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Public Ruling Duties Act:

INCLUSION OF CHATTELS IN THE ACQUISITION OF A FIRST HOME

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

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
 - (c) an acquisition of a new right on its creation, grant or issue.
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 first home

6. Chapter 2, Part 9 of the Duties Act provides for concessions for transfer duty for a dutiable transaction that is either of the following (each a relevant transaction)—
 - (a) the transfer, or agreement for the transfer, of a first home or land on which a first home is to be constructed or
 - (b) the acquisition, on its creation, grant or issue, of a new right that is a lease—
 - (i) of residential land on which a first home is constructed or of vacant land on which a first home is to be constructed and
 - (ii) for which a premium, fine or other consideration is payable
 - (c) the vesting, under s.9(1)(d) of the Duties Act, of a first home or of vacant land on which a first home is to be constructed.²
7. In order for the concession for a first home to apply, the relevant transaction 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 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 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)

² Section 85 of the Duties Act. The transfer duty home concession provisions (Chapter 2 Part 9 and Part 14 Division 1 of the Duties Act) were extended, from 1 December 2003, to include the acquisition of a new right that is a lease of residential land where the lessee is required to pay a premium, fine or other consideration: s.614 of the Duties Act.

- (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.92 – 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 1 August 2011.

David Smith
 Commissioner of State Revenue
 Date of Issue 12 August 2011

References

Public Ruling	Issued	Dates of effect	
		From	To
DA086A.1.3	12 August 2011	1 August 2011	30 June 2012
DA086A.1.2	15 April 2010	15 April 2010	31 July 2011
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