other circumstances such as monopoly or guaranteed markets may increase this multiple.

3.3 *Gross earnings*

This is based on the current gross revenue of the business, and goodwill is based on an uplifting or discounting of these earnings. The uplift or discount factor may be based on:

- information collected when the Commissioner assesses other similar transactions;
- advice from experts referred by industry groups, e.g. when determining the value of goodwill on the sale of an accountancy practice, the Commissioner may consult with experts from the leading accounting industry bodies;
- advice from the Valuer General; or
- other experts as engaged by the Commissioner.

3.4 *Non-financial measures*

The Commissioner may determine the value of business assets by reference to the business's output or quantifiable inputs, e.g. number of licensed beds in an aged care facility.

3.5 *External experts*

The Commissioner may refer any matter to the Valuer General to enable valuation of the business assets. Alternatively, the Commissioner may elect to refer the matter to other expert valuers.

Date of Effect

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

Bill Sullivan
COMMISSIONER OF STATE REVENUE

1 May 2009