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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 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. Land tax is imposed on the taxable value of taxable land and is payable by the owner of the taxable land.
2. Section 53 of the *Land Tax Act 2010* (the Land Tax Act) provides an exemption for land or a part of land that is used solely for the business of agriculture, pasturage or dairy farming.
3. If part of the land is exempt land, the Commissioner must apportion the taxable value of the land between use for a business of agriculture, pasturage or dairy farming and use for any other purpose.<sup>1</sup>
4. The exemption may apply where the land is owned by any of the following:
  - (a) an individual (other than a trustee or absentee)
  - (b) a trustee of a trust, if all beneficiaries of the trust are persons mentioned in paragraph (a), (c) or (d)
  - (c) a relevant proprietary company
  - (d) a charitable institution.<sup>2</sup>
5. The exemption contained in s.53 of the Land Tax Act does not apply to land owned by the manager of a time-sharing scheme.<sup>3</sup>

<sup>1</sup> Section 53(3) of the Land Tax Act

<sup>2</sup> Section 53(2) of the Land Tax Act

<sup>3</sup> Section 53(4) of the Land Tax Act

6. This Public Ruling provides guidelines to assist in determining whether a business of agriculture, pasturage or dairy farming is being carried on.

## Ruling and explanation

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7. 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>4</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.
8. 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.
9. The existence of one of the factors, listed in paragraph 8, 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.

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<sup>4</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'.

## Date of effect

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10. This Public Ruling takes effect from the date of issue and applies in respect of land tax liabilities arising on or after 30 June 2010.

David Smith  
Commissioner of State Revenue  
Date of Issue 30 June 2010

## References

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Public Ruling	Issued	Dates of effect	
		From	To
LTA053.1.1	30 June 2010	30 June 2010	29 June 2018

Superseded