

Contents	Page
What this direction is about	1
Direction and explanation	4
Date of effect	5
References	5

Practice Direction Duties Act:

TRANSFER DUTY—RELIEF FOR CERTAIN VACANT LAND CONCESSION BENEFICIARIES

A practice direction, 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 practice direction, the change in the law overrides the practice direction—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 direction is about

1. This practice direction sets out the circumstances under which ex gratia relief may be provided to extend the benefit of the first home concessions and the first home vacant land concession, where a vacant land concession beneficiary previously obtained a vacant land concession and the transaction was reassessed because no home was built on the land within the required timeframe, or the land was disposed of before the construction of a home.
2. Chapter 2 Part 9 of the *Duties Act 2001* (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, first and new home, or of vacant land on which a first home is to be constructed.¹
3. Section 92B of the Duties Act provides a first home vacant land concession for transfer duty for relevant transactions involving vacant land on which a first home is to be constructed.
4. A residence is a person's home if the person's occupation date for the residence is within 1 year after the person's transfer date for the residential land.²
5. In this practice direction, the term 'first home concession' refers to both the first home other than a new home concession, and the first and new home concession.
6. 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 land³ 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 beneficiary⁴ in relation to land other than the residential land on which the residence is constructed.⁵
7. 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.⁶
8. A residence that is to be constructed on vacant land⁷ 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.

¹ Section 85 of the Duties Act

² Section 86(1) of the Duties Act

³ 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.

⁴ Defined in s.86D of the Duties Act

⁵ 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 for which a premium, fine or other consideration is payable.

⁶ Section 86(4) of the Duties Act. See section 86(5) for the definition of a substantially renovated home.

⁷ Section 86C(1) of the Duties Act defines that land is 'vacant land' if a residence is to be constructed on the land and there was no building or part of a building on the land when it was acquired.

- (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 interest
 - and
 - (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.⁸
- 9. Section 154 of the Duties Act provides that a reassessment to remove the first home vacant land concession will occur in the following circumstances, other than because of an intervening event.⁹
 - (a) The transferee, lessee or vested person—before the occupation date—disposes of the land by one of the following:
 - (i) surrendering the lease—in the case of a home or vacant land lease
 - (ii) transferring, leasing or otherwise granting exclusive possession of, part or all, the land to another person
 - (iii) acquiring the land subject to a lease, granted before the transfer date, over all or part of the land.
 - (b) The transferee, lessee or vested person fails to take up occupation within 2 years after the transfer date of the vacant land on which a residence is to be constructed.¹⁰
- 10. A person is a vacant land concession beneficiary in relation to particular land if all the following apply.
 - (a) The person was one of the following:
 - (i) a transferee under a dutiable transaction that was the transfer, or agreement for the transfer, of the land
 - (ii) a lessee under a dutiable transaction that was the acquisition on its creation, grant or issue of a new right that is a lease of land for which a premium, fine or other consideration is payable

⁸ 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 for which a premium, fine or other consideration is payable.

⁹ Defined in the Dictionary in Schedule 6 of the Duties Act

¹⁰ Section 154(1) and (2) of the Duties Act

- (iii) a vested person for the land under a dutiable transaction that was the vesting by statute law of land.
 - (b) A concession under Chapter 2 Part 9 applied to the transaction.
 - (c) At the time of the transaction, the land was vacant land.¹¹
11. A person is taken to be a vacant land concession beneficiary even if the transaction they received the first home vacant land concession on has been reassessed under s.154 of the Duties Act.¹²
12. As a result, where a person obtains the first home vacant land concession but fails to build a home on the land within the required timeframe or disposes of the land before building a home, transfer duty must be reassessed at the non-concessional rate. The relevant provisions operate so that the person will be ineligible for the first home concessions or the first home vacant land concession on a subsequent purchase despite never having owned a home. However, it is intended that these concessions should be available where a person has never held an interest in land containing a residence.
13. Ex gratia relief from transfer duty will be considered, on a case-by-case basis, to extend the benefit of the first home concessions and first home vacant land concession to transactions where the transferee, lessee or vested person previously obtained the first home vacant land concession and the transaction was reassessed because no home was built on the land within the required timeframe or the land was disposed of before the construction of a home.

Direction and explanation

14. Ex gratia relief to extend the benefit of the first home concessions and the first home vacant land concession may be appropriate where all the following apply:
- (a) Transfer duty was assessed for a dutiable transaction on the basis that the first home vacant land concession applied.
 - (b) Transfer duty was subsequently reassessed for the transaction at the non-concessional rate of duty under s.154 of the Duties Act because no home was constructed on the land within the required timeframe or the land was disposed of without a home being constructed on it.
 - (c) The land, while owned by the transferee under the transaction, remained vacant.
 - (d) All duty assessed and reassessed for the transaction has been paid.
 - (e) The transferee under the transaction subsequently acquires a home or vacant land and would be entitled to the first home concessions or the first home vacant land concession for this later transaction but for the fact that the first home vacant land concession applied to the earlier transaction.

¹¹ Section 86D(1) of the Duties Act

¹² Section 86D(2) of the Duties Act

15. To make a claim for ex gratia relief, the transferee must do all the following.
- (a) Complete the approved form¹³ to claim the appropriate concession.
 - (b) Make a declaration to be bound by the conditions of the concession including declaring to notify the Commissioner in the approved form¹⁴ if a notifiable event¹⁵ occurs.
 - (c) Acknowledge that if the transferee fails to comply with the conditions of the concession¹⁶:
 - (i) the transaction may be reassessed
 - (ii) the concession amount may be required to be repaid in full or in part
 - (iii) penalty tax¹⁷ and interest¹⁸ may apply.
16. The relevant documents, together with a statement providing details of the first home vacant land concession that was previously claimed, must be lodged with the Commissioner of State Revenue to progress the ex gratia request.

Date of effect

17. This practice direction takes effect from the date of issue.

Simon McKee
Commissioner of State Revenue
Date of issue: 1 May 2025

References

Practice Direction	Issued	Dates of effect	
		From	To
DA085.1.1	1 May 2025	1 May 2025	Current
Supersedes Public Ruling DA085.2.3	12 December 2016	12 December 2016	30 April 2025

¹³ The current approved forms under s.95 of the Duties Act are *Form D2.1—Claim a home, first home or first home (new home) transfer duty concession* and *Form D2.7—Claim a first home vacant land transfer duty concession*.

¹⁴ The current approved form under s.155 of the Duties Act is *Form D2.4—Notice for reassessment—home, first home, first home (new home) or first home vacant land concessions*.

¹⁵ Under s.155 of the Duties Act, 'notifiable event' means transferring, leasing or otherwise granting exclusive possession of all or part of the land; and for transactions involving the lease of residential or vacant land, surrendering the lease before or within 1 year after the transferee's, lessee's or vested person's occupation date for the residence on the land; or failure to comply with the occupancy requirement for the residence on the land.

¹⁶ The condition that the transferee must have never claimed the vacant land concession may be disregarded.

¹⁷ Section 58 of the *Taxation Administration Act 2001*

¹⁸ Section 54 of the *Taxation Administration Act*