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## PART 3 VALUATION

### Overview

This Part contains provisions relating to the valuation of property for the purposes of stamp duties. Valuations are required, for example—

- in the case of voluntary dispositions inter vivos (***sections 30*** and ***54***) and exchanges (***section 37***),
- in the case of transfers, or certain agreements, made in contemplation of sale (***sections 33*** and ***34***),
- where the consideration consists of stock or securities (***section 40***), and
- where the consideration is unascertainable (***sections 44*** and ***55***).

When shares in unquoted companies are to be valued a completed form SD 4 should be submitted to the Revenue Commissioners.

### Section 18 Mode of valuing property

This section provides that the value of property conveyed or transferred is to be determined without reference to—

(a) any power whereby the property or any part of it or any interest in it may be revested in the disponer or in any other person on the disponer's behalf;

(b) any annuity, life or other interest reserved out of the property provided that the annuity, etc., is subject to forfeiture. In other words, any interest that ceases on the person entitled to the interest doing or failing to do a certain thing;

(c) any right of residence, support, maintenance or other right of a similar nature. However, if the right is reserved in favour of the transferor or the spouse of the transferor then that right may be taken into account but only to the extent that its value does not exceed 10% of the unencumbered value of the property.

**Example**

A transfers the family farm to his daughter. He reserves a right of residence, support and maintenance for himself in the family home. The unencumbered value of the farm is €200,000. The right of residence, support and maintenance is valued at €50,000 i.e. 25% of the unencumbered value of the farm. In determining the value of the farm for the purposes of levying stamp duty on the transfer the value of the right of residence will be restricted to €20,000.

If the power referred to in ***paragraph (a)*** is in fact exercised *and* the property has been reconveyed or retransferred as a result of that exercise, the Revenue Commissioners will repay the stamp duty paid. While this section provides that a claim for a refund must be made within 6 years after the making or execution of the conveyance or transfer, the 6 year time limit has been changed (see ***section 159A***) to 4 years from the date the conveyance or transfer was stamped by the Revenue Commissioners, for a valid claim for refund other than a valid claim made on or before 31 December 2004 in respect of a refund claim arising on or before 25 March 2003 (i.e. the date of the passing of the Finance Act 2003). The claim for refund must be accompanied by the original stamped conveyance or transfer. Interest may arise on the refund – see ***section 159B***. Of course, the power may be exercised after the time-limit permitted for refund has expired (if the instruments so permit) but the stamp duty will not be refunded in such cases.

**Section 19 Valuation of property chargeable with stamp duty**

This section provides that when property has to be valued by the Revenue Commissioners the provisions of section 26 of the Capital Acquisitions Tax Consolidation Act 2003, apply. Section 26 of that Act provides that the market value of any property is regarded as "the price which, in the opinion of the [Revenue] Commissioners, such property would fetch if sold in the open market on the date on which the property is to be valued in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property". The Revenue Commissioners are empowered to ascertain the market value of any property. This normally involves using the services of the Valuation Office when the property comprises land. Where the property comprises shares in an unquoted company a completed form SD 4 should be submitted to the Revenue Commissioners.