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## Public Ruling Duties Act:

### EXTENSION OF CONCESSION FOR DUTIABLE TRANSACTIONS FOR FAMILY BUSINESSES OF PRIMARY PRODUCTION

*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<sup>1</sup>, unless an exemption or concession applies. Dutiable transactions are listed in s.9 of the Duties Act.
2. Chapter 2, part 10 of the Duties Act includes a concession for transfer duty on particular dutiable transactions for dutiable property used to carry on particular family businesses of primary production (the concession).
3. Subject to certain conditions<sup>2</sup>, the concession applies to particular dutiable transactions<sup>3</sup> provided the business property to which the transaction relates is used to carry on a primary production business.<sup>4</sup> For the purpose of the concession, 'business property' means land used to carry on a business of primary production or personal property used to carry on the business on the land.<sup>5</sup>
4. Where the concession applies, the dutiable value of the business property to which the transaction relates is taken to be nil.<sup>6</sup> Additionally, if the dutiable property the subject of the dutiable transaction includes residential land adjacent to land used to carry on the business, the dutiable value of the residential land is taken to be nil.<sup>7</sup>

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<sup>1</sup> Section 8 of the Duties Act  
<sup>2</sup> See chapter 2, part 10 of the Duties Act  
<sup>3</sup> Section 97 of the Duties Act  
<sup>4</sup> Section 105(1) of the Duties Act  
<sup>5</sup> Schedule 6 of the Duties Act  
<sup>6</sup> Section 105(2) of the Duties Act  
<sup>7</sup> Section 105(3) of the Duties Act

5. The definition of business property encompasses only land and personal property. Other types of dutiable property that may be used to carry on a primary production business are not covered by the concession.
6. Business property is also referred to in s.123 and s.173 of the Duties Act, as these sections cross-reference the concession.
7. On 12 October 2016 an administrative arrangement was approved, pending legislative amendment, to enable the Duties Act to be administered on the basis that a reference to business property in particular circumstances is taken to be a reference to dutiable property.<sup>8</sup> This extends the application of the concession to any dutiable property used to carry on a primary production business. All other conditions of the concession will continue to apply.
8. This public ruling sets out the terms of the administrative arrangement.

## Ruling and explanation

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9. For transactions entered into on or after 12 October 2016:
  - (a) the concession is to be administered on the basis that a reference to business property in chapter 2, part 10 of the Duties Act, to the extent that it may be used in the context of a primary production business, is taken to be a reference to dutiable property  
and
  - (b) s.123 and s.173 of the Duties Act are to be administered on the basis that a reference to business property, to the extent that it may be used in the context of a primary production business, is taken to be a reference to dutiable property.
10. All other conditions of the concession apply.
11. All other conditions of s.123 and s.173 of the Duties Act apply.

## Date of effect

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

Elizabeth Goli  
 Commissioner of State Revenue  
 Date of issue: 20 December 2016

## References

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Public Ruling	Issued	Dates of effect	
		From	To
DA105.3.1	20 December 2016	20 December 2016	11 November 2018

<sup>8</sup> Dutiable property would include, for example, certain water entitlements under the *Water Act 2000*.