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## **Public Ruling Land Tax Act:**

### **GUIDELINES FOR DETERMINING THE BUSINESS OF AGRICULTURE, PASTURAGE OR DAIRY FARMING**

*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**

1. Land tax is payable on the taxable value of all land owned by landowners.
2. Under ss.11(3), (5)–(6) of the *Land Tax Act 1915* a deduction is allowable where land is used solely for the business of agriculture, pasturage or dairy farming.
3. The entities that may qualify for the deduction are:
  - (a) individuals (who are not absentees)<sup>1</sup>
  - (b) relevant proprietary companies
  - (c) exempt charitable institutions
  - (d) trustees of trusts provided all the beneficiaries comply with any of the above.
4. This Public Ruling provides guidelines to assist in determining whether a business of agriculture, pasturage or dairy farming is being carried on.

<sup>1</sup> Absentees who are Australian citizens are no longer eligible for the deduction for the 2007-08 and later financial years: Part 7 of *Revenue and Other Legislation Amendment Act 2006*.

## **Ruling and explanation**

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5. Generally, the words agriculture, pasturage and dairy farming refer to production resulting directly from either:
- (a) the cultivation of the land or
  - (b) the maintenance of animals<sup>2</sup> for the purpose of selling them or their bodily produce, including their natural increase or
  - (c) the growing of plants in sand, gravel, or liquid, without soil and with added nutrients i.e. hydroponics.
6. To determine the existence of a business, regard is had to a number of factors:
- (a) whether the activity has a significant commercial purpose or character
  - (b) whether there is more than just an intention to engage in a business (the extent of preparatory activities undertaken is relevant—relevant activities may include clearing of land, fence and dam constructions etc)
  - (c) whether there is an intention to make a profit as well as the profitability of the activity
  - (d) whether there is repetition and regularity of the activity
  - (e) whether the activity is of the same kind and carried on in a similar manner to that of the ordinary trade in that line of business
  - (f) whether the activity is planned, organised and carried on in a businesslike manner such that it is directed at making a profit
  - (g) the size, scale and permanency of the activity and
  - (h) whether the activity is better described as a hobby, a form of recreation or a sporting activity.
7. The existence of one of the factors, listed in paragraph 6, may not conclusively establish the existence of a business; however, a combination of those factors may indicate that the primary production operation in question is a business. The relevance and weight to be given to each factor will depend on the circumstances of each particular case.

## **Date of effect**

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

David Smith  
Commissioner of Land Tax  
Date of Issue 24 February 2009

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<sup>2</sup> The Oxford Concise Australian Dictionary (3rd Edition) defines animal as 'a living organism which feeds on organic matter, usually one with specialised sense organs and nervous system, and able to respond rapidly to stimuli.'

## References

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Public Ruling	Issued	Dates of effect	
		From	To
LTA011.1.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Practice Direction LT 1.2	2 July 2007	2 July 2007	23 February 2009

Superseded