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Public Ruling Duties Act:

TRANSFER DUTY RELIEF ON ACQUISITION OF RURAL PROPERTIES FOR FARM RATIONALISATION PURPOSES

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. Transfer duty is payable under the *Duties Act 2001* (Duties Act) on a transfer, or an agreement for the transfer, of dutiable property. Dutiable property includes land, or an interest in land, in Queensland.¹
2. On 22 April 1991, a scheme was approved to provide relief in respect of the payment of duty on the transfer of farm properties from joint owners to individual owners in specific circumstances.
3. This Public Ruling outlines how the scheme operates.

Ruling and explanation

4. Application for ex gratia relief from transfer duty will be considered on the transfer of a farm property following a division of the property where:
 - (a) the property was originally purchased in accordance with the Government's policy to encourage farm build-up and
 - (b) the farm was purchased by a number of persons jointly as tenants in common and
 - (c) each of the joint owners intended to purchase only a portion of the farm and
 - (d) the farm was unable to be subdivided prior to the sale being completed and
 - (e) the farm is subsequently subdivided with each joint owner acquiring that portion of the farm they intended to originally acquire and

¹ Sections 8, 9(1)(a) and (b), and 10 of the Duties Act

- (f) transfers of individual portions of the farm from joint tenants to the individual owners are lodged for stamping with the Commissioner and duty is assessed on these transfers.
5. A purchaser intending to apply for ex gratia relief under these arrangements needs to obtain a certification from Queensland Primary Industries and Fisheries (QPIF), part of the Department of Employment, Economic Development and Innovation to the effect that the purchase and the subsequent transfers are in accordance with the Government's farm build-up policy (preferably before documents are executed in relation to an intended purchase).
 6. The application for ex gratia relief is to be made in writing to the Commissioner when the individual transfers are lodged for stamping.
 7. The application should
 - (a) specify the details of the farm purchased jointly and attach a copy of the stamped contract
 - (b) attach a copy of the plan of subdivision of the property
 - (c) attach a copy of the transfers of the portions to the individual owners (Note that where the farm is divided into a number of portions, all transfers should be dealt with in a single application.)
 - (d) attach a copy of any contract in relation to the individual transfers
 - (e) specify the amount of transfer duty to be assessed on each individual transfer (to be confirmed by the Commissioner) and
 - (f) attach a copy of the certification by QPIF referred to in paragraph 5.
 8. The Commissioner will review the application to determine whether the division of the property is for the sole purpose of giving effect to the clear intention of the joint owners to purchase only that portion of the property that is now being transferred to each individual joint owner.
 9. Such an intention will be demonstrated, for example, where there is no consideration for the individual transfers and the portion of the farm being purchased conforms with that advised to the QPIF at the time of purchase.
 10. Where a certificate is not sought from QPIF prior to the purchasers entering into the contract, further details may be required to demonstrate the intention of the parties at the time of the purchase. The Commissioner may request such further information as is considered necessary for the purpose of determining the application.

Date of effect

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

David Smith
Commissioner of State Revenue
Date of Issue 1 February 2010

References

Public Ruling	Issued	Dates of effect	
		From	To
DA000.7.1	1 February 2010	1 February 2010	15 August 2013

Superseded