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Public Ruling Duties Act:

EXTENSION OF DUTY EXEMPTIONS FOR MORTGAGE-BACKED AND ASSET-BACKED SECURITIES TO COVERED BONDS

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* (the Duties Act) provides exemptions for transactions relating to mortgage-backed and asset-backed securities.¹ Transfers of mortgages and certain other dutiable transactions required for creating, issuing, marketing or securing mortgage-backed securities and asset-backed securities are exempt from transfer duty.
2. On 7 October 2012, an administrative arrangement was approved, pending amendment to the Duties Act, to ensure that the definitions of *mortgage-backed security* and *asset-backed security* may apply to covered bonds under the *Banking Act 1959* (Cwlth) (the Banking Act) where all other relevant conditions are met.
3. This Public Ruling gives effect to the administrative arrangement.

¹ See ss.130H and 130I of the Duties Act

Ruling and explanation

4. Section 286 of the Duties Act defines a mortgage-backed security. Section 130C of the Duties Act defines an asset-backed security. These definitions include both equity and debt securities created or issued under a securitisation structure.
5. From 7 October 2012, the Duties Act will be administered on the following basis.
 - (a) A mortgage-backed security under section 286 of the Duties Act includes covered bonds within the meaning of section 26 of the Banking Act to the extent the assets in the cover pool for the covered bonds comprise:
 - (i) a loan secured by a mortgage or charge over land regardless of whether the land is situated in Queensland or elsewhere; or
 - (ii) a pool of mortgages mentioned in section 288 of the Duties Act to the extent the mortgages in the pool are assets specified in paragraph 5(a)(i) of this Public Ruling.
 - (b) An asset-backed security under section 130C of the Duties Act includes covered bonds within the meaning of section 26 of the Banking Act to the extent the assets in the cover pool for the covered bonds comprise a financial asset mentioned in section 130E of the Duties Act or a pool of financial assets mentioned in section 130F of the Duties Act.

Date of effect

6. This Public Ruling takes effect from the 7 October 2012.

Martin Schwede
Deputy Commissioner
Date of Issue

References

Public Ruling	Issued	Dates of effect	
		From	To
DA130I	Date of issue	7 October 2012	23 June 2013