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# Department of Finance

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## Complex Transactions

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## Landholder Duty

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Landholder duty is charged on certain acquisitions of an interest in a *landholder*.

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A *landholder* is any corporation or unit trust scheme that has an entitlement, either directly or through a linked entity, to land in Western Australia with an unencumbered value of \$2 million or more.

An acquisition is subject to landholder duty if it is an acquisition of a *significant interest* which is:

- a 50% or greater interest in a landholder that is not on the official list of a prescribed financial market; or
- a 90% or greater interest in a landholder that is on the official list of a prescribed financial market.

An acquisition is also subject to landholder duty where a person who has a significant interest acquires a further interest.

Landholder duty is assessed at the general rate of duty on the value of the acquirer's interest in the landholder immediately after the acquisition. The acquirer's interest is based on the value of the landholder, which includes all land and chattels held by the landholder or any linked entities. For further information about linked entities see section 156 of the *Duties Act 2008* and Commissioner's Practice DA 41 '[Landholder Duty - Extent of Interest in Discretionary Trust](#)'.

## Related Persons

Acquisitions in a landholder may be aggregated for assessment purposes when the interests are acquired by related persons.

For further information about the treatment of related persons, including when acquisitions between related persons will be charged with duty, please refer to Commissioner's Practice [DA 2 'Landholder Duty - Related Persons and Commissioner's Discretion'](#), Revenue Ruling [DA 9 'Landholder Duty – Meaning of Entitlement'](#) sets out how the Commissioner treats interests in a landholder held by trustees.



## Lodgment

A person who is liable for landholder duty must lodge completed form FDA22 '[Landholder Acquisition Statement or Determination of Liability](#)' within two months after the acquisition occurs and provide the information in Item 6.1 of the [Duties Information Requirements](#).

Under the Duties Act, an acquisition occurs:

- when the interest is acquired; or
- if there is an agreement for the making of an acquisition, when the agreement is made.

Where a person has a significant interest in a landholder and will regularly be acquiring further interests, the person may lodge form FDA20 '[Application to Lodge Periodical Statements: Landholder Acquisition](#)'.

NOTE: A landholder acquisition statement must be lodged if there is an agreement for a landholder acquisition. If only the agreement is lodged, penalty tax for late lodgment may apply when the acquisition statement is subsequently lodged.

## Valuation

Landholder transactions usually require valuation before an assessment can be issued. In some cases the Commissioner of State Revenue will ask the Valuer General to provide a valuation of land (including mining tenements). For more complex transactions, the Commissioner will

usually ask the taxpayer to provide a written valuation of land.

For further information about the valuation of land see Commissioner's Practice TAA 30 ['Valuation of Land for Duties Purposes'](#) and Commissioner's Practice TAA 23 ['Circumstances When a Taxpayer will be Required to Provide a Written Valuation'](#).

## Exemptions

Some landholder acquisitions are exempt from duty:

Transfer of shares in a family farming corporation – Duties Fact Sheet ['Exempt Family Farm Transactions – Landholder Duty'](#)

[Acquisitions for charitable purposes](#)

Landholder acquisitions between [connected entities](#)

## Additional Information

For further information see:

Chapter 3 of the *Duties Act 2008*

Duties Fact Sheet ['Landholder Duty'](#)

[How to pay an assessment](#)

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## Connected Entities Exemptions

### Exempt Transactions

*Relevant transactions* between related corporations or unit trust schemes are exempt from duty. A relevant transaction is:

a *relevant reconstruction transaction* – certain dutiable transactions or the acquisition of an interest in a landholder between members of a family; or

a *relevant consolidation transaction* – the formation of a new *family* by inserting a new head entity between an entity and the shareholders or unit holders of that entity.

For the purposes of this exemption, a *family* consists of a parent entity and its subsidiary entities. To be a subsidiary entity, the parent entity must hold 90% of the securities of that entity and control 90% of the votes at a general meeting of that entity.

The Commissioner must be notified of certain events that occur after a connected entities exemption is granted using form FDA23 ['Notice of Notifiable Event: Relevant Consolidation and Reconstruction Transactions'](#).

In some circumstances, the Commissioner may revoke a connected entities exemption. For information about revocation see Commissioner's Practice [DA 21 'Revocation of Connected Entities Exemption'](#)

## Pre-Transaction Decisions

A person proposing to enter into a transaction may ask the Commissioner to determine:

whether a connected entities exemption would be granted if the transaction was entered into;

if a connected entities exemption would be granted if the transaction was entered into, whether the Commissioner would revoke the exemption; and

if another transaction is entered into, whether the Commissioner would revoke a previously granted exemption for a relevant transaction.

## Lodgment

An application for a pre-transaction decision or an application for exemption must be made using the approved form:

FDA24 ['Relevant Consolidation Transaction'](#)

FDA25 ['Relevant Reconstruction Transaction'](#)

FDA26 ['Pre-Transaction Decision Request: Revocation of Exemption for Relevant Transaction'](#)

An application for exemption must be lodged within 12 months after the relevant transaction.

## Additional information

For more information, see:

Duties Fact Sheet ['Duty Exemption – Entity Restructuring'](#)

Revenue Ruling DA 19 'Connected Entities Exemptions'

Chapter 6 of the *Duties Act 2008*

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## Mining Transactions

Transactions involving mining tenements are liable for [transfer duty](#) when transferred directly and may be liable for [landholder duty](#) when transferred indirectly (for example, shares are transferred in a company that owns mining tenements).



### Valuation

Transactions involving mining tenements will require valuation in certain circumstances, for example where:

- the parties are not at arm's length;
- the consideration includes a royalty; or
- there is an allocation to mining information or mining goodwill.

In some cases the Commissioner will ask the Valuer General to provide a valuation of mining tenements. For more complex transactions, the Commissioner will usually require the taxpayer to provide a written valuation of the mining tenements.

For further information about the valuation of mining tenements see Commissioner's Practice TAA 30 '[Valuation of Land for Duties Purposes](#)' and Commissioner's Practice TAA 23 '[Circumstances When a Taxpayer will be Required to Provide a Written Valuation](#)'.

### Farm-in agreements

A duties concession applies to mining transactions that meet the definition of *farm-in agreement*. A farm-in agreement is a transaction under which:

- a person (the farminee) can acquire an interest in a mining tenement after spending an amount on exploration and development of the tenement; and
- the exploration amount is specified in the agreement; and
- the farminee's interest will be held together with the owner of a mining tenement, for instance, a person cannot earn a 100% interest under a farm-in agreement.

If there is no consideration for the farm-in agreement, nominal duty of \$20 will apply. If there is consideration for the farm-in agreement, for example, the farminee reimburses the owner for past exploration and development costs, duty will be assessed at the general rate on the amount of consideration. Consideration does not include the exploration amount specified in the agreement. Once the farminee has spent the agreed exploration amount and earned the interest in the tenement, the transfer of the interest in the tenement will be assessed for no double duty.

For further information about farm-in agreements see section 13 of the Duties Act.

### Lodgment and payment

Transactions involving the transfer of mining tenements, including farm-in agreements, must be lodged within two months after the transaction and be accompanied by the information set out in Item 7.2 of the [Duties Information Requirements](#) where applicable. Payment of duty is required:

- for an agreement conditional on obtaining consent under the *Mining Act 1978* or a mining tenement transaction requiring lodgment with the Department of Mines and Petroleum – within 12 months after the transaction; and
- for all other transactions – within one month after the assessment notice is issued.

Mining transactions may be assessed at a local courthouse if they meet the following conditions:

- the mining tenement transfer form is the only document for the transaction (for instance, there is no contract for sale or heads of agreement, etc.);
- the consideration for the acquisition is cash only and does not include any other payment such as shares or royalties;
- the parties to the transaction are not related;
- the transaction does not include chattels, plant and equipment, mining information, synergies or goodwill; and
- the transaction is not the grant of an option or a farm-in agreement.

A form FDA22 '[Landholder Acquisition Statement or Determination of Liability](#)' for a landholder transaction involving mining tenements must be lodged within two months after the acquisition occurs. Duty is payable within one month after the assessment notice is issued.

## Additional information

For further information see:

[How to request an urgent assessment](#)

[How to pay an assessment](#)

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