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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 purpose of this public ruling is to clarify that land subject to a deed of grant in trust is land that has been alienated from the state for an estate in fee simple for the purposes of the *Land Tax Act 2010* (the Land Tax Act).
2. Under the *Land Act 1994* (the Land Act), the Governor in Council may grant unallocated state land in fee simple in trust for use for a community purpose.¹ This land is known as a deed of grant in trust.²
3. The terms of a deed of grant in trust are not that the land is held for another beneficial owner, but that the use of the land is restricted to the specified purpose of the trust. The trustee is entitled to the rents and profits from the land, although in most cases rent received must be spent on the maintenance or enhancement of the land.
4. 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 and must revert to the state if it is to be sold.
5. The Land Tax Act imposes land tax for each financial year on all taxable land.³
6. 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.

¹ Section 14(2) of the Land Act

² Schedule 6 of the Land Act

³ Section 6(1) of the Land Tax Act

Ruling and explanation

7. 'Alienation' and 'alienate' refer generally to the act of passing or transferring an interest in property, usually by a formal grant or conveyance by the state granting to the grantee some portion of land in fee simple.⁴
8. 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. The restrictions imposed by the state are not as extensive as for other grants; however, restrictions may still exist.
9. The fact that the state may retain substantial levels of control over land held under a deed of grant in trust is irrelevant to whether the Land Tax Act applies to land.
10. A deed of grant in trust transfers an interest in land from the state for an estate in fee simple in trust. Therefore, the land is alienated from the state for the purposes of s.9(a) of the Land Tax Act.

Date of effect

11. This public ruling takes effect from the date of issue.

Elizabeth Goli
Commissioner of State Revenue
Date of issue: 2 May 2019

References

Public Ruling	Issued	Dates of effect	
		From	To
LTA009.1.2	2 May 2019	2 May 2019	Current
LTA009.1.1	30 June 2010	30 June 2010	1 May 2019

⁴ Peter Butt, *Land Law*, fifth edition, Law Book Company Limited, 2006, at page 7; *Higgins v Berry* (1908) 6 CLR 618