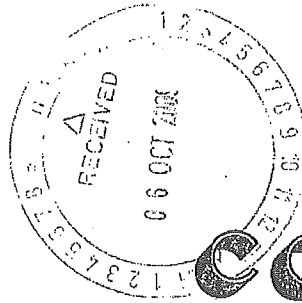


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Our reference: LR000938
Your reference:

STATE
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5 October 2009

Dan Flynn
Partner
Rigby Cooke Lawyers
Level 13
469 La Trobe Street
Melbourne Victoria 3000



COPY

Dear Sir

**Duties Act 2000 – Alpine lease transactions
Request for private ruling and/or opinion**

I refer to your letter dated 21 September 2009 regarding the duty implications of certain alpine lease transactions involving the Falls Creek Alpine Resort Board and the Mount Hotham Alpine Resort Board (Boards).

On the basis that your submission does not identify a particular transaction or taxpayer the requirements of Revenue Ruling GEN.009 have not been satisfied and a private ruling cannot be issued. However, the following general advice is given.

Based on the information you have provided it is considered that the grant of an alpine lease, being Crown land which is permanently reserved under the *Crown Land (Reserves) Act 1978*, by either of the Boards would be exempt under section 51 of the *Duties Act 2000* (Duties Act) as a grant by the Crown of Crown land.

(1)

Provided that no consideration was paid in respect of the initial grant of an alpine lease from a Board to a tenant, no duty would be payable in respect of the surrender of such a lease after 21 November 2008. Where consideration has been paid in respect of the initial grant of an alpine lease from a Board to a tenant, the surrender of such a lease to a Board on behalf of the Crown would be exempt from duty under section 47 of the Duties Act.

(2)

In the circumstances described, and based on the example form of lease provided, the covenants made by a tenant to a Board to undertake structural work and improvements on the leased property would not be treated as consideration for the grant of a lease where the improvements remain the property of the tenant. Accordingly, no duty would be payable in respect of the subsequent grant of a new alpine lease, being Crown land which is permanently reserved under the *Crown Land (Reserves) Act 1978*, to the same tenant where the tenant agrees to undertake structural work and improvements on the leased property which remain the property of the tenant.

(3)

It is important to note that this general advice is based solely on the information provided and the submissions made. If the circumstances change or the transaction does not proceed in the form you have described, this private ruling may not be relied upon.

If you have any queries, please contact me on (03) 9628 0205.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Sue Bosch".

Sue Bosch
Revenue Specialist
Land Rich Unit