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Public Ruling Duties Act:

EXEMPTION FOR DECEASED PERSON'S ESTATE—EXTENSION TO STATUTORY VESTINGS PURSUANT TO SECTION 45 OF THE *SUCCESSION ACT 1981*

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

1. The *Duties Act 2001* (Duties Act) imposes transfer duty on the dutiable value of dutiable transactions.¹ Dutiable transactions are listed in s.9 of the Duties Act. A vesting of dutiable property by, or expressly authorised by, statute law of Queensland or another jurisdiction (statutory vesting) is a dutiable transaction.²
2. Section 45 of the *Succession Act 1981* (Succession Act) provides that property to which a deceased person was entitled, for an interest not ceasing on their death, shall devolve to and vest in that person's executor or the public trustee. Upon the court granting probate of a will or letters of administration of the estate, the property will thereafter devolve to and vest in the person to whom the grant, or any subsequent grant, is made. Where the property includes dutiable property, the Duties Act can apply to make these vestings liable for transfer duty.
3. Section 124 of the Duties Act provides an exemption from transfer duty for a dutiable transaction that is:
 - (a) a transfer, or agreement for the transfer, of dutiable property to the extent that it gives effect to a distribution in the estate of a deceased person
 - (b) the creation of a trust of dutiable property to the extent that it gives effect to a distribution in the estate of a deceased person
 - (c) a transfer, or agreement for the transfer, of dutiable property to the extent that it gives effect to a court order under part 4 of the Succession Act.

¹ Section 8 of the Duties Act

² Section 9(1)(d)(i) of the Duties Act

4. A statutory vesting is not a transaction to which s.124 currently applies.
5. On 3 April 2017 an administrative arrangement was approved, pending legislative amendment, to enable the exemption in s.124 to apply to a dutiable transaction that is a vesting of dutiable property pursuant to s.45 of the Succession Act, to the extent that the vesting gives effect to a distribution in the estate of a deceased person.
6. This public ruling sets out the terms of the administrative arrangement.

Ruling and explanation

7. From 3 April 2017, the exemption in s.124 of the Duties Act applies to a dutiable transaction that is a vesting of dutiable property pursuant to s.45 of the Succession Act, to the extent that the vesting gives effect to a distribution in the estate of a deceased person.

Date of effect

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

Elizabeth Goli
 Commissioner of State Revenue
 Date of issue: 12 February 2018

References

Public Ruling	Issued	Dates of effect	
		From	To
DA124.3.1	12 February 2018	12 February 2018	18 December 2019