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Public Ruling Duties Act:

LANDHOLDER DUTY – LAND-HOLDINGS – ITEMS FIXED TO THE LAND

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

- Chapter 3, Part 1 of the *Duties Act 2001* (the Duties Act) imposes landholder duty on relevant acquisitions of a private landholder¹ or public landholder².
- A person makes a relevant acquisition if—
 - the person acquires a significant interest³ in a landholder or
 - the person acquires an interest⁴ in a landholder and, when the following are aggregated, the aggregation results in a significant interest in the landholder—
 - interests held by the person in the landholder and
 - interests acquired or held by related persons of the person in the landholder or
 - 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.⁵
- A landholder is an entity that has land-holdings in Queensland, with an unencumbered value of \$2,000,000 or more.⁶

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

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

³ Defined in s.159(2) of the Duties Act

⁴ Defined in s.159(1) of the Duties Act

⁵ Section 158 of the Duties Act

⁶ Section 165 of the Duties Act

4. An entity's land-holdings means—
- (a) an interest of the entity (including of any subsidiary) in land and anything fixed to the land that may be separately owned from the land (other than a security interest or interest in a trust)
 - (b) rights held by the entity (including of any subsidiary) that—
 - (i) relate to, or affect, the use of the entity's land and other land and
 - (ii) enhance the value of the entity's land
 - (c) an interest in land and anything fixed to the land, that is the subject of a purchase or sale agreement made by the entity (or any subsidiary).⁷
5. This Public Ruling clarifies the meaning of 'anything fixed to the land' in s.167 of the Duties Act.

Ruling and explanation

6. For s.167 of the Duties Act, the reference to 'anything fixed to the land' does not require that the item is a fixture on the land.

Example

ABC Pty Ltd owns land which includes a factory building from which it conducts a manufacturing business. The building contains plant and equipment, some of which is fixed to the land. For s.167 of the Duties Act, all of the items fixed to the land are considered land-holdings regardless of whether or not they are fixtures at law.

Date of effect

7. This Public Ruling takes effect from the date of issue.

David Smith
 Commissioner of State Revenue
 Date of Issue 20 October 2011

References

Public Ruling	Issued	Dates of effect	
		From	To
DA167.1.1	20 October 2011	20 October 2011	Current

⁷ Section 167 of the Duties Act