

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

Public Ruling Duties Act:

LANDHOLDER DUTY – COMMISSIONER’S SATISFACTION IN RELATION TO RELATED PERSON’S INTEREST BEING USED AND ACQUIRED INDEPENDENTLY

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. Section 157(1) of the *Duties Act 2001* (the Duties Act) imposes landholder duty on a relevant acquisition¹. For a relevant acquisition in a private landholder², landholder duty is imposed on the dutiable value of the relevant acquisition.³ For a relevant acquisition in a public landholder⁴, the landholder duty imposed is 10% of the amount of transfer duty that would be imposed if all of the landholder’s Queensland land-holdings were transferred at the date of the relevant acquisition.⁵
2. Under s.158 of the Duties Act a person makes a relevant acquisition if –
 - (a) the person acquires a significant interest⁶ in a landholder⁷ or
 - (b) the person acquires an interest⁸ in a landholder and, when the following are aggregated, the aggregation results in a significant interest in a landholder –
 - (i) interests held by the person in the landholder and

¹ Defined in s.158 of the Duties Act

² Defined in s.165A(1) of the Duties Act

³ Section 157(2)(a) of the Duties Act

⁴ Defined in s.165A(2) of the Duties Act

⁵ Sections 157(2)(b) and 179A of the Duties Act. Section 179B of the Duties Act provides that, for s.179A of the Duties Act, the dutiable value of the dutiable transaction is the unencumbered value of all Queensland land-holdings of the landholder at the time of the acquisition reduced by the proportion of the value represented by any excluded interest.

⁶ Section 159(2) of the Duties Act

⁷ Section 165 of the Duties Act

⁸ Section 159(1) of the Duties Act

- (ii) interests acquired or held by related persons of the person in the landholder or
 - (c) having acquired a significant interest in a landholder under paragraph (a) or (b) for which acquisition landholder duty was imposed, the person's interest in the landholder increases.
3. The term 'related person' is broadly defined in s.164(1) of the Duties Act. Section 164(2) expands the definition of related person to include persons who acquire interests in a landholder under essentially one arrangement.
 4. However, s.164(3) of the Duties Act provides the Commissioner with the discretion not to treat persons identified in s.164(1), other than subsection (1)(d), as related persons of another person in certain circumstances.
 5. The discretion does not apply to persons who are related under the expanded definition in s.164(2) of the Duties Act.
 6. This Public Ruling sets out how the Commissioner will be satisfied under s.164(3) of the Duties Act.

Ruling and explanation

7. The Commissioner will exercise the discretion under s.164(3) when satisfied that the interests of the persons—
 - (a) were acquired, and will be used, independently and
 - (b) were not acquired, and will not be used, for a common purpose.
8. To assist the Commissioner in determining the matters above the following must be lodged—
 - (a) a statutory declaration by each of the persons, declaring that—
 - (i) there is no arrangement, understanding or agreement, whether in writing or orally, between any of the persons, under which the interests are acquired, or the interests held are to be used inter-dependently and for a common purpose
 - (ii) none of the persons required as a condition of any arrangement, understanding or agreement to acquire the interests, whether in writing or orally, the making or completing of any other arrangements, understandings or agreements to acquire the interests and
 - (iii) all of the arrangements, understandings or agreements to acquire the interests whether in writing or orally, were made independently of each other and
 - (b) all written arrangements, understandings or agreements and any other information relevant to the acquisition.

Date of effect

9. This Public Ruling takes effect from 1 July 2011.

Tony Kulpa
Deputy Commissioner of State Revenue
Date of issue: 30 June 2011

References

Public Ruling	Issued	Dates of effect	
		From	To
DA164.2.2	30 June 2011	1 July 2011	7 April 2024
DA164.2.1	3 July 2009	3 July 2009	30 June 2011