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Public Ruling Duties Act:

INCLUSION OF CHATTELS IN THE ACQUISITION OF A HOME OR FIRST HOME

A Public Ruling, when issued, is the published view of 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, subsidy or exemption, as the case may be, in accordance with the law.

What this Ruling is about

Transactions involving chattels

1. Chapter 2 of the *Duties Act 2001* (the Duties Act) imposes transfer duty on dutiable transactions.
2. The term dutiable transaction is defined in s.9(1) of the Duties Act. It includes, among other things:
 - (a) a transfer of dutiable property
 - (b) an agreement for the transfer of dutiable property, whether conditional or not.
3. Section 10 of the Duties Act defines dutiable property to include chattels in Queensland.
4. Section 9(1) of the Duties Act is subject to s.29.
5. Section 29 of the Duties Act provides that if a chattel in Queensland is the subject of a transaction, the transaction is not a dutiable transaction unless:
 - (a) another type of dutiable property is the subject of the same transaction; or
 - (b) under section 30¹, it is aggregated with a dutiable transaction that is not for a chattel.

¹ Section 30 deals with aggregation of dutiable transactions

Concession for home or first home

6. Chapter 2, Part 9 of the Duties Act provides for concessions for transfer duty for a dutiable transaction that is the transfer, or agreement for the transfer, of a home, first home or land on which a first home is to be constructed.
7. In order for the concession for a home or first home to apply, the transfer or agreement for the transfer must relate to, amongst other things, residential land.
8. Section 86A of the Duties Act defines residential land as land, or the part of land, on which a residence is constructed, and includes the curtilage attributable to the residence if the curtilage is used for residential purposes.
9. Chattels may be acquired in conjunction with an acquisition of a home or first home, either under the same agreement or separate agreement.
10. The purpose of this Public Ruling is to outline when chattels will be deemed to form part of the acquisition of a home or first home (and, therefore, residential land) and attract the benefit of the concession.

Ruling and explanation

11. The value of chattels will be deemed to be part of residential land where:
 - (a) the overall transaction includes chattels (regardless of whether the subject of a separate agreement) and
 - (b) the use of the chattels can be directly linked to, or is incidental to, the use and occupation of the residence (ie. used for domestic purposes).
12. Examples of chattels which may be included in residential land are:
 - (a) household furniture
 - (b) household furnishings (eg curtains, blinds, carpets)
 - (c) household appliances (eg refrigerator, dishwasher, washing machine)
 - (d) home entertainment systems (eg television, video recorder, stereo)
 - (e) household recreational equipment (eg home gym, billiard table)
 - (f) home gardening equipment (eg mower)
 - (g) BBQ settings
 - (h) swimming pool cleaning equipment (eg pool filtration pumps)
 - (i) mobile air conditioners.
13. Where the chattels fall outside of the circumstances in paragraph 11, those chattels will not form part of residential land. Therefore, those chattels will not receive the benefit of the concession and duty will be charged at the appropriate marginal rate. The methods for calculating the amount of transfer duty payable are provided in s.91 – 94A of the Duties Act.

14. Examples of property that would not be considered residential land include:

- (a) car, boat, caravan, truck
- (b) farm equipment (eg tractor)
- (c) chattels used for commercial purposes.

Date of effect

15. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of Issue 24 February 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
DA086A.1.1	24 February 2009	24 February 2009	14 April 2010
Supersedes Revenue Ruling DA 3.2	2 January 2007	1 January 2007	23 February 2009