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**Public Ruling  
Duties Act:**

**CONCESSION FOR HOMES AND FIRST  
HOMES—OCCUPANCY REQUIREMENTS**

*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. This public ruling clarifies the Commissioner's interpretation of the *Duties Act 2001* (Duties Act) in relation to:
  - (a) transfer date
  - (b) occupation date, in particular what is meant by the term 'principal place of residence'
  - (c) the circumstances in which a reassessment will be issued.
2. Chapter 2 Part 9 of the Duties Act provides concessions for transfer duty for certain dutiable transactions, including the following (each a relevant transaction):
  - (a) the transfer, or agreement for the transfer, of a home, first home other than a new home, first and new home, or vacant land on which a first home is to be constructed
  - (b) the acquisition—on its creation, grant or issue—of a new right that is a lease
    - (i) of residential land on which a home, first home other than a new home, or first and new home is constructed or of vacant land on which a first home is to be constructed  
  
and
    - (ii) for which a premium, fine or other consideration is payable (a home or vacant land lease)

- (c) the vesting—under s.9(1)(d) of the Duties Act—of a home, first home other than a new home, or first and new home or of vacant land on which a first home is to be constructed.<sup>1</sup>
3. In this ruling, the term ‘first home concession’ refers to both the first home other than a new home concession, and the first and new home concession.
4. A home is a person’s first home if, before acquiring the home, both the following applied.
- (a) The person did not hold, and never before held, an interest in other residential land<sup>2</sup> in Queensland or elsewhere other than:
- (i) as trustee for another person
- (ii) as lessee
- (iii) as the holder of a security interest.
- (b) The person was not, and had never been, a vacant land concession beneficiary<sup>3</sup> in relation to land other than the residential land on which the residence is constructed.<sup>4</sup>
5. A home is a new home if it:
- (a) has not been previously occupied or sold as a place of residence
- or
- (b) is a substantially renovated home.<sup>5</sup>
6. A residence is a person’s home if the person’s occupation date for the residence is within one year after the person’s transfer date for the residential land.<sup>6</sup>
7. A residence that is to be constructed on vacant land<sup>7</sup> is a person’s first home if both the following apply.
- (a) The person’s occupation date for the residence is within 2 years after the person’s transfer date for the vacant land.

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<sup>1</sup> Section 85 of the Duties Act

<sup>2</sup> Section 86A of the Duties Act defines ‘residential land’ to be land, or the part of land, on which a residence is constructed, and includes the curtilage attributable to the residence if the curtilage is used for residential purposes.

<sup>3</sup> Defined in s.86D of the Duties Act

<sup>4</sup> Section 86(2) of the Duties Act. Paragraph 3(a)(ii) does not apply to the interest in land of a lessee of a lease of residential land on which a home or first home is constructed and for which a premium, fine or other consideration is payable.

<sup>5</sup> Section 86(4) of the Duties Act. See section 86(5) for the definition of a substantially renovated home.

<sup>6</sup> Section 86(1) of the Duties Act

<sup>7</sup> Section 86C of the Duties Act defines that a person’s land is ‘vacant land’ if a residence is to be constructed on the land, and when the person acquired the land, there was no building or part of a building on the land.

- (b) Before acquiring the vacant land:
- (i) the person did not hold, and never before held, an interest in residential land in Queensland or elsewhere other than
    - (A) as trustee for another person
    - (B) as lessee
    - (C) as the holder of a security interestand
  - (ii) the person was not, and had never been, a vacant land concession beneficiary in relation to land other than the vacant land on which the residence is to be constructed.<sup>8</sup>
8. A person's occupation date for a residence is the date the person, as owner of the residence<sup>9</sup>, starts occupying it as the person's principal place of residence.<sup>10</sup> For a transferee who acquired an accommodation unit in a retirement village and is required to enter into a retirement village leasing arrangement<sup>11</sup>, a reference to a person occupying a residence as owner of the residence includes a transferee occupying the unit under the sublease.<sup>12</sup>
9. A person's transfer date for residential land or vacant land is the date the person is entitled to possession of the land under the dutiable transaction that is the relevant transaction.<sup>13</sup>
10. Sections 91–94A of the Duties Act outline how the concessional duty will be calculated.
11. In circumstances where the occupancy requirements<sup>14</sup> are not met, Chapter 2 Part 14 of the Duties Act (ss.153–155) provides for a reassessment of duty to disallow the concession, in full or in part.

## **Ruling and explanation**

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### **Transfer date—entitled to possession**

12. A person's transfer date is the date that the person is entitled to possession of the land under the dutiable transaction that is the relevant transaction.
13. The date that a person is entitled to possession is a question of fact that is to be determined by reference to the terms of the instrument evidencing the relevant transaction.

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<sup>8</sup> Section 86B of the Duties Act. Paragraph 4(b)(i)(B) does not apply to the interest in land of a lessee of a lease of residential land on which a home or first home is constructed and for which a premium, fine or other consideration is payable.

<sup>9</sup> Owner of a residence or vacant land includes the lessee of a lease, mentioned in paragraph 1(b), of the land on which the residence is constructed or is to be constructed: Schedule 6 of the Duties Act.

<sup>10</sup> Section 88 of the Duties Act

<sup>11</sup> Defined in the Dictionary in Schedule 6 of the Duties Act

<sup>12</sup> Sections 88 and 95A of the Duties Act

<sup>13</sup> Section 89 of the Duties Act

<sup>14</sup> Defined in the Dictionary in Schedule 6 of the Duties Act

14. In the absence of a specific provision in the instrument to the contrary, the phrase 'entitled to possession' is interpreted to mean entitled to receive the rents and profits of the property.
15. In the case of a standard REIQ contract of sale, possession is usually given on completion of the contract when, in exchange for the balance purchase price, the following are delivered to the purchaser:
  - (a) the instrument of title
  - (b) the unstamped transfer
  - (c) any keys
  - (d) any tenancy documents.

**Occupation date—principal place of residence**

16. A person's occupation date for a residence is the date the person, as owner of the residence, starts occupying it as the person's principal place of residence. For a transferee who acquired an accommodation unit in a retirement village and is required to enter into a retirement village leasing arrangement, a reference to a person occupying a residence as owner of the residence includes a transferee occupying their accommodation unit in a retirement village under a sublease in a retirement village leasing arrangement.<sup>15</sup>
17. The issue of whether a residence is a person's principal place of residence is a question of fact and must be determined with regard to the individual circumstances of each case.
18. The following factors may be relevant in determining whether or not a residence is a person's principal place of residence:
  - (a) whether the person who acquired the property has moved their personal belongings into the dwelling
  - (b) the place of residence of the person's family
  - (c) the extent of time the person 'lives' in the dwelling
  - (d) the address to which the person has their mail delivered
  - (e) the name of the person liable to account for the payment of utilities (e.g. electricity, gas and telephone) connected to the dwelling
  - (f) the address of the person on electoral rolls.
19. The relevance and weight of each factor will depend on the individual circumstances of each case.

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<sup>15</sup> Sections 88 and 95A of the Duties Act

**Circumstances that will result in partial loss of the concession**

20. Section 153 of the Duties Act provides for the partial removal of the concession if all the following apply.
- (a) Transfer duty on the dutiable transaction has been assessed on the basis of a concession for a home, first home other than a new home, first and new home, or vacant land on which a first home is to be constructed.
  - (b) The transferee, lessee or vested person for the land disposes of the land, other than because of an intervening event<sup>16</sup>, within 1 year of their occupation date for the residence, by:
    - (i) transferring part or all of it
    - or
    - (ii) leasing or otherwise granting exclusive possession of part or all of it to another person
    - or
    - (iii) surrendering the lease—for a home or vacant land lease.
21. For the purposes of s.153 of the Duties Act, the following circumstances are deemed not to constitute a disposal of the land:
- (a) The transferee, lessee or vested person transfers part of the land to their spouse, and the transfer is exempt from transfer duty under s.151 of the Duties Act.<sup>17</sup>
  - (b) The transferee or vested person, in respect of an accommodation unit in a retirement village, enters into a retirement village leasing arrangement for that unit.<sup>18</sup>
  - (c) The transferee, lessee or vested person enters into a residential lease of part, but not all, of the land.<sup>19</sup>

**Example 1**

Anthony and Michael received a first home concession for a home purchased on 12 January. They began to occupy the home as their principal place of residence on 18 January.

On 20 February of the same year Anthony's aunt, Moira, took up occupation of a self-contained unit attached to the residence. Moira pays a weekly rental for exclusive use of the unit.

Because Moira has only been granted exclusive possession of part of the land only—within 1 year of the occupation date—for residential purposes, this will not be deemed a disposal; and the concession benefit will not be reduced.

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<sup>16</sup> Defined in the Dictionary in Schedule 6 of the Duties Act

<sup>17</sup> Section 153(1A) of the Duties Act

<sup>18</sup> Section 153(1B) of the Duties Act

<sup>19</sup> Section 153(1C) of the Duties Act. Additionally, for circumstances when the Commissioner will not reassess a home concession on a disposal between 10 September and 5 December 2024 (both dates inclusive), refer to [Public Ruling DA000.18](#).

22. The proportion of the concession removed reflects the extent to which the transferee, lessee or vested person failed to retain ownership or exclusive possession of all or part of the residence for one year.

### *Example 2*

Clara and Dimitri acquire a home for \$350,000. Under the terms of the agreement, the transfer date is 2 March. They are to commence occupation of the property as their principal place of residence on 5 March. An application made for the home concession is approved. The transfer duty applicable to the transaction is \$3,500.

If Clara and Dimitri had not received the benefit of the concession, the transfer duty payable would have been \$10,675. Therefore the concession benefit was \$7,175 ( $\$10,675 - \$3,500$ ).

Due to an employment opportunity overseas, Clara and Dimitri arrange for the property to be rented. The lease commences on 8 October of the same year.

As the transferees have leased the property within 1 year after their occupation date, the reassessment provision (s.153) will be triggered and the concession benefit will be reduced.

Clara and Dimitri occupied the property as their principal place of residence for 218 days (5 March to 8 October, inclusive). The formula for calculating the further transfer duty payable is contained in s.153(2) of the Duties Act. It is the proportion of the concession benefit received that reflects the number of days that Clara and Dimitri fail to satisfy the occupancy requirements. In this instance, the number of days they failed to satisfy the occupancy requirements is 147 ( $365 - 218$ ).

Therefore the further transfer duty payable is \$2,889.65 ( $\$7,175 \times 147 \div 365$ ).

### *Example 3*

Xavier and Yolanda acquire a residence for \$300,000. Under the terms of the agreement, the transfer date is 9 May. They are to commence occupation of the property as their principal place of residence on 10 May. An application made for the home concession is approved. The transfer duty applicable to the transaction is \$3,000.

If Xavier and Yolanda had not received the benefit of the concession, the transfer duty payable would have been \$8,925. Therefore the concession benefit was \$5,925 ( $\$8,925 - \$3,000$ ).

On 8 July of the same year, Jamie (a local tradesman) commences using a workshop on the land for a cabinet-making business. Jamie pays \$100 a week for exclusive use of the workshop.

Because Xavier and Yolanda have granted exclusive possession of part of the property for non-residential purposes within 1 year of their occupation date, the reassessment provision (s.153) will be triggered and the concession benefit will be reduced.

Xavier and Yolanda occupied the property as their principal place of residence for 60 days (10 May to 8 July, inclusive).

The formula for calculating the further transfer duty payable is contained in s.153(2) of the Duties Act. It is the proportion of the concession benefit received that reflects the number of days that Xavier and Yolanda fail to satisfy the occupancy requirements. In this instance, the number of days they failed to satisfy the occupancy requirements is 305 ( $365 - 60$ ).

Therefore the further transfer duty payable is \$4,951.03 ( $\$5,925 \times 305 \div 365$ ).

**Example 4**

Gerry and Henry acquire, for \$360,000, vacant land on which their first home is to be constructed. The transfer date for the vacant land is 1 September. They satisfy the conditions for a concession for vacant land on which a first home is to be constructed, and an application for a concession is approved. The transfer duty applicable to the transaction is \$0.

If Gerry and Henry had not received the benefit of this, the transfer duty payable would have been \$11,025. The concession benefit was \$11,025.

A residence is constructed on the vacant land, and Gerry and Henry commence occupation of the property as their principal place of residence on 1 March.

On 1 May, they enter into an agreement to sell the property. The agreement settles on 30 May.

As Gerry and Henry have transferred the property within 1 year after their occupation date (1 March), the reassessment provision (s.153) will be triggered and the concession will be reduced.

Gerry and Henry occupied the property as their principal place of residence for 91 days (1 March to 30 May, inclusive).

The formula for calculating the further transfer duty payable is contained in s.153(2) of the Duties Act. It is the proportion of the concession benefit received that reflects the number of days that Gerry and Henry fail to satisfy the occupancy requirements. In this instance, the number of days they failed to satisfy the occupancy requirements is 274 (365 – 91).

Therefore the further transfer duty payable is \$8,276.30 ( $\$11,025 \times 274 \div 365$ ).

**Example 5**

On 1 July, Julius and Kiana enter into a long-term sublease of residential land and pay a premium of \$300,000. Under the terms of the sublease, the transfer date is 30 July. Julius and Kiana are to commence occupation of the property as their principal place of residence on 31 July. An application made for the home concession is approved. The value of the interest acquired in the land is \$300,000. The transfer duty applicable to the transaction is \$3,000.

If Julius and Kiana had not received the benefit of the home concession, the transfer duty payable would have been \$8,925. Therefore the concession benefit was \$5,925 ( $\$8,925 - \$3,000$ ).

On 5 November of the same year Julius and Kiana surrender the sublease.

As they have surrendered the sublease within 1 year of their occupation date, the reassessment provision (s.153) will be triggered and the concession benefit will be reduced.

Julius and Kiana occupied the property as their principal place of residence for 98 days (31 July to 5 November, inclusive).

The formula for calculating the further transfer duty payable is contained in s.153(2) of the Duties Act. It is the proportion of the concession benefit received that reflects the number of days that Julius and Kiana fail to satisfy the occupancy requirements. In this instance, the number of days they failed to satisfy the occupancy requirements is 267 (365 – 98).

Therefore the further transfer duty payable is \$4,334.17 ( $\$5,925 \times 267 \div 365$ ).

**Circumstances where the full concession will be removed**

23. Section 154 of the Duties Act provides that a reassessment to remove the concession in its entirety will be triggered where both the following apply.
- (a) The transfer duty on a relevant transaction has been assessed on the basis of a concession for a home, first home other than a new home, first and new home, or vacant land on which a first home is to be constructed.
  - (b) Either of the following happens other than because of an intervening event<sup>20</sup>:
    - (i) Before the occupation date, the transferee, lessee or vested person disposes of the land, subject to the exceptions outlined in paragraph 23, by
      - (A) in the case of a home or vacant land lease—the lessee surrendering the lease
      - (B) transferring, leasing or otherwise granting exclusive possession of, part or all of the land to another person
      - (C) acquiring the land subject to a lease, granted before the transfer date, over all or part of the land.
    - (ii) The transferee, lessee or vested person fails to take up occupation within one year after the transfer of the residential land, or within two years after the transfer date of the vacant land on which a residence is to be constructed, as the case may be.<sup>21</sup>
24. The reassessment will impose transfer duty as if the concession had never applied to the transferee, lessee or vested person.<sup>22</sup>

**Exceptions**

25. The following circumstances do not constitute a disposal for the purposes of s.154 of the Duties Act.
- (a) Where another person (the occupier) has exclusive possession of the land before the occupation date and the occupier either:
    - (i) is the transferor of the land or the owner of the land immediately before the vesting, and vacates the land as soon as reasonably practicable or within six months of the transfer date, whichever is the earlier
    - (ii) has exclusive possession of the land under a lease granted before the transfer date and vacates the land on the termination of the current term of the lease referred to in paragraph 21(b)(i)(C) or within six months after the transfer date, whichever is the earlier.<sup>23</sup>

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<sup>20</sup> Defined in the Dictionary in Schedule 6 of the Duties Act

<sup>21</sup> Section 154(1) and (2) of the Duties Act

<sup>22</sup> Section 154(3) of the Duties Act

<sup>23</sup> Section 154(2AA) of the Duties Act

- (b) The transferee, lessee or vested person transfers part of the land to their spouse and the transfer is exempt from transfer duty under s.151 of the Duties Act.<sup>24</sup>
- (c) The transferee or vested person, in respect of an accommodation unit in a retirement village, enters into a retirement village leasing arrangement for that unit.<sup>25</sup>

### *Example 6*

On 31 January, Mark and Naomi enter into a contract for the purchase of a home for \$500,000. The contract is subject to a pre-existing lease that has 4 months remaining (i.e. the end of the current term will be 31 May). The transfer date is 1 March. Transfer duty was assessed at the home concessional rate.

The acquisition of the home subject to the lease will not be considered a disposal provided that the existing tenant vacates the land by 31 May, being the earlier of the termination of the current lease and 6 months from the transfer date.

If the tenants do not vacate by 31 May, Mark and Naomi will be considered to have disposed of the property. Consequently a reassessment will be required on the basis that the home concession never applied.

### **Claims for concession subsequent to assessment**

- 26. Where circumstances prevent a transferee, lessee or vested person claiming the concession at the time of assessment of transfer duty (e.g. the transferee was not aware they were eligible to claim the concession), a claim for the concession may be made in the approved form. Subject to the limitation period<sup>26</sup> under the *Taxation Administration Act 2001* (Administration Act), a reassessment under s.17 of the Administration Act may be made if the claim for the home concession is allowed. The Commissioner will allow the home concession claim only where the following occupancy requirements have been or will be met.
- 27. The transferees, lessees or vested persons:
  - (a) will start to occupy the residence as their principal place of residence within 1 year after the transfer date in the case of residential land, or within 2 years after the transfer date in the case of vacant land

and

  - (b) have not transferred, leased or otherwise granted exclusive possession of the residential land or vacant land (except in the circumstances outlined in paragraphs 19 and 23) between the transfer date and the occupation date.
- 28. Where both of these conditions are not met, the concession will not be allowed because the use of the property would not be consistent with acquiring the property as a principal place of residence.

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<sup>24</sup> Section 154(2A) of the Duties Act

<sup>25</sup> Section 154(2B) of the Duties Act

<sup>26</sup> The limitation period for a reassessment means five years after the assessment notice for the original assessment was given: Schedule 2 of the Administration Act.

**Example 7**

Ed and Francesca acquire a residence for \$350,000. The transfer date is 2 March. At the time of the assessment they did not claim the first home concession because they intended to use the residence as an investment property.

On 2 November of the same year the tenants moved out, and Ed and Francesca commenced occupation of the residence as their principal place of residence. Even though their occupation date is within 1 year after the transfer date, the concession will not be allowed because the land was leased between the transfer date and occupation date. The use of the property as an investment is inconsistent with the purchase of the property as a principal place of residence.

**Date of effect**

29. This public ruling takes effect from 1 December 2025.

Simon McKee  
Commissioner of State Revenue  
Date of issue: 20 November 2025

**References**

Public Ruling	Issued	Dates of effect	
		From	To
DA085.1.13	20 November 2025	1 December 2025	Current
DA085.1.12	1 May 2025	1 May 2025	30 November 2025
DA085.1.11	3 March 2025	6 December 2024	30 April 2025
DA085.1.10	20 December 2024	6 December 2024	27 February 2025
DA085.1.9	6 December 2024	6 December 2024	18 December 2024
DA085.1.8	19 September 2024	10 September 2024	5 December 2024
DA085.1.7	19 June 2024	1 July 2024	9 September 2024
DA085.1.6	12 December 2016	12 December 2016	30 June 2024
DA085.1.5	3 July 2012	1 July 2012	11 December 2016
DA085.1.4	12 August 2011	1 August 2011	30 June 2012
DA085.1.3	15 April 2010	15 April 2010	31 July 2011
DA085.1.2	3 July 2009	1 July 2009	14 April 2010
DA085.1.1	24 February 2009	24 February 2009	30 June 2009
Supersedes Revenue Ruling DA 2.4	22 January 2009	22 January 2009	23 February 2009