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Public Ruling Land Tax Act:

ASSESSMENT OF DEEDS OF GRANT IN TRUST

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 *Land Tax Act 2010* (the Land Tax Act) imposes land tax for each financial year on all taxable land.¹
2. Section 9 of the Land Tax Act defines taxable land as land in Queensland that:
 - (a) has been alienated from the State for an estate in fee simple and
 - (b) is not exempt land.
3. The purpose of this Public Ruling is to clarify that land subject to a deed of grant in trust is land which has been alienated from the State for an estate in fee simple.

Ruling and explanation

4. A deed of grant in trust is defined in Schedule 6 of the *Land Act 1994* as:
 - (a) land granted in fee simple in trust by the State or
 - (b) the document evidencing the grant, including an indefeasible title under the *Land Title Act 1994*.
5. The provisions of the Land Tax Act apply to such lands.

¹ Section 6(1) of the Land Tax Act

6. A deed of grant in trust restricts the usage of the land to the specified purpose of the trust. The trustee is entitled to the rents and profits from the land, although such land is to be used for the purposes set out in the trust. The terms of such a trust are not that the land is held for another beneficial owner, but relate to specifying the use of the land.
7. The State retains a degree of control over land the subject of a deed of grant in trust in that the land cannot be sold by the trustee, but must revert to the State if it is to be sold.
8. Alienation and alienate are words of general import denoting the act of passing or transferring an interest in property.² A deed of grant in trust is an instrument which transfers such an interest in property for the purposes of s.9 of the Land Tax Act.
9. A fee simple is simply an interest in a type of property known as land. Estates in fee simple are limited by the nature of the grant from the State. For example, a freehold interest is a particular form of an estate in fee simple where the restrictions imposed by the State are not as great as other grants, however restrictions may still exist.
10. The fact that the State may retain substantial levels of control over land held under a deed of grant in trust is irrelevant to the question of whether the Land Tax Act applies to such land.

Date of effect

11. 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

Public Ruling	Issued	Dates of effect	
		From	To
LTA009.1.1	30 June 2010	30 June 2010	1 May 2019

² Peter Butt, *Land Law*, fifth edition, Law Book Company Limited, 2006, at page 7