

**MINUTES OF THE
SA STATE TAXES LIAISON GROUP MEETING
HELD ON WEDNESDAY 6 MARCH 2019 (9:30AM)
CORNISH LIBRARY, LEVEL 2, STATE ADMINISTRATION CENTRE**

1. ATTENDANCE / APOLOGIES

1.1. PRESENT FOR REVENUESA

Julie Holmes (Chair), Lisa Smith, Paul Maxwell, Tom Colmer, Ian Grimshaw, and Kristy Ferguson.

1.2. PRESENT FOR INDUSTRY GROUPS

Rebecca Hayes (Australian Institute of Conveyancers (SA Division) Inc), Marc Romaldi (Property Council of Australia), Kate Southcott (Real Estate Institute of South Australia), Julie Van der Velde (CPA Australia), Paul Ingram (The Tax Institute), Peter Slegers (Business SA) and Bernie Walrut (Law Council of Australia).

1.3. APOLOGIES

Paul Tanti (Chartered Accountants Australia and New Zealand), Phil Dorman (Institute of Public Accountants), Jeff Stevens ((Australian Institute of Conveyancers (SA Division) Inc), Alan Yates (CPA Australia), Mark Christmas (RevenueSA), Shaun Davies (RevenueSA) and Katherine Bartolo (Valuer-General).

[For purposes of the minutes it is noted that Andrea Michaels has ceased to be the representative for The Law Society of South Australia and a replacement nominee has yet to be appointed.]

2. BUSINESS ARISING

2.1. DRAFT TERMS OF REFERENCE FOR THE STATE TAXES LIAISON GROUP AND THE RULINGS SUB-COMMITTEE

Paul Maxwell advised that the draft Terms of Reference for the State Taxes Liaison Group and the Rulings Sub-Committee had been circulated to this Group on 11 February 2019 for consideration and comments.

It was agreed that the drafts would be updated in the areas specified below and then re-circulated to the Group for consideration and indications of interest in discussing at a meeting of a sub-group:

- confidentiality – section to be reviewed to make it clearer on extent of permitted disclosure of information to representative bodies; and
- membership – the term of membership to be reviewed.

Bernie Walrut also expressed the view that previous principles should be referenced in the Terms of Reference.

Action: RevenueSA to update the draft Terms of Reference and re-circulate to the Group for consideration and indications of interest in discussing at a meeting of a sub-group.

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

Paul Maxwell advised that two draft publications had been referred back to the Rulings Sub-Committee (i.e. residential land used for long-term accommodation, and discretionary trusts that are foreign trusts), together with draft content for RevenueSA's website in relation to section 71(6) of the *Stamp Duties Act 1923*, on 11 February 2019.

The Rulings Sub-Committee (consisting of Bernie Walrut, Paul Ingram, Julie Van der Velde, Lisa Smith, Paul Maxwell and Matthew Fraser) met on 25 February 2019, and discussed these three matters.

It was agreed that RevenueSA would further consider the suggestions made at the meeting, make amendments where necessary and re-circulate the matters to the Rulings Sub-Committee. Bernie Walrut advised that he would be making further comments in regard to the draft content in relation to section 71(6) of the *Stamp Duties Act 1923*.

The following further discussion took place in relation to the Revenue Publications set out in Attachment A of the Agenda:

Item 1.2 – Stamp Duty – Duty arising from changes in partnership interests

Paul Maxwell advised that content contained in the previously circulated draft publication would be added to the website (and also addressed in the rewrite of the *Stamp Duties Act 1923*.) It was agreed to re-circulate this content to the Group for one final look prior to content being added to the website.

Item 2.1 – Stamp Duty – Unit Trust: Issues and Redemptions

Paul Maxwell advised that due to prioritising the three matters above no action has taken place in regard to drafting this ruling.

Item 3.1 – Section 13(4) of the *Land Tax Act 1936*

Paul Maxwell advised that this matter remains on hold.

Item 4 – Other existing publications under consideration by RevenueSA

Paul Maxwell advised that these rulings remain under review to determine whether their content should be published as current.

Paul Ingram asked about the progress of the matter in regard to section 91(3) of the *Stamp Duties Act 1923*. Paul Maxwell advised that internal discussions were continuing on this issue and an update to the current Guide to Legislation: Stamp Duty Land Holder will be provided shortly to clarify the issues raised.

Bernie Walrut re-raised the issue of the potential availability of archived RevenueSA website content. Julie Holmes noted that the Action Item in respect of this point was discussed and closed in the 5 December 2018 meeting. Specifically, it was noted:

- that no State or Territory Revenue Office performs website archiving;
- regular archiving of the entire website (and making it available) was considered onerous to manage and not cost effective for limited benefit;
- publishing website archives was potentially confusing for the user; and
- RevenueSA is taking 'snapshots' of its website each month, which can be made available upon request.

General discussion ensued regarding website content versus rulings/other guidance material and it was noted that it would assist advisers and/or taxpayers if website content was able to be marked as 'general information' with links to further guidance material.

Action: RevenueSA to consider whether a general 'disclaimer statement' regarding the status of guidance matter could be displayed on the RevenueSA website, with any draft statement to be circulated to this Group for comment/consideration.

2.3. UPDATE ON STATE TAX APPEALS

Paul Maxwell advised that:

- RevenueSA is still awaiting the following:
 - the Full Court of the Supreme Court's judgment in relation to a payroll tax charitable purposes exemption appeal (Business SA);
 - the Supreme Court's judgment in relation to a land tax primary production appeal (Takhar); and
 - SACAT's decision in relation to a Residence Requirement of the First Home Owner Grant appeal (Marinis). For purposes of the minutes it is noted that this decision was handed down on 13 March 2019;
- there are four other matters at various stages of the Supreme Court appeal process as follows:
 - three payroll tax appeals – two in relation to contractors and the other in relation to the health services provider exemption; and
 - one stamp duty appeal – in relation to valuation;
- two SACAT appeals both in relation to the Residence Requirement of the First Home Owner Grant were settled prior to trial; and
- three other applications at various stages are currently before SACAT as follows:
 - two Residence Requirement of the First Home Owner Grant matters; and

- one eligibility for the (now defunct) Seniors Housing Grant matter.

2.4. THIRD PARTY REPORTING

Tom Colmer advised that:

- the integration of Third Party Reporting with Stamp Duty Conveyance is currently being reviewed to be more user friendly;
- 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; and
- RevenueSA is planning to engage with practitioners to provide feedback. It was noted that RevenueSA has an existing feedback group but was happy to expand that to include any interested members from this Group. Paul Ingram indicated he would like representation on the feedback group.

Action: Tom Colmer to invite members of the Group to feedback group meetings.

2.5. UPDATE ON ACTION REGISTER (ATTACHMENT B)

No further discussion was held in relation to the Update on Action register set out in Attachment B of the Agenda, except in relation to Item 7, as each had been sufficiently discussed already or would be discussed as part of New Business.

In regard to Item 7, Paul Maxwell advised that this issue is currently being considered internally with website content expected to be promoted in the next few weeks.

2.6. UPDATE ON STAMP DUTY REWRITE

With the departure of Lee Juga, Josh Giorgio has been performing the Project Manager role during the recruitment process.

Interviews for short listed candidates for the 2 roles of Regulatory Reform Project Manager and Business Analysis and Regulatory Reform Officer have been held and referee checks are currently in progress. It is expected the successful applicants will be notified in the next few weeks with start dates subject to negotiation.

Internal (to RevenueSA) consultation is underway to identify and collate known/problematic issues with the current *Stamp Duties Act 1923* that may require further consideration as part of the rewrite.

An external communication and engagement strategy is currently being worked on. It is intended that RevenueSA will write to key organisations (including the local/State contacts for the organisations represented by the STLG members) to invite them to participate in the consultation process. It is intended that a list of the preliminary matters identified as part of the internal consultation will be included with the letter.

RevenueSA has already engaged with Parliamentary Counsel, who have dedicated a senior officer to the rewrite project, in regard to the structure of the new Act. It is likely the new Duties Act will follow the structure of the NSW Duties Act.

Julie Holmes reaffirmed the intention of the re-write to be a 'no policy change' rewrite.

The first draft of the new Duties Act is anticipated to be completed by the middle of the 2019 calendar year. Whilst the current target date is to have draft legislation tabled by the end of this calendar year, this is currently being reviewed and may be amended to ensure adequate time for consultation.

3. NEW BUSINESS

3.1. MEETING WITH THE NEW VALUER-GENERAL

To be rescheduled due to the unavailability of Katherine Bartolo.

3.2. EARLY ENGAGEMENT AND DISPUTE RESOLUTION PUBLICATION

Paul Maxwell advised that the Early Engagement and Dispute Resolution Publication (titled '*How Do You Prevent or Resolve a Dispute with RevenueSA*') had been circulated to the Group for noting on 11 February 2019.

Bernie Walrut noted that he did not believe the Publication went far enough in providing an alternative (formal) dispute resolution process and recommended that the guidelines be referred to the Sub-Committee.

Julie Holmes confirmed that RevenueSA had no intention of creating a separate/additional dispute resolution process over and above that already utilised by RevenueSA. This is consistent with the practice of other States and Territories and is within the resource constraints of RevenueSA.

Following a brief discussion of the content of the Publication it was agreed that RevenueSA would update it to provide greater clarity regarding 'who to contact' at RevenueSA during various stages of a dispute.

Action: RevenueSA to update the draft Publication and re-circulate to the Group for consideration and indications of interest in discussing at a meeting of a sub-group, noting that any discussion will have regard to content only (and not in relation to the introduction of a further process).

4. ANY OTHER BUSINESS

Nil

5. **NEXT MEETING**

Wednesday 5 June 2019, 9:30am

Training Room, Level 1, State Administration Centre

Signed as a true and correct record of proceedings.



Julie Holmes
CHAIRPERSON

6/5/2019

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 71(6) of the *Stamp Duties Act 1923*
2. New potential publications for consideration
 - 2.1. Stamp Duty – Unit Trust: Issues And Redemptions
3. Draft publications on hold
 - 3.1. Section 13(4) of the *Land Tax Act 1936*
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	Draft and circulate Terms of Reference of the State Taxes Liaison Group and the Rulings Sub-Committee	P Maxwell	Completed	31/01/19
2.	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	Completed	31/01/19
3.	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 – RevenueSA to re-circulate this content to the State Taxes Liaison Group for one final review prior to content being added to the website.	06/04/19
4.	05/09/2018	"Early Engagement and Alternative Dispute Resolution" publication to be circulated to the State Taxes Liaison Group for its consideration	P Maxwell	Completed	31/01/19
5.	05/09/2018	"Section 71(6) of the <i>Stamp Duties Act 1923</i> " – content of the draft publication to be instead added to website (and also addressed in the rewrite of the <i>Stamp Duties Act 1923</i>)	P Maxwell	Pending – Bernie Walrut to provide further comments on the content of the draft publication	27/04/19
6.	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
7.	05/12/2018	Information regarding stamp duty and the death of a joint tenant to be added to RevenueSA website	P Maxwell	Pending	06/04/19
8.	05/12/2018	Invite new Valuer-General to a meeting with RevenueSA and interested members of the group	J Holmes	Completed	06/03/19
9.	06/03/2019	RevenueSA to update the draft Terms of Reference and re-circulate to the State Taxes Liaison Group for consideration and indications of interest in discussing at a meeting of a sub-group	P Maxwell	Pending	27/04/2019
10.	06/03/2019	RevenueSA to further consider the suggestions made at the Rulings Sub-Committee meeting, make amendments where necessary and re-circulate the two draft rulings to the Sub-Committee	P Maxwell	Pending	27/04/2019
10.	06/03/2019	RevenueSA to consider whether a general 'disclaimer statement' regarding the status of guidance matter could be displayed on the RevenueSA website, with any draft statement to be circulated to the State Taxes Liaison Group for comment/consideration	K Ferguson	Pending	05/06/2019

11.	06/03/2019	RevenueSA to provide an invite to the feedback group meetings relating to third party reporting	T Colmer	Pending	06/04/2019
12.	06/03/2019	RevenueSA to update the draft Early Engagement and Dispute Resolution publication and re-circulate to the State Taxes Liaison Group for consideration and indications of interest in discussing at a meeting of a sub-group	P Maxwell	Pending	27/04/2019
13.	06/03/2019	Re-invite the new Valuer-General to a meeting with RevenueSA and interested members of the group	J Holmes	Pending	05/062019