

Contents	Page
What this ruling is about	1
Ruling and explanation	2
Date of effect	2
References	3

Public Ruling Duties Act:

LANDHOLDER DUTY—DUTIABLE VALUE OF RELEVANT ACQUISITION IN A PRIVATE LANDHOLDER

A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this ruling is about

- Chapter 3, part 1 of the *Duties Act 2001* (Duties Act) imposes landholder duty on relevant acquisitions of a private landholder¹ or public landholder².
- A landholder is an entity that has land-holdings in Queensland with an unencumbered value of \$2,000,000 or more.³
- A person makes a relevant acquisition if:
 - the person acquires a significant interest⁴ in a landholder or
 - the person acquires an interest⁵ in a landholder and when the following are aggregated, the aggregation results in a significant interest in the landholder:
 - interests held by the person in the landholder
 - interests acquired or held by related persons of the person in the landholder or
 - having acquired a significant interest in the landholder under paragraph (a) or (b), for which acquisition landholder duty was imposed, the person's interest in the landholder increases.⁶

¹ Defined in s.165A(1) of the Duties Act

² Defined in s.165A(2) of the Duties Act

³ Section 165 of the Duties Act

⁴ Defined in s.159(2) of the Duties Act

⁵ Defined in s.159(1) of the Duties Act

⁶ Section 158 of the Duties Act

4. Section 179 of the Duties Act sets out how to work out the dutiable value of a relevant acquisition in a private landholder. Generally, under subsection (1), the dutiable value of a relevant acquisition in a private landholder is the interest in, or total of interests in, the landholder constituting the relevant acquisition, less any excluded interest of the person at the time of the acquisition, multiplied by the unencumbered value of all Queensland landholdings of the landholder at the time of the acquisition.⁷ Subsection (4) provides that for applying subsection (1) to a relevant acquisition, the interest mentioned in s.409(2) of the Duties Act must be disregarded.
5. Section 409 of the Duties Act provides a corporate reconstruction exemption from landholder duty. Subsection (1) sets out particular circumstances in which the exemption will apply. Subsection (2) specifies additional circumstances in which the exemption also applies. Subsection (3) provides the exemption from landholder duty and specifies the interest that receives the benefit of the exemption.
6. It has been identified that s.179(4) of the Duties Act incorrectly cross-references s.409(2) of the Duties Act. The appropriate cross-reference is to s.409(3), which is the provision that exempts the interest acquired under s.409(1) and (2) from landholder duty.
7. On 22 August 2017 an administrative arrangement was approved, pending legislative amendment, to enable the Duties Act to be administered on the basis that the cross-reference to s.409(2) in s.179(4) is instead a cross-reference to s.409(3).
8. This public ruling sets out the terms of the administrative arrangement.⁸

Ruling and explanation

9. For dutiable transactions where liability for landholder duty arises on or after 22 August 2017, s.179(4) of the Duties Act will be administered on the basis the cross-reference to s.409(2) of the Duties Act is instead a cross-reference to s.409(3).

Date of effect

10. This public ruling takes effect from the date of issue.

Elizabeth Goli
Commissioner of State Revenue
Date of issue: 7 September 2017

⁷ Section 179(1) of the Duties Act

⁸ This is consistent with authorities such as *Lindner v Wright* (1976) 14 ALR 105; *Envy Trading v Queensland* [1998] 1 Qd R 413 at 417 per Davies JA and McKenzie J, with whom McPherson JA agreed at 418; *Creer; The Estate of Peters* [2007] NSWSC 1291 at [5]; *Dome Resources NL v Silver* [2008] NSWCA 322; (2008) 72 NSWLR 693 at [32] per Basten and Bell JJA, with whom Beazley JA agreed at [1].

References

Public Ruling	Issued	Dates of effect	
		From	To
DA179.1.1	7 September 2017	7 September 2017	11 November 2018

Superseded