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Practice Direction General:

PRACTICE DIRECTION SYSTEM: EXPLANATION AND STATUS

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. The purpose of the practice directions system is to publish the practices of the Commissioner in respect of the administration and application of the following revenue laws:
 - (a) *Taxation Administration Act 2001* (Taxation Administration Act)
 - (b) *Duties Act 2001* (Duties Act)
 - (c) *Payroll Tax Act 1971* (Payroll Tax Act)
 - (d) *Land Tax Act 2010* (Land Tax Act)
 - (e) *Betting Tax Act 2018* (Betting Tax Act)
 - (f) the royalty laws; that is, royalty provisions of the *Mineral Resources Act 1989* (Mineral Resources Act) and *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas Act)¹
 - (g) *First Home Owner Grant and Other Home Owner Grants Act 2000* (Grants Act).
2. The purpose of this practice direction is to set out the system for practice directions, including how they take effect.

¹ 'Royalty provisions' means chapter 11 of the Mineral Resources Act, chapter 6 of the Petroleum and Gas Act and any other provisions of those Acts to the extent they are administered by the minister with ministerial responsibility for the Taxation Administration Act.

3. The Commissioner also issues public rulings to publish their views in respect of the interpretation of the above laws. Public Ruling GEN001—*Public ruling system: explanation and status* sets out the system for public rulings. Where a public ruling and a practice direction relate to the same matter, both should be consulted. Further, where necessary, some matters of interpretation may be contained in a practice direction, or some matters of practice may be contained in a public ruling.

Direction and explanation

The effect and status of a practice direction

4. A practice direction, when issued, is the published view of the Commissioner on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings², memoranda, manuals and advice provided by the Commissioner in respect of the issues it addresses.
5. The Commissioner has a duty to assess and make decisions according to law. It would be contrary to this duty for the Commissioner to make an absolute commitment to be 'bound by' or to 'stand by' or 'abide by' practice directions when making original assessments and decisions. However, it is the Commissioner's practice to assess or make a decision in accordance with applicable practice directions.
6. Accordingly, where a person, acting reasonably and in good faith, adopts a position that is consistent with a practice direction, the Commissioner will generally not depart from the practice direction when issuing assessments or making decisions.
7. Whether a person has acted reasonably and in good faith is to be determined by a consideration of all the relevant circumstances. The following are examples of circumstances that would not be sufficient to demonstrate that a person has acted reasonably and in good faith:
 - (a) A person (or their representative) consults a practice direction and makes a determination that tax is not payable, or reduced tax is payable, by relying only on some of the relevant factors to which it refers (to the extent the practice direction contains matters of interpretation as well as practice), or by otherwise relying on only certain parts of the direction, rather than applying the practice direction as a whole. For instance, where a person's valuation complies with the formalities set out in a practice direction but ignores a list in the practice direction of valuation approaches that are usually inappropriate, and this results in a lower value.
 - (b) In making representations to Queensland Revenue Office, or to a self assessor in relation to circumstances to which a practice direction applies, a person or their representative does not properly represent all the relevant facts that are known or ought to be known and that a reasonable person would consider relevant when reading the direction as a whole.
8. Persons considering relying on a practice direction and their advisers should be aware that practice directions do not have the force of law, subject to the operation of s.20 of the Taxation

² Private rulings are issued under Public Ruling DA000.1—*Private rulings on unexecuted instruments or proposed transactions*. They are different to statutory rulings, such as those relating to corporate reconstruction.

Administration Act; and the Commissioner would be obliged to depart from a practice direction in certain circumstances, such as where:

- (a) subsequent directly applicable case law establishes that statements in a practice direction are incorrect at law
 - (b) there has been legislative change, the effect of which is that the Commissioner would not be administering in accordance with the law if they continued to apply the direction
 - (c) the direction relates to the exercise of discretion, and the application of the direction in every case would improperly fetter the discretion afforded to the Commissioner under legislation
 - (d) the Commissioner otherwise determines that the practice direction is incorrect at law and must be withdrawn or amended (an example may arise if dicta of a superior court indicates that the direction is incorrect).
9. The Commissioner will depart from a practice direction in circumstances falling within subparagraphs (a) to (c) above, even if the direction has not been amended or withdrawn.
10. If a taxpayer relies on a practice direction reasonably and in good faith and the Commissioner's decision to depart from the direction results in the imposition of unpaid tax interest or penalty tax, remission will be considered in accordance with existing practice.³
11. Practice directions are evidence of the Commissioner's legal interpretations and assessment practices; therefore, in relation to reassessments, taxpayers have the protection provided by s.20 of the Taxation Administration Act.

When a practice direction takes effect

12. Generally, a practice direction operates prospectively from its date of issue.
13. Although a practice direction may operate prospectively, the interpretation or practice set out in the direction may have existed before the date of its issue. Accordingly, unless the direction is stated to have retrospective effect:
- (a) to the extent that a practice direction reflects the Commissioner's existing interpretation or practice, that interpretation or practice continues
 - (b) to the extent that a practice direction alters the Commissioner's existing interpretation or practice, the new interpretation or practice takes effect from the date of issue of the practice direction.
14. The terms of this practice direction will apply even if a particular practice direction has a retrospective date of effect that is before 8 April 2024, the date on which the practice direction system commenced.⁴

³ See public rulings TAA060.1—*Remission of unpaid tax interest*, TAA060.2—*Penalty tax* and TAA060.3—*Penalty tax—home concessions*.

⁴ The practice direction system commenced on 8 April 2024 by the Commissioner issuing Practice Direction GEN001.1—*Practice direction system: explanation and status*. Historical information about a previous system of practice directions is contained in Public Ruling GEN002—*Withdrawal of revenue rulings and practice directions*.

15. A practice direction contains, under the heading 'References', a table setting out the history of directions on the topic. This table includes details of the period of effect of each version of the practice direction and, where the views of the Commissioner on the topic were previously contained in a public ruling, the details of the version of the public ruling in force immediately before the issue of the first version of the practice direction.

Practice direction naming conventions

Revenue laws other than royalty laws

16. The naming convention adopted for practice directions in relation to a particular Act is:
- (Abbreviated name of Act)(Section reference).(Direction number).(Direction version)*
17. The abbreviations used in naming Act-specific practice directions are as follows:
- (a) DA—the Duties Act
 - (b) FHOGA—the Grants Act
 - (c) LTA—the Land Tax Act
 - (d) PTAQ—the Payroll Tax Act⁵
 - (e) BTA—the Betting Tax Act
 - (f) TAA—the Taxation Administration Act.
18. Generally, the section reference identified in the name of the practice direction is the section that is the primary focus of the direction. Where the practice direction relates to a number of sections within a particular Act, or the Act generally, '000' may be used as the section reference in its name.
19. The inclusion of a direction number in the name of the practice direction recognises that the Commissioner may issue multiple directions in relation to different issues associated with a particular section of an Act. Each such separate practice direction will have a distinct direction number.
20. Each time a new version of a particular practice direction is issued, the direction version will be increased by one.

Example 1

Practice Direction DA016.1.1 is the first version of the first practice direction that relates to s.16 of the Duties Act.

If that practice direction is amended, the new version of the practice direction will be named 'Practice Direction DA016.1.2'.

⁵ See also paragraphs 26–28 in relation to harmonised payroll tax public rulings.

Alternatively, if a separate practice direction is issued that deals with another aspect of the Commissioner's practice relating to s.16 of the Duties Act, the first version of that direction will be named 'Practice direction DA016.2.1'.

21. Unless it is necessary to refer to a specific version, a practice direction may be identified by its direction number alone (e.g. Practice Direction DA016.1).

Royalty laws

22. For practice directions that relate to royalty laws, the following naming convention is used:

(Abbreviation)(Direction number).(Direction version)

23. The relevant abbreviations used for these directions are:
 - (a) MRA—the Mineral Resources Act
 - (b) PGA—the Petroleum and Gas Act
 - (c) RLTY—when the direction relates to both the MRA and the PGA.
24. The direction number is 3 digits. Each time a new version of a particular practice direction is issued, the direction version will be increased by one.

General

25. In addition to the above practice directions, the Commissioner will also issue practice directions that deal with multiple Acts. The name of these general practice directions takes the form 'GEN(Direction number).(Direction version)', where '(Direction number)' is a 3-digit number. As with the other practice directions, a new version of a general practice direction will maintain the same direction number but the direction version will increase by one.

Harmonised payroll tax practice directions

26. The *Pay-roll Tax (Harmonisation) Amendment Act 2008* amended the Payroll Tax Act with effect from 1 July 2008 to harmonise certain aspects of Queensland's payroll tax system with the systems of certain other jurisdictions (harmonised jurisdictions). As well as legislative amendment, harmonisation involves harmonised jurisdictions adopting common interpretations and practices in relation to their respective payroll tax legislation.
27. Details of certain of those common interpretations and practices are published in each harmonised jurisdiction. In Queensland, such publication is by way of a public ruling, not a practice direction.
28. Because some aspects of Queensland's payroll tax system have not been harmonised with the harmonised jurisdictions, the Commissioner may publish practice directions relating to the Payroll Tax Act that are not replicated in other harmonised jurisdictions.

Draft practice directions

29. The Commissioner may decide to release a draft version of a proposed practice direction (draft practice direction) to the Taxation Consultative Committee (TCC), Property Consultative Committee (PCC), Resource Consultative Committee (RCC) or the public generally. The

desirability, extent and duration of any such consultation will be determined by the Commissioner on a case-by-case basis.

30. Draft practice directions may not necessarily reflect the Commissioner's interpretation or practice at the time of release for consultation. Accordingly, unless the draft direction is stated to have retrospective effect if issued as a final practice direction:
 - (a) to the extent that a draft practice direction reflects the Commissioner's existing interpretation or practice, that interpretation or practice continues
 - (b) to the extent that a draft practice direction alters the Commissioner's existing interpretation or practice, the new interpretation or practice will not take effect unless and until the draft direction is issued as a final practice direction.
31. A draft practice direction will have the letter 'D' appended to its name. If the draft direction is issued in final form, the letter 'D' will not be included in its name.

Example 2

The Commissioner prepares a proposed practice direction in relation to s.19 of the Duties Act and decides to release a draft of the practice direction to the TCC and PCC for comment.

When released in draft form, the practice direction will be named 'Practice direction DA019.1.1D'.

The practice direction is ultimately issued after the consultation process and will be named 'Practice direction DA019.1.1'.

32. As a draft practice direction will not have effect, the words 'not current' will appear in the reference table.

Withdrawal of practice directions

33. The version of a practice direction that is current at a particular time may be withdrawn by the Commissioner by publication of a new version of that direction. As a general rule, the new version will take effect from the date specified in it, and the current version will remain in effect until immediately before the new version takes effect.
34. Alternatively, if all the practice directions in relation to a particular Act are to be withdrawn (for example, on the repeal of the particular Act), the Commissioner may withdraw those directions by publication of a single general (GEN) practice direction.

Date of effect

35. This practice direction takes effect from 8 April 2024.

References

Practice Direction	Issued	Dates of effect	
		From	To
GEN001.1	3 April 2024	8 April 2024	Current