



Contents	Page
What this Ruling is about	1
Ruling and explanation	1
Date of effect	5
References	5

## Public Ruling General:

### **PUBLIC RULING SYSTEM: EXPLANATION AND STATUS**

*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. The purpose of the Public Rulings system is to publish the views of the Commissioner in respect of the interpretation and application of the *Duties Act 2001* (the Duties Act), *Taxation Administration Act 2001* (the Taxation Administration Act), *Fuel Subsidy Act 1997* (the Fuel Subsidy Act), *First Home Owner Grant Act 2000* (the FHOG Act), *Payroll Tax Act 1971* (the Payroll Tax Act) and the *Land Tax Act 2010* (the Land Tax Act).
2. The purpose of this Public Ruling is to set out the system for Public Rulings, including how they take effect.

## **Ruling and explanation**

### **The effect of a Public Ruling**

3. A Public Ruling, 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 rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue/s it addresses.
4. A Public Ruling is not a conclusive statement of how the legislation or case law (the law) relates to a particular topic. Rather, a Public Ruling represents the interpretation of the law applied by the Commissioner during the period in which the Public Ruling is in effect. Accordingly, a Public Ruling does not override the terms of the legislation to which it relates, and does not act as an estoppel against the operation of the law.

5. Generally, a Public Ruling operates prospectively. An example of an exception to this is where a Public Ruling sets out the details of an approved administrative arrangement with a retrospective date of effect.
6. Although a Public Ruling may operate prospectively, the interpretation or practice set out in the Public Ruling may have existed prior to the date of its issue. Accordingly, unless the Public Ruling is stated to have retrospective effect:
  - (a) to the extent that a Public Ruling reflects the Commissioner's existing interpretation or practice, that interpretation or practice continues and
  - (b) to the extent that a Public Ruling alters the Commissioner's existing interpretation or practice, the new interpretation or practice takes effect from the date of issue of the Public Ruling.
7. The terms of this Public Ruling will apply even if a particular Public Ruling has a retrospective date of effect which is before 24 February 2009, the date on which the Public Ruling system commenced.<sup>1</sup>
8. A Public Ruling contains, under the heading 'References', a table setting out the history of rulings on the topic (the references table). The references table includes details of the period of effect of each version of the Public Ruling and, where the views of the Commissioner on the topic were previously contained in a Revenue Ruling or Practice Direction, the details of the version of the Revenue Ruling or Practice Direction in force immediately prior to the issue of the first version of the Public Ruling.<sup>2</sup>

### **Public Ruling naming conventions**

9. The naming convention adopted for Public Rulings in relation to a particular Act is:

*(Abbreviated name of Act)(Section reference).(Ruling number).(Ruling version)*
10. The abbreviations used in naming Act-specific Public Rulings are as follows:
  - (a) DA – the Duties Act
  - (b) FHOGA – the FHOG Act
  - (c) FSA – the Fuel Subsidy Act
  - (d) LTA – the Land Tax Act<sup>3</sup>
  - (e) PTAQ – the Payroll Tax Act<sup>4</sup>
  - (f) TAA – the Taxation Administration Act
11. Generally, the section reference identified in the name of the Public Ruling is the section which is the primary focus of the Public Ruling. Where the Public Ruling 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.

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<sup>1</sup> The Public Ruling system commenced upon the Commissioner issuing Public Ruling GEN001.1—*Public Ruling system: explanation and status* on 24 February 2009.

<sup>2</sup> See also Public Ruling GEN002.1—*Withdrawal of Revenue Rulings and Practice Directions*.

<sup>3</sup> Any Public Rulings issued under the *Land Tax Act 1915* (now repealed) now have an abbreviation of LTA(1915). They can be found in the Historical Library of the Office of State Revenue's website.

<sup>4</sup> See also paragraphs 17-21 in relation to Harmonised Payroll Tax Public Rulings.

12. The inclusion of a ruling number in the name of the Public Ruling recognises that the Commissioner may issue multiple Public Rulings in relation to different issues associated with a particular section of an Act. Each such separate Public Ruling will have a distinct ruling number.
13. Each time a new version of a particular Public Ruling is issued, the ruling version will be increased by one.

**Example 1**

*Public Ruling DA030.1.1 is the first version of the first Public Ruling which relates to s.30 of the Duties Act.*

*If that Public Ruling is amended, the new version of the Public Ruling will be named 'Public Ruling DA030.1.2'.*

*Alternatively, if a separate Public Ruling is issued which deals with another aspect of the Commissioner's interpretation or application of s.30 of the Duties Act, the first version of that Public Ruling will be named 'Public Ruling DA030.2.1'.*

14. Unless it is necessary to refer to a specific version, a particular Public Ruling may be identified by its ruling number alone (eg Public Ruling DA030.1).
15. In addition to Act-specific Public Rulings, the Commissioner will also issue Public Rulings which deal with multiple Acts. The name of these general Public Rulings takes the form 'GEN(*Ruling number*).(*Ruling version*)', where '*Ruling number*' is a three-digit number. As with the Act-specific Public Rulings, a new version of a general Public Ruling will maintain the same ruling number but the ruling version will increase by one.
16. The naming convention for a proposed Public Ruling released in draft form is discussed in paragraph 24 below.

**Harmonised Payroll Tax Public Rulings**

17. 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 pay-roll tax legislation.
18. 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.
19. In order to maintain consistency with other jurisdictions, such Public Rulings (Harmonised Payroll Tax Public Rulings) do not adopt the naming convention referred to in paragraph 9 above. Rather, the name of such a Public Ruling takes the form 'PTA(*Ruling number*).(*Ruling version*)', where '*Ruling number*' is a common three-digit number used by each harmonised jurisdiction to identify that jurisdiction's ruling on the particular topic.

20. If an existing Harmonised Pay-roll Tax Public Ruling is amended:
- (a) at the same time as the equivalent rulings in other harmonised jurisdictions—the ruling number will be replaced with a new three-digit number, and the ruling version will be reset to '1' or
  - (b) independently of the equivalent rulings (for instance, as a result of an amendment to the Payroll Tax Act which does not occur in any other harmonised jurisdiction)—the ruling number will remain the same, but the ruling version will increase by one.
21. As some aspects of Queensland's payroll tax system have not been harmonised with the harmonised jurisdictions, the Commissioner may publish Public Rulings relating to the Payroll Tax Act which are not replicated in other harmonised jurisdictions. Such Public Rulings will adopt the naming convention referred to in paragraph 9 above.

### **Draft Public Rulings**

22. The Commissioner, in his sole discretion, may decide to release a draft version of a proposed Public Ruling (draft Public Ruling) to the Taxation Consultative Committee (TCC) and/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.
23. Draft Public Rulings may not necessarily reflect the Commissioner's interpretation or practice as at the time of release for consultation. Accordingly, unless the draft Public Ruling is stated to have retrospective effect if issued as a final Public Ruling:
- (a) to the extent that a draft Public Ruling reflects the Commissioner's existing interpretation or practice, that interpretation or practice continues and
  - (b) to the extent that a draft Public Ruling alters the Commissioner's existing interpretation or practice, the new interpretation or practice will not take effect unless and until the draft Public Ruling is issued as a final Public Ruling.
24. A draft Public Ruling will have the letter 'D' appended to its name. If the draft Public Ruling is issued in final form, the letter 'D' will not be included in its name.

### **Example 2**

*The Commissioner prepares his first proposed Public Ruling in relation to s.31 of the Duties Act, and decides to release a draft of the Public Ruling to the TCC for comment.*

*When released in draft form, the Public Ruling will be named 'Public Ruling DA031.1.1D'.*

*The Public Ruling is ultimately issued after the TCC consultation process, and will be named 'Public Ruling DA031.1.1'.*

25. As a draft Public Ruling will not have effect, the words 'not current' will appear in the reference table.

**Subsequent amendment to the law**

26. Where a change in 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, subsidy or exemption, as the case may be, in accordance with the law.
27. This is the case even if the Public Ruling has not been amended or withdrawn on account of the change in the law.

**Withdrawal of Public Rulings**

28. The version of a Public Ruling which is current at a particular time (the current version) may be withdrawn by the Commissioner by publication of a new version of that Public Ruling (the new version). 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 prior to the new version taking effect.
29. Alternatively, in the event that all of the Public Rulings in relation to a particular Act are to be withdrawn (for example, on account of the repeal of the particular Act), the Commissioner may withdraw those Public Rulings by publication of a single general (GEN) Public Ruling.

**Date of effect**

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

David Smith  
 Commissioner of State Revenue  
 Date of Issue 30 June 2010

**References**

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Public Ruling	Issued	Dates of effect	
		From	To
GEN001.3	30 June 2010	30 June 2010	Current
GEN001.2	3 July 2009	3 July 2009	29 June 2010
GEN001.1	24 February 2009	24 February 2009	2 July 2009