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Public Ruling Duties Act:

SURRENDER OF AN OPTION TO PURCHASE LAND IN QUEENSLAND

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. An option is defined as the right to buy or sell a specified asset at a particular price.¹
2. Land is defined to include any messuages, tenements and hereditaments, corporeal or incorporeal, of any tenure or description, and whatever may be the interest in the land.²
3. An interest in relation to land or other property includes a right, power or privilege over, or in relation to, land or other property.³
4. An acquisition of a new right on its creation, grant or issue is a dutiable transaction under the *Duties Act 2001* (the Duties Act).⁴
5. A new right is defined in Schedule 6 of the Duties Act to include land in Queensland, other than the following interests in land:
 - (a) a security interest;
 - (b) a partner's interest in a partnership;
 - (c) a trust interest;
 - (d) the interest of a discretionary object of a trust that holds dutiable property.

¹ Butterworths Concise Legal Dictionary
² Section 36 of the *Acts Interpretation Act 1954*
³ Section 36 of the *Acts Interpretation Act 1954*
⁴ Section 9(1)(f) of the Duties Act

6. The grant of an option to purchase land creates an interest in land. The grant of an option to purchase land in Queensland is a dutiable transaction under s.9(1)(f) of the Duties Act, being an acquisition of a new right that is land in Queensland.
7. The purpose of this Public Ruling is to clarify how a surrender of an option to purchase land in Queensland is to be assessed.

Ruling and explanation

8. The surrender of an option to purchase land in Queensland is a dutiable transaction under s.9(1)(c) of the Duties Act, being a surrender of dutiable property that is an interest in land in Queensland.

Date of effect

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

David Smith
 Commissioner of State Revenue
 Date of Issue 24 February 2009

References

| Public Ruling | Issued | Dates of effect | |
|---|------------------|------------------|------------------|
| | | From | To |
| DA009.1.1 | 24 February 2009 | 24 February 2009 | Current |
| Supersedes Practice Direction DA53.1 | 22 June 2002 | 22 June 2002 | 23 February 2009 |