

SOUTH AUSTRALIA



RevenueSA

Stamp Duties

Circular No. 235

STAMP DUTIES (GAMING MACHINE SURCHARGE) AMENDMENT ACT 2002

The *Stamp Duties (Gaming Machine Surcharge) Amendment Act 2002* (“the amending Act”) was assented to and came into operation on 28 November 2002.

The precise nature and scope of the provisions can only be ascertained by reading the amending Act.

The amending Act inserts sections 71EA to 71EJ into Part 3 of the *Stamp Duties Act 1923* (“the principal Act”), to introduce a gaming machine surcharge (“the surcharge”) where ownership of a gaming machine business is transferred. This includes the transfer of any underlying or indirect interest in a gaming machine business. (For example, the surcharge would ordinarily apply in circumstances where there is a transfer of shares in a private company that owns a gaming machine business.)

The surcharge is calculated by applying the rate of 5% to the net gambling revenue of the gaming machine business and the proportion of the interest in that business transferred.

The surcharge is a separate and distinct charge and is payable only where there is a liability for *ad valorem* conveyance duty on the transfer of an interest in a gaming machine business under the principal Act. Where there is no liability to *ad valorem* duty, or there is a specific stamp duty exemption on such a transfer, then there is also no liability for the surcharge. The amending Act provides additional exemptions from the surcharge (but not from stamp duty) for transfers of a gaming machine business between members of the same family group (as defined in the amending Act), where the relevant transactions are by way of mortgage, gift, or are made for no consideration of a commercial nature.

It should be noted that the *Gaming Machines (Gaming Tax) Amendment Act 2002* recently amended the *Gaming Machines Act 1992* (by inserting section 28A), and makes it a condition of the transfer of a gaming machine licence that, where the surcharge has not already been paid, it is to be paid within the period specified in section 20 of the *Stamp Duties Act*.

The surcharge is GST free.

FURTHER INFORMATION***Location***

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28 November 2002

COMMISSIONER OF STATE TAXATION

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