

Contents	Page
What this Ruling is about	1
Ruling and explanation	2
Date of effect	3
References	3

## Public Ruling Land Tax Act:

### MEANING OF 'HELD FOR SALE' IN S.3CA(1)(d) OF THE *LAND TAX ACT 1915*

*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. Section 3CA(2) of the *Land Tax Act 1915* (the Land Tax Act) provides that, in certain circumstances, the unimproved value of subdivided land is taken to be discounted by 40% for land tax purposes.
2. Section 3CA(1) of the Land Tax Act states that s.3CA will apply for levying land tax on a parcel<sup>1</sup> of land if:
  - (a) the parcel is one of the parts into which a larger parcel of land has been subdivided
  - (b) the person who subdivided the land (the subdivider) was, when the land was subdivided<sup>2</sup>, the owner of the parcel
  - (c) when the land was subdivided, the parcel was not developed land<sup>3</sup>
  - (d) since the land was subdivided, the parcel has been held for sale
  - (e) the parcel is not a balance lot<sup>4</sup>
  - (f) at midnight on the relevant 30 June—
    - (i) the subdivider is still the owner of the parcel and
    - (ii) the parcel is still not developed land.

<sup>1</sup> A parcel means an area of land that is the subject of a separate valuation made by the Chief Executive under the *Valuation of Land Act 1944*: s.2 of the Land Tax Act.

<sup>2</sup> For the purposes of s.3CA of the Land Tax Act, land is taken to be subdivided when a plan of subdivision, providing for the division of the land into lots, is registered under the *Land Title Act 1994*: s.3CA(3) of the Land Tax Act.

<sup>3</sup> Developed land means land improved, or being improved, by the construction of a building or other facility reasonably capable of being used: s.3CA(5) of the Land Tax Act.

<sup>4</sup> Balance lot means a parcel of land that is one of the parts into which land has been subdivided and being held by the subdivider for further subdivision: s.3CA(5) of the Land Tax Act

3. However, s.3CA(2) does not apply to a parcel of land:
  - (a) if the parcel is included in a valuation under s.34 of the *Valuation of Land Act 1944* or
  - (b) unless the parcel is one of at least six parcels of land in Queensland, owned by the subdivider, to which paragraph 2 applies.<sup>5</sup>
4. This Public Ruling explains how the Commissioner will determine whether or not a parcel of land will be regarded as 'held for sale' for the purposes of s.3CA(1)(d) of the Land Tax Act.

## **Ruling and explanation**

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5. The term 'held for sale' is not defined in the Land Tax Act and therefore has its ordinary meaning.
6. Whether a parcel of land is held for sale will be a question of fact to be determined on the circumstances of each case. The central question is whether or not there have been genuine efforts to sell the land within a reasonable time of the subdivision.
7. Regard will be had to all relevant circumstances, such as:
  - (a) whether the land is listed with one or more real estate agents for sale
  - (b) where the land has been listed for sale, the period of listing and if there has also been a period of non-listing, the period of, and reasons for, the non-listing
  - (c) whether the owner has employed licensed sales persons to market and sell the land and those persons actively pursue the sale of the land, including through mailouts to prospective buyers and conducting property information sessions
  - (d) whether it is offered for sale on commercially realistic terms
  - (e) whether it is advertised for sale
  - (f) whether 'for sale' signs are placed on the property
  - (g) whether the land is accounted for as trading stock in the developer's accounts
  - (h) the general market conditions applying in the area in which the land is situated, such as the demand for subdivided land and
  - (i) whether the lot is being held for further subdivision.

### **Example 1**

*A developer in a remote rural area subdivides a parcel into ten lots. Annual land sales in the area are historically very slow and the developer sells only two lots per annum. However, the properties are listed with local agents on commercial terms. The Commissioner would consider that the land is held for sale for the purposes of s.3CA(1)(d) of the Land Tax Act.*

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<sup>5</sup> Section 3CA(4) of the Land Tax Act

# LTA(1915)003CA.1.2

3 of 3

**Example 2**

*A land owner subdivides a property into three lots and places a small sale advertisement for the lots in the local newspaper on two occasions. The lots are not listed with local agents nor are "for sale" signs erected on the lots. The advertised sale prices greatly exceed the market values and comparable sales in the area. Despite the fact that no offers are received, the owner takes no additional or different steps to try to sell the lots and they remain unsold for two years. The Commissioner would not consider that the land is held for sale for the purposes of s.3CA(1)(d) of the Land Tax Act.*

8. A parcel of land which is held for investment will not be held for sale.

**Example 3**

*A developer subdivides a parcel into 25 lots. The developer puts 20 of the lots on the market by listing them with real estate agents on commercial terms. These lots will be regarded as held for sale.*

*However, the developer thinks that the remaining five lots will significantly increase in value in the years ahead and decides to hold on to these lots for the time being. These five lots will not be held for sale.*

9. Where subdivided lots are held for sale, the owner need not produce to the Commissioner any evidence to that effect unless requested to do so by the Commissioner.
10. However, the owner must notify the Commissioner in any of the following circumstances:
- (a) a subdivided lot is not held for sale
  - (b) a subdivided lot ceases to be held for sale
  - (c) the owner of a subdivided lot not held for sale receives a land tax assessment for the lot in which the unimproved value of the lot is discounted by 40%.

## Date of effect

11. This Public Ruling takes effect from 30 June 2009.

David Smith  
Commissioner of State Revenue  
Date of Issue 3 July 2009

## References

Public Ruling	Issued	Dates of effect	
		From	To
LTA003CA.1.2	3 July 2009	30 June 2009	29 June 2010
LTA003CA.1.1	24 February 2009	24 February 2009	29 June 2009
Supersedes Revenue Ruling LT 1.1	6 September 2002	6 September 2002	23 February 2009