

**MINUTES OF THE
SA STATE TAXES LIAISON GROUP MEETING
HELD ON WEDNESDAY 5 DECEMBER 2018 AT 4:00 PM
TRAINING ROOM, LEVEL 1, STATE ADMINISTRATION CENTRE,
VICTORIA SQUARE, ADELAIDE**

1 ATTENDANCE / APOLOGIES

1.1 PRESENT FOR REVENUESA

Julie Holmes (Chair), Mark Christmas, Tom Colmer, Shaun Davies, Kristy Ferguson, Ian Grimshaw, Lee Jurga, Paul Maxwell and Lisa Smith.

1.2 PRESENT FOR INDUSTRY GROUPS

Rebecca Hayes (Australian Institute of Conveyancers (SA Division) Inc), Andrea Michaels (The Law Society of South Australia), Marc Romaldi (Property Council of Australia), Kate Southcott (Real Estate Institute of South Australia), Jeff Stevens (Australian Institute of Conveyancers (SA Division) Inc), Paul Tanti (Chartered Accountants Australia and New Zealand), Julie Van der Velde (CPA Australia) and Bernie Walrut (Law Council of Australia).

1.3 APOLOGIES

Phil Dorman (Institute of Public Accountants), Paul Ingram (The Tax Institute), Peter Slegers (Business SA) and Alan Yates (CPA Australia).

Julie Holmes advised the group that she has been appointed as the Commissioner of State Taxation in an ongoing capacity.

Julie Holmes also asked whether there were any further additions to those matters listed under 'Any Other Business'. Bernie Walrut provided a correction to Item 4.5 (which should have referred to the *Taxation Administration Act 1996* and not the *Stamp Duties Act 1923*).

2 BUSINESS ARISING

Julie Holmes elected to address Item 2.4 first.

2.4 UPDATE ON ACTION REGISTER (SEE ATTACHMENT B)

The following was discussed in relation to the Action Register set out in Attachment B of the Agenda:

- Item 1 – Julie Holmes advised that the review of the terms of reference of the Rulings Sub-Committee was progressing and that a draft should be circulated for review by the end of January 2019.
- Item 2 – Julie Holmes confirmed that this item was completed at the group's September meeting and may therefore be removed.
- Item 3 – Paul Maxwell advised that the 'Stamp Duty – Conveyance by Direction' publication would be published on 7 December 2018.
- Item 4 – Julie Holmes advised that the 'Stamp Duty – Residential Land used for Long Term Accommodation and Discretionary Trusts that are

Foreign Trusts' publication was still being developed. Paul Maxwell stated that a draft should be available for circulation by the end of January 2019.

- Item 5 – Julie Holmes advised that the 'Foreign Ownership Surcharge *Ex Gratia* Relief Guidelines for Significant Developments' publication would be published on 7 December 2018.
- Item 6 – Julie Holmes proposed that the 'Stamp Duty – Duty Arising From Changes in Partnership Interests' publication be abandoned, with the relevant issues instead being addressed during the rewrite of the *Stamp Duties Act 1923*. Bernie Walrut requested that some guidance be included on the RevenueSA website in the meantime – Paul Maxwell and Kristy Ferguson agreed that the content of the proposed ruling be published directly onto the RevenueSA website.

ACTION: Paul Maxwell to review all rulings currently marked as 'under review' to determine whether their content should be published on the RevenueSA website as current.

- Item 7 – Julie Holmes advised that the 'Early Engagement and Alternative Dispute Resolution' publication was progressing and that a draft should be circulated for review by the end of January 2019.
- Item 8 – Julie Holmes proposed that the 'Section 71(6) of the *Stamp Duties Act 1923*' publication be abandoned, with the relevant issues instead being addressed during the rewrite of the *Stamp Duties Act 1923*. Paul Maxwell advised that some of the draft content will be published directly onto the RevenueSA website in the interim.
- Item 9 – Kristy Ferguson advised that no state revenue office performs website archiving, with the common feeling being that archives would be onerous to manage, as well as potentially confusing for users. Instead of archiving, Kristy advised that RevenueSA would take 'snapshots' of its website each month, which it would make available upon request.

Julie Van der Velde cited the potential for monthly snapshots to fail to capture anything that is published for a brief time on the website. Kristy Ferguson provided assurance that additional snapshots will be taken if required.

Julie Holmes determined that the item may be removed.

Bernie Walrut requested that a discussion of sections 91(3) and 60(2) of the *Stamp Duties Act 1923* be added to 'Any Other Business' – Julie Holmes approved this addition.

2.1 UPDATE ON REVENUESA PUBLICATIONS AND RULINGS SUB-COMMITTEE (SEE ATTACHMENT A)

No further discussion was held in relation to the RevenueSA Publications set out in Attachment A of the Agenda, since it was agreed that each had been sufficiently discussed already (or would be better addressed through the rewrite of the *Stamp Duties Act 1923*).

2.2 UPDATE ON STATE TAX APPEALS

Paul Maxwell advised that:

- RevenueSA is still awaiting the Full Court of the Supreme Court's judgment in relation to Business SA's payroll tax charitable purposes exemption appeal;
- RevenueSA is still awaiting the Supreme Court's judgment in relation to the Takhar's land tax primary production appeal;
- SACAT had recently provided a decision in relation to a Seniors Housing Grant, supporting RevenueSA's interpretation of a contract law issue;
- two new payroll tax appeals have been lodged – one in relation to contractors and the other in relation to the health services provider exemption;
- two new SACAT appeals have been lodged in relation to the Residence Requirement of the First Home Owner Grant; and
- there are three other matters at various stages of the Supreme Court appeal process and six other applications currently before SACAT.

2.3 THIRD PARTY REPORTING

Tom Colmer advised that:

- the Third Party Reporting measures were approved as part of the *Statutes Amendment and Repeal (Budget Measures) Act 2018*;
- The date the Third Party Reporting measures will come into operation is yet to be proclaimed, however, it is proposed that the start date will be 1 July 2019;
- approximately one-third of vendor representatives are currently voluntarily providing Third Party Reporting data;
- RevenueSA will continue to communicate with industry in order to increase awareness of reporting requirements; and
- system functionality is continuing to be reviewed in order to integrate the reporting process and make it more user-friendly.

Rebecca Hayes advised that the Australian Institute of Conveyancers (SA Division) Inc will help to communicate the new reporting obligations to practitioners. Tom Colmer agreed that this would be beneficial.

2.5 2018-19 STATE BUDGET UPDATE

Paul Maxwell confirmed that the Third Party Reporting operational date (which, as stated by Tom Colmer, is proposed to be 1 July 2019) would be set by proclamation.

Nothing further was discussed in relation to the 2018-19 State Budget.

2.6 UPDATE ON STAMP DUTY REWRITE

Julie Holmes advised that the Government has approved funding in relation to the rewrite of the *Stamp Duties Act 1923*.

Lee Jurga advised that:

- the aim of the rewrite is to reduce the complexity that has developed in RevenueSA Revenue Rulings and Information Circulars;
- the revised legislation will be transaction-based rather than document-based, however it is intended that changes to assessing practices will be minimised. There may be some changes to the timing of duty liabilities;
- at this stage there is no intention to change policy. Any changes to policy will require the approval of Cabinet;
- RevenueSA will seek to learn from rewrites performed in other jurisdictions (in particular, New South Wales and Western Australia);
- Latin words and archaic terminology will be removed in order to make the provisions more readily understandable;
- the rewrite is expected to result in significant savings for businesses, RevenueSA and practitioners;
- RevenueSA is aiming to table draft legislation in Parliament by December 2019; and
- the project will initially enter a design and consultation phase (with the assistance of the group, other Government departments and potentially other interested parties).

Julie Holmes reiterated that RevenueSA is keen to obtain input from a wide audience, inclusive of relevant associations and peak bodies. Marc Romaldi highlighted the need to avoid duplication in the consultation process.

3 NEW BUSINESS

3.1 REVNET / REVENUESA ONLINE

Lisa Smith advised that she has received reports of businesses being reluctant to become RevenueSA Online users due to the requirement to agree to RevenueSA's terms of business. As other members of the group were not aware of any instances of this, it was agreed that this issue would be dealt with on a case-by-case basis.

Jeff Stevens advised that he has encountered difficulties in selecting the correct document type when using RevenueSA Online to lodge documents with RevenueSA. It was agreed that Jeff would provide Ian Grimshaw with some specific examples.

3.2 PAYROLL TAX CHANGES FROM 1 JANUARY 2019

Kristy Ferguson advised that:

- changes to the taxable wage thresholds will be implemented with effect from 1 January 2019;
- information regarding the changes has been published on the RevenueSA website and emailed to all payroll tax clients;
- three webinars have been conducted, with a fourth scheduled for 12 December 2018. A recording of a webinar is also able to be viewed on the RevenueSA website;
- more specific communications are being developed in advance of returns for January 2019 (which are due on 7 February 2019); and
- system changes are on track to be finalised prior to the due date of returns for January 2019.

4 ANY OTHER BUSINESS

Julie Holmes requested a brief explanation of each item, after which it would be decided whether items should be discussed outside of the meeting, or listed for discussion at the March 2019 meeting.

The following was discussed in relation to the items set out at Item 4 of the Agenda:

- Item 4.1 – Julie Van der Velde advised that there is nothing in the *Stamp Duties Act 1923* or on the RevenueSA website to confirm that no transfer occurs upon the death of a joint tenant (i.e. when the interest of that owner passes to the surviving owner(s)).

ACTION: Paul Maxwell will arrange for information to be added to the RevenueSA website.

- Item 4.2 – Paul Tanti cited the difficulty that occurs when a taxpayer disagrees with a valuation that is determined by the Valuer-General and relied upon by RevenueSA, stating that there is no means for the taxpayer to open a dialogue with the Valuer-General.

ACTION: Julie Holmes will invite the new Valuer-General, Ms Katherine Bartolo (who begins in January 2019), to a meeting with RevenueSA and any interested members of the group.

- Item 4.3 – Paul Tanti advised that this item can be disregarded since it resulted from a misunderstanding.
- Item 4.4 – Paul Tanti stressed the need for changes in RevenueSA's practice to be communicated as soon as is practicable. Paul Tanti has provided details of a particular matter to Paul Maxwell for further consideration.
- Bernie Walrut consented to most of his items (i.e. Items 4.5 – 4.12) being discussed outside of the group meeting.

- Item 4.5 – Bernie Walrut advised that there are substantially more non-reviewable decisions specified in the South Australian *Taxation Administration Act 1996* than in the counterpart legislation of other jurisdictions.
- Item 4.6 – Bernie Walrut advised that the requirement to lodge an appeal within 60 days is onerous, given the length of time that the objection process can take. While most other jurisdictions have a similar requirement, many allow for an unlimited extension of the appeal period (whereas, in South Australia, extensions are capped at 12 months).
- Item 4.9 – Bernie Walrut advised that South Australia is one of few remaining jurisdictions to require the payment of 50% of the tax in dispute prior to the exercise of a right of appeal.
- Item 4.11 – Bernie Walrut suggested that taxpayers be afforded greater certainty as to what constitutes an ‘assessment’ under the *Taxation Administration Act 1996*.

5 NEXT MEETING

To be confirmed.

The meeting closed at 5:07 pm.

Signed as a true and correct record of proceedings.



Julie Holmes
CHAIRPERSON

16/1/2019

ATTACHMENT A – REVENUESA PUBLICATIONS

1. Draft publications for the Rulings Sub-Committee
 - 1.1. Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts
 - 1.2. Stamp Duty – Duty arising from changes in partnership interests
 - 1.3. Section 13(4) of the *Land Tax Act 1936*
2. New potential publications for consideration
 - 2.1. Section 71(6) of the *Stamp Duties Act 1923*
 - 2.2. Stamp Duty – Unit Trust: Issues And Redemptions
 - 2.3. Early Engagement and Alternative Dispute Resolution
3. Draft publications on hold
4. Other existing publications under consideration by RevenueSA
 - 4.1. Circular 61 – Section 71E of the *Stamp Duties Act 1923*. Obligation of a person to lodge a statement with the Commissioner
 - 4.2. Circular 109 – Stamp Duties (Concessions) Amendment Act 1994 – Family Farm Transfers
 - 4.3. Circular 156 – Access to documents held by solicitors and legal professional privilege – Guidelines
 - 4.4. Circular 265 – Stamp Duty – Sale of Retirement Villages
 - 4.5. Circular 282 – Domestic Partners

ATTACHMENT B – ACTION REGISTER

	Date of Meeting	Action	Who	Status	Due Date
1.	07/03/2018	Review the terms of reference of the Rulings Sub-Committee	P Maxwell	Pending	31/01/19
2.	05/09/2018	"Stamp Duty – Conveyance by Direction" publication to be circulated to the group for its consideration	P Maxwell	Completed – published on 07/12/18	12/09/18
3.	05/09/2018	"Stamp Duty – Residential land used for long term accommodation and discretionary trusts that are foreign trusts" publication to be split into two separate publications for consideration by the Rulings Sub-Committee, with the foreign ownership surcharge publication to include further information regarding the evidence to be kept in relation to the status of a person, company or trust	P Maxwell	Pending	31/01/19
4.	05/09/2018	Follow up status of the foreign ownership surcharge significant development publication with the Treasurer's Office	P Maxwell	Completed – published on 07/12/18	05/12/18
5.	05/09/2018	"Stamp Duty – Duty arising from changes in partnership interests" – content of draft publication to be instead added to website (and also addressed in rewrite of the <i>Stamp Duties Act 1923</i>)	P Maxwell	Pending	06/03/19
6.	05/09/2018	"Early Engagement and Alternative Dispute Resolution" publication to be circulated to the Rulings Sub-Committee for its consideration	P Maxwell	Pending	31/01/19
7.	05/09/2018	"Section 71(6) of the <i>Stamp Duties Act 1923</i> " – content of draft publication to be instead added to website (and also addressed in rewrite of the <i>Stamp Duties Act 1923</i>)	P Maxwell	Pending	06/03/19
8.	05/12/2018	Review rulings currently marked as 'under review' to determine whether their content should be published as current	P Maxwell	Pending	06/03/19
9.	05/12/2018	Information regarding stamp duty and the death of a joint tenant to be added to RevenueSA website	P Maxwell	Pending	06/03/19
10	05/12/2018	Invite new Valuer-General to a meeting with RevenueSA and interested members of the group	J Holmes	Pending	06/03/19