Queensland Government

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Public Ruling
Duties Act:

INCLUSION OF CHATTELS IN AFAD RESIDENTIAL 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

1. Under Chapter 4 of the *Duties Act 2001* (the Duties Act), an additional amount of duty (additional foreign acquirer duty, or AFAD) applies to direct or indirect transactions in land that are liable to transfer duty, landholder duty and corporate trustee duty where the land is 'AFAD residential land'[1] and the acquirer under the transaction is a foreign person.[2]

2. AFAD residential land is land in Queensland that is or will be used solely or primarily for residential purposes; and on the land there is, or will be constructed, a building or part of a building (for the separate area a lot comprises) that is designed or approved by a local government for human habitation by a single family unit.

3. Section 232(2) of the Duties Act provides that for the purpose of imposing AFAD relating to transfer duty, a reference to AFAD residential land includes a reference to a chattel in Queensland if both the following apply:

   (a) the chattel and the land are included in the same dutiable transaction under sections 29 or 30, whether or not the chattel is the subject of a separate agreement for transfer

   (b) the use of the chattel can be directly linked to, or is incidental to, the use and occupation of the land.

4. The purpose of this public ruling is to provide examples of chattels that may be considered to be directly linked to, or incidental to, the use and occupation of land (and, therefore, be included as AFAD residential land) for the purposes of imposing AFAD.

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1 Section 232 of the Duties Act
2 Section 240 of the Duties Act

Ruling and explanation

5. Examples of chattels that may be directly linked to, or incidental to, the use and occupation of AFAD residential land for the purposes of s.232(2) of the Duties Act include:

   (a) household furniture

   (b) household furnishings (e.g. curtains, blinds, carpets)

   (c) household appliances (e.g. refrigerator, dishwasher, washing machine)

   (d) home entertainment systems (e.g. television, DVD player, sound system)

   (e) household recreational equipment (e.g. home gym, billiard table)

   (f) home gardening equipment (e.g. mower)

   (g) BBQ settings

   (h) swimming pool cleaning equipment (e.g. pool filtration pumps)

   (i) mobile air conditioners.

6. Examples of chattels that would not generally be considered to be directly linked to, or incidental to, the use and occupation of AFAD residential land for the purposes of s.232(2) of the Duties Act include:

   (a) car, boat, caravan, truck

   (b) farm equipment (e.g. tractor)

   (c) chattels used for commercial purposes.

Date of effect

7. This public ruling takes effect from 28 August 2023.

Amy Rosanowski
Acting Commissioner of State Revenue
Date of issue: 24 August 2023

References

Public Ruling	Issued	Dates of effect	
		From	To
DA232.2.3	24 August 2023	28 August 2023	Current
DA232.2.2	13 December 2022	1 January 2023	27 August 2023
DA232.2.1	3 July 2017	3 July 2017	31 December 2022

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