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Public Ruling Land Tax Act:

EXEMPTION FOR THE BUSINESS OF AGRICULTURE, PASTURAGE OR DAIRY FARMING—FORESTRY

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 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 (the exemption).
2. This Public Ruling sets out the circumstances under which forestry operations can be classified as the business of agriculture and therefore qualify for the exemption.

Ruling and explanation

Forestry as agriculture

3. The felling of timber, by itself, is not considered to be agriculture. It is like other forms of primary production, such as mining, that depend upon natural resources being taken from the land. Such activity does not constitute agriculture. If the trees have been planted and/or sufficiently tended, however, the land may be considered to be used for agriculture.
4. Land that is used for the planting or tending of trees in a plantation or forest is considered to be used for agricultural purposes if:
 - (a) the trees are to be felled for timber or
 - (b) trees are sold or
 - (c) produce from the trees is sold.
5. If such activity constitutes the carrying on of a business, the exemption may apply.

6. The planting or tending of trees does not constitute agriculture if the trees are intended solely for decorative, aesthetic or conservation purposes or to provide shelter.

Naturally occurring forest and regrowth

7. It is not necessary for the trees to have been planted provided that they are sufficiently tended. Tending of trees includes the maintenance of the trees and activities to improve the growth of the trees.
8. Whether or not such activities amount to agriculture depends on the facts of each particular case, however, relevant activities include:
 - (a) clearing of noncommercial species and diseased trees
 - (b) seeding of commercial species
 - (c) slashing undergrowth and control burning
 - (d) thinning of trees
 - (e) spraying
 - (f) construction of fire and haulage roads.

Carrying on a business

9. In relation to determining whether or not a business is being conducted, reference should be made to the guidelines contained in Public Ruling LTA053.1—*Guidelines for determining the business of agriculture, pasturage or dairy farming*.
10. More specifically, consideration should also be given to the quantity and value of trees, timber or produce sold during the 12 months prior to the relevant 30 June. If trees are not ready for harvesting, the expected date for harvesting should be ascertained as well as the anticipated quantity and value. Allowance should be made for the fact that forestry is often a long-term investment. A major financial return may not be obtainable for many years.
11. Other relevant factors that may be considered include:
 - (a) steps taken and expenses incurred in developing the land
 - (b) use of specialist management or consultant services
 - (c) market sources
 - (d) area of land
 - (e) primary producer status for income tax purposes.

Vegetation protection orders

12. The exemption is not applicable to any parcel of land used solely for conservation purposes and will not apply to a parcel that, as a result of a vegetation protection order by a local authority, has no business of agriculture being conducted upon it.
13. However, where part of a parcel is not used for the business of agriculture as a result of a vegetation protection order and the balance of the parcel is used for the business of agriculture, the exemption will apply to the whole of that parcel.

14. It should be noted that the exemption is based on actual rather than designated land use and will continue to apply for as long as the land is used for the business of agriculture.

Exemption may be reviewed

15. If the exemption has been allowed primarily on the basis of anticipated future production or income from the land and the land ceases to be used for forestry purposes before such production or income have been realised, the decision to allow the exemption should be reviewed. The Commissioner will consider whether, in the period between the time when the exemption took effect and the cessation of forestry activities, the land was used for the business of agriculture, notwithstanding the fact that anticipated production levels or income were not realised.
16. Each case will be determined on its merits in accordance with this Public Ruling and Public Ruling LTA053.1.
17. If it is determined that the exemption should not have applied, assessments for each relevant year will be reassessed to disallow the exemption.

Date of effect

18. 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
LTA053.2.1	30 June 2010	30 June 2010	29 June 2018